PHA Certifications of Compliance with the PHA Plans and Related Regulations: Board Resolution to Accompany the PHA 5-*Year and Annual* PHA Plan

Acting on behalf of the Board of Commissioners of the Public Housing Agency (PHA) listed below, as its Chairman or other authorized PHA official if there is no Board of Commissioners, I approve the submission of the___ 5-Year and/or2009 Annual PHA Plan for the PHA fiscal year beginning 10/1/2009, hereinafter referred to as" the Plan", of which this document is a part and make the following certifications and agreements with the Department of Housing and Urban Development (HUD) in connection with the submission of the Plan and implementation thereof:

1. The Plan is consistent with the applicable comprehensive housing affordability strategy (or any plan incorporating such strategy) for the jurisdiction in which the PHA is located.
2. The Plan contains a certification by the appropriate State or local officials that the Plan is consistent with the applicable Consolidated Plan, which includes a certification that requires the preparation of an Analysis of Impediments to Fair Housing Choice, for the PHA's jurisdiction and a description of the manner in which the PHA Plan is consistent with the applicable Consolidated Plan.
3. The PHA certifies that there has been no change, significant or otherwise, to the Capital Fund Program (and Capital Fund Program/Replacement Housing Factor) Annual Statement(s), since submission of its last approved Annual Plan. The Capital Fund Program Annual Statement/Annual Statement/Performance and Evaluation Report must be submitted annually even if there is no change.
4. The PHA has established a Resident Advisory Board or Boards, the membership of which represents the residents assisted by the PHA, consulted with this Board or Boards in developing the Plan, and considered the recommendations of the Board or Boards (24 CFR 903.13). The PHA has included in the Plan submission a copy of the recommendations made by the Resident Advisory Board or Boards and a description of the manner in which the Plan addresses these recommendations.
5. The PHA made the proposed Plan and all information relevant to the public hearing available for public inspection at least 45 days before the hearing, published a notice that a hearing would be held and conducted a hearing to discuss the Plan and invited public comment.
6. The PHA certifies that it will carry out the Plan in conformity with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990.
7. The PHA will affirmatively further fair housing by examining their programs or proposed programs, identify any impediments to fair housing choice within those programs, address those impediments in a reasonable fashion in view of the resources available and work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement and maintain records reflecting these analyses and actions.
8. For PHA Plan that includes a policy for site based waiting lists:
   - The PHA regularly submits required data to HUD's 50058 PIC/IMS Module in an accurate, complete and timely manner (as specified in PIH Notice 2006-24);
   - The system of site-based waiting lists provides for full disclosure to each applicant in the selection of the development in which to reside, including basic information about available sites; and an estimate of the period of time the applicant would likely have to wait to be admitted to units of different sizes and types at each site;
   - Adoption of site-based waiting list would not violate any court order or settlement agreement or be inconsistent with a pending complaint brought by HUD;
   - The PHA shall take reasonable measures to assure that such waiting list is consistent with affirmatively furthering fair housing;
   - The PHA provides for review of its site-based waiting list policy to determine if it is consistent with civil rights laws and certifications, as specified in 24 CFR part 903.7(c)(1).
9. The PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975.
10. The PHA will comply with the Architectural Barriers Act of 1968 and 24 CFR Part 41, Policies and Procedures for the Enforcement of Standards and Requirements for Accessibility by the Physically Handicapped.
11. The PHA will comply with the requirements of section 3 of the Housing and Urban Development Act of 1968, Employment Opportunities for Low-or Very-Low Income Persons, and with its implementing regulation at 24 CFR Part 135.

12. The PHA will comply with acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and implementing regulations at 49 CFR Part 24 as applicable.
13. The PHA will take appropriate affirmative action to award contracts to minority and women's business enterprises under 24 CFR 5.105(a).
14. The PHA will provide the responsible entity or HUD any documentation that the responsible entity or HUD needs to carry out its review under the National Environmental Policy Act and other related authorities in accordance with 24 CFR Part 58 or Part 50, respectively.
15. With respect to public housing the PHA will comply with Davis-Bacon or HUD determined wage rate requirements under Section 12 of the United States Housing Act of 1937 and the Contract Work Hours and Safety Standards Act.
16. The PHA will keep records in accordance with 24 CFR 85.20 and facilitate an effective audit to determine compliance with program requirements.
17. The PHA will comply with the Lead-Based Paint Poisoning Prevention Act, the Residential Lead-Based Paint Hazard Reduction Act of 1992, and 24 CFR Part 35.
18. The PHA will comply with the policies, guidelines, and requirements of OMB Circular No. A-87 (Cost Principles for State, Local and Indian Tribal Governments), 2 CFR Part 225, and 24 CFR Part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments).
19. The PHA will undertake only activities and programs covered by the Plan in a manner consistent with its Plan and will utilize covered grant funds only for activities that are approvable under the regulations and included in its Plan.
20. All attachments to the Plan have been and will continue to be available at all times and all locations that the PHA Plan is available for public inspection. All required supporting documents have been made available for public inspection along with the Plan and additional requirements at the primary business office of the PHA and at all other times and locations identified by the PHA in its PHA Plan and will continue to be made available at least at the primary business office of the PHA.
21. The PHA provides assurance as part of this certification that:
    (i) The Resident Advisory Board had an opportunity to review and comment on the changes to the policies and programs before implementation by the PHA;
    (ii) The changes were duly approved by the PHA Board of Directors (or similar governing body); and
    (iii) The revised policies and programs are available for review and inspection, at the principal office of the PHA during normal business hours.
22. The PHA certifies that it is in compliance with all applicable Federal statutory and regulatory requirements.

Housing Authority of the County of San Joaquin	CA024
PHA Name	PHA Number/HA Code

X 5-Year PHA Plan for Fiscal Years 2005 - 2009

X Annual PHA Plan for Fiscal Years 20009

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title
Barbara S. Kauss	Executive Director
Signature: Barbara S Kauss	Date: 07/13/09

Administrative Plan
for the
Section 8 Tenant-Based Assistance Program
(Housing Choice Voucher Program)

Revision Date: May 1, 2009

EQUAL HOUSING OPPORTUNITY

Table of Contents

Chapter 1
STATEMENT OF POLICIES AND OBJECTIVES

A. MISSION STATEMENT 1-2
B. VISION STATEMENT 1-2
C. LOCAL OBJECTIVES 1-2
D. PURPOSE OF THE PLAN 1-2
E. RULES AND REGULATIONS 1-3
F. TERMINOLOGY 1-3
G. FAIR HOUSING POLICY 1-4
H. REASONABLE ACCOMMODATIONS POLICY 1-5
I. TRANSLATION OF DOCUMENTS 1-6
J. MANAGEMENT ASSESSMENT OBJECTIVES 1-7
K. RECORDS FOR MONITORING HOUSING AUTHORITY PERFORMANCE 1-8
L. PRIVACY RIGHTS 1-8
M. FAMILY OUTREACH 1-8
N. OWNER OUTREACH 1-9

Chapter 2
ELIGIBILITY FOR ADMISSION

A. ELIGIBILITY FACTORS 2-2
B. FAMILY COMPOSITION 2-2
C. INCOME LIMITATIONS 2-5
D. MANDATORY SOCIAL SECURITY NUMBERS 2-7
E. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS 2-7
F. OTHER CRITERIA FOR ADMISSIONS 2-8
G. TENANT SCREENING 2-9
H. CHANGES IN ELIGIBILITY PRIOR TO EFFECTIVE DATE OF THE CONTRACT 2-10
I. INELIGIBLE FAMILIES 2-10
J. PROHIBITED ADMISSIONS CRITERIA 2-10

Chapter 3
APPLYING FOR ADMISSION

A. OVERVIEW OF APPLICATION TAKING PROCESS 3-2
B. OPENING/CLOSING OF APPLICATION TAKING 3-2
C. "INITIAL" APPLICATION PROCEDURES 3-4
D. APPLICANT STATUS WHILE ON WAITING LIST 3-4
E. TIME OF SELECTION 3-5
F. COMPLETION OF A FULL APPLICATION 3-5
G. VERIFICATION 3-7
H. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY 3-7

Chapter 4
ESTABLISHING PREFERENCES AND MAINTAINING THE WAITING LIST

A. WAITING LIST 4-2
B. SPECIAL ADMISSIONS 4-2
C. WAITING LIST PREFERENCES 4-3
D. LOCAL PREFERENCES 4-3
E. INITIAL DETERMINATION OF LOCAL PREFERENCE QUALIFICATION 4-5
F. TARGETED FUNDING 4-5
G. INCOME TARGETING 4-5
H. PREFERENCE & INCOME TARGETING ELIGIBILITY 4-6
I. ORDER OF SELECTION 4-7
J. FINAL VERIFICATION OF PREFERENCES 4-7
K. PREFERENCE DENIAL 4-7
L. REMOVAL FROM WAITING LIST AND PURGING 4-7

Chapter 5
SUBSIDY STANDARDS

A. DETERMINING FAMILY UNIT (VOUCHER) SIZE 5-2
B. EXCEPTIONS TO SUBSIDY STANDARDS 5-3
C. UNIT SIZE SELECTED 5-4

Chapter 6
FACTORS RELATED TO TOTAL TENANT PAYMENT & FAMILY SHARE DETERMINATION

A. INCOME AND ALLOWANCES 6-2
B. DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS 6-2
C. MINIMUM RENT 6-5
D. DEFINITION OF TEMPORARILY/PERMANENTLY ABSENT 6-7
E. AVERAGING INCOME 6-11
F. MINIMUM INCOME 6-11
G. INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME 6-12
H. REGULAR CONTRIBUTIONS AND GIFTS 6-12
I. ALIMONY AND CHILD SUPPORT 6-12
J. LUMP-SUM PAYMENTS 6-13
K. CONTRIBUTIONS TO RETIREMENT FUNDS - ASSETS 6-14
L. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE 6-14
M. CHILD CARE EXPENSES 6-14
N. MEDICAL EXPENSES 6-15
O. MEDICARE DRUG PRESCRIPTION PROGRAM (PLAN D) 6-15
P. PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES 6-16
Q. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS 6-16
R. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS 6-17

Chapter 7
VERIFICATION PROCEDURES

A. METHODS OF VERIFICATION AND TIME ALLOWED 7-2
B. RELEASE OF INFORMATION 7-4
C. COMPUTER MATCHING 7-4
D. ITEMS TO BE VERIFIED 7-4
E. VERIFICATION OF INCOME 7-5
F. INCOME FROM ASSETS 7-9
G. VERIFICATION OF ASSETS 7-10
H. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME 7-11
I. ASSISTANCE TO PERSONS WITH DISABILITIES 7-13
J. VERIFYING NON-FINANCIAL FACTORS 7-13
K. VERIFICATION OF WAITING LIST PREFERENCES 7-18

Chapter 8
VOUCHER ISSUANCE AND BRIEFINGS

A. ISSUANCE OF CERTIFICATES/VOUCHERS 8-2
B. BRIEFING TYPES AND REQUIRED ATTENDANCE 8-2
C. ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW INCOME OR MINORITY CONCENTRATION 8-4
D. SECURITY DEPOSIT REQUIREMENTS 8-5
E. TERM OF VOUCHER 8-5
F. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS 8-6
G. REMAINING MEMBER OF TENANT FAMILY - RETENTION OF VOUCHER 8-7

Chapter 9
REQUEST FOR LEASE APPROVAL AND CONTRACT EXECUTION

A. REQUEST FOR TENANCY APPROVAL 9-2
B. ELIGIBLE TYPES OF HOUSING 9-2
C. LEASE REVIEW 9-3
D. SEPARATE AGREEMENTS 9-5
E. INITIAL INSPECTIONS 9-5
F. RENT LIMITATIONS 9-5
G. DISAPPROVAL OF PROPOSED RENT 9-5
H. INFORMATION TO OWNERS 9-6
I. OWNER DISAPPROVAL 9-7
J. CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE 9-7
K. CONTRACT EXECUTION PROCESS 9-7
L. CHANGE IN OWNERSHIP 9-7

Chapter 10
HOUSING QUALITY STANDARDS AND INSPECTIONS

A. GUIDELINES/TYPES OF INSPECTIONS 10-2
B. INITIAL HQS INSPECTION 10-2
C. ANNUAL HQS INSPECTIONS 10-3
D. SPECIAL/COMPLAINT INSPECTIONS 10-4
E. QUALITY CONTROL INSPECTIONS 10-4
F. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS 10-4
G. EMERGENCY REPAIR ITEMS 10-6
H. CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS) 10-7
I. DETERMINATION OF RESPONSIBILITY 10-8
J. CONSEQUENCES IF FAMILY IS RESPONSIBLE 10-8

Chapter 11
OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS

A. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM……..11-2
B. MAKING PAYMENTS TO OWNERS 11-2
C. RENT REASONABLENESS DETERMINATIONS 11-3
D. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM 11-4
E ADJUSTMENTS TO PAYMENT STANDARDS 11-5
F. EXCEPTION PAYMENT STANDARDS 11-7
G. OWNER PAYMENT IN THE HOUSING CHOICE VOUCHER PROGRAM 11-7
H. ENHANCED VOUCHERS 11-7
I OVERSIZED UNIT/OVER-HOUSED FAMILY PAYMENT STANDARD 11-7

Chapter 12
RECERTIFICATIONS

A. ANNUAL ACTIVITIES 12-2
B. REPORTING INTERIM CHANGES 12-4
C. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS 12-5
D. DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATION 12-7
E. NOTIFICATION OF RESULTS OF RECERTIFICATIONS 12-9
F. TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS) 12-10
G. CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES 12-11
H. MISREPRESENTATION OF FAMILY CIRCUMSTANCES 12-11

Chapter 13
MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

A. ALLOWABLE MOVES 13-2
B. RESTRICTIONS ON MOVES 13-2
C. PROCEDURE FOR MOVES 13-2
D. PORTABILITY 13-3
E. OUTGOING PORTABILITY 13-3
F. INCOMING PORTABILITY 13-4

Chapter 14
CONTRACT TERMINATIONS

A. CONTRACT TERMINATION 14-2
B. TERMINATION BY THE FAMILY: MOVES 14-2
C. TERMINATION OF TENANCY BY THE OWNER: EVICTIONS 14-2
D. TERMINATION OF THE CONTRACT BY HOUSING AUTHORITY 14-4

Chapter 15
DENIAL OR TERMINATION OF ASSISTANCE

A. FAMILY OBLIGATIONS 15-2
B. GROUNDS FOR DENIAL/TERMINATION 15-3
C. DRUG RELATED AND VIOLENT CRIMINAL ACTIVITY 15-9
D. PROCEDURES FOR NON-CITIZENS 15-11
E. ZERO ($0) ASSISTANCE TENANCIES 15-12
F. OPTION NOT TO TERMINATE FOR MISREPRESENTATION 15-12
G. MISREPRESENTATION IN COLLUSION WITH OWNER 15-12
H. MISSED APPOINTMENTS AND DEADLINES 15-12

Chapter 16
OWNER DISAPPROVAL AND RESTRICTION

A. DISAPPROVAL OF OWNER 16-2
B. OWNER RESTRICTIONS AND PENALTIES 16-3
C. CHANGE IN OWNERSHIP 16-3

Chapter 17
PROGRAM INTEGRITY

A. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD..... 17-2
B. STEPS THE HOUSING AUTHORITY WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD 17-2
C. STEPS THE HOUSING AUTHORITY WILL TAKE TO DETECT PROGRAM ABUSE AND FRAUD 17-3
D. THE HOUSING AUTHORITY'S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD 17-3
E. OVERPAYMENT TO OWNERS 17-4
F. HOW THE HOUSING AUTHORITY WILL INVESTIGATE ALLEGATIONS OF ABUSE AND FRAUD 17-4
G. PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS OBTAINED BY THE HOUSING AUTHORITY 17-5
H. CONCLUSION OF THE HOUSING AUTHORITY'S INVESTIGATIVE REVIEW 17-5
I. CODE OF CONDUCT 17-7

Chapter 18
OWNER OR FAMILY DEBTS TO THE HOUSING AUTHORITY

A. PAYMENT AGREEMENT FOR FAMILIES 18-2
B. DEBTS DUE TO MISREPRESENTATIONS/NON-REPORTING OF INFORMATION..... 18-3
C. GUIDELINES FOR PAYMENT AGREEMENTS..... 18-3
D. OWNER DEBTS TO THE HOUSING AUTHORITY..... 18-4
E. WRITING OFF DEBTS 18-4

Chapter 19
COMPLAINTS AND APPEALS

A. COMPLAINTS TO THE HOUSING AUTHORITY..... 19-2
B. PREFERENCE DENIALS 19-2
C. INFORMAL REVIEW PROCEDURES FOR APPLICANTS 19-3
D. INFORMAL HEARING PROCEDURES..... 19-4
E. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS"..... 19-8
F. MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES 19-9

Chapter 20
SPECIAL HOUSING TYPES

A. SINGLE ROOM OCCUPANCY 20-2
B. SHARED HOUSING 20-2
C. MANUFACTURED HOMES 20-3

Chapter 21
HOMEOWNERSHIP OPTION PROGRAM

A. ELIGIBLE TYPES OF HOMES 21-2
B. PORTABILITY 21-2
C. FAMILY ELIGIBLE REQUIREMENTS 21-2
D. FAMILY PARTICIPATION REQUIREMENTS 21-3
E. COMPLIANCE WITH FAMILY OBLIGATIONS 21-6
F. AMOUNT OF ASSISTANCE 21-7
G. GROUNDS FOR TERMINATION OF HOMEOWNERSHIP ASSISTANCE 21-8
H. PROGRAM CHANGES 21-9

Chapter 22
PROJECT BASED VOUCHER PROGRAM

A. OWNER PROPOSAL SELECTION PROCEDURES 22-2
B. CRITERIA FOR PBV AWARD 22-2
C. PROJECT SELECTION AND REQUIREMENTS 22-4
D. REQUIREMENTS TO EXECUTE A HAP CONTRACT FOR EXISTING PROJECTS 22-5
E. HAP REQUIREMENTS FOR ALL CONSTRUCTION AND EXISTING PROJECTS 22-5
F. HAP CONTRACT AMENDMENTS 22-5
G. RENT DETERMINATIONS AND CHANGES 22-6
H. PBV RENTS BASED ON FAIR MARKET RENTS 22-7
I. OWNER RENT INCREASES REQUESTS 22-7
J. VACANCY LOSS PROVISIONS AND CONTRACT AMENDMENT 22-7
K. LEASE EXPIRATION 22-8
L. TERMINATION OF HAP CONTRACT 22-8
M. ORGANIZATION AND CHARACTERISTICS OF THE WAIT LIST FOR PROJECT-BASED VOUCHERS 22-8
N. PROJECT-BASED VOUCHER PROGRAM LIMIT OLD RULE 22-9

Chapter 23
FAMILY SELF-SUFFICIENCY

A. HISTORICAL PROGRAM REQUIREMENTS 23-2
B. ELIGIBLE APPLICANTS 23-2
C. TERM OF CONTRACT 23-2
D. ESTABLISHMENT OF ESCROW ACCOUNT 23-3
E. LOANS AGAINST ESCROW ACCOUNTS 23-3
F. RELEASE OF ESCROW 23-3
G. TERMINATION FOR NON-COMPLIANCE 23-3
H. APPEALS PROCESS 23-3
I. FORTEITURE OF ESCROW 23-3
J. REINSTATEMENT POLICY 23-4

GLOSSARY

A. ACRONYMS USED IN SUBSIDIZED HOUSING GL-1
B. GLOSSARY OF TERMS IN SUBSIDIZED HOUSING GL-3
C. GLOSSARY OF TERMS USED IN THE NONCITIZENS RULE GL-17

Chapter 1

STATEMENT OF POLICIES AND OBJECTIVES

INTRODUCTION

The Section 8 Program was enacted as part of the Housing and Community Development Act of 1974, which rectified the U.S. Housing Act of 1937. The Act has been amended from time to time, and its requirements, as they apply to the Section 8 Tenant-Based Assistance Program and is described in and implemented throughout this Administrative Plan. The Section 8 tenant-based programs are federally funded and administered for the County of San Joaquin by the Housing Authority of the County of San Joaquin through its Housing Choice Voucher program office.

Administration of the Housing Choice Voucher Program and the functions and responsibilities of the Housing Authority staff shall be in compliance with the Housing Authority's Administrative Plan and the Department of Housing and Urban Development's (HUD) Housing Choice Voucher Regulations as well as all Federal, State and local Fair Housing Laws and Regulations.

Jurisdiction

The jurisdiction of the Housing Authority is the County of San Joaquin.

A. HOUSING AUTHORITY MISSION STATEMENT

The Housing Authority of the County of San Joaquin is dedicated to providing and advocating for affordable, attractive, safe living environments and opportunities to become self-sufficient for individuals and families that are hard to house.

B. HOUSING AUTHORITY VISION STATEMENT

The Housing Authority of the County of San Joaquin will be recognized as an innovative agency and a leader in creating community partnerships that result in individuals and families having hope for a better tomorrow.

C. LOCAL OBJECTIVES

The Housing Choice Voucher Program is designed to achieve three major objectives:

1. To provide decent housing for very low-income families while maintaining their rent payments at an affordable level.

2. To promote freedom of housing choice and attain deconcentration of very low-income families of all races and ethnic backgrounds.

3. To provide an incentive to private property owners to rent to very low-income families by offering timely assistance payments.

In addition, the Housing Authority has the following goals for the program:

1. To assist the local economy by increasing the occupancy rate and the amount of money flowing to the community.

2. To encourage self-sufficiency of participant families and to assist in the expansion of family opportunities which address educational, socioeconomic, recreational and other human services needs.

3. To create positive public awareness and expand the level of family, owner, and community support in accomplishing the Housing Authority's mission.

4. To attain and maintain a high level of standards and professionalism in our day-to-day management of all program components.

5. To administer an efficient, high-performing agency through continuous improvement of the Housing Authority's support systems and commitment to our employees and their development.

D. PURPOSE OF THE ADMINISTRATIVE PLAN [24 CFR 982.54]

The purpose of the Administrative Plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the Agency Administrative Plan. The Housing Choice Voucher Program was implemented as of October 1, 1999, and pre-merger Housing Voucher tenancies and Over Fair Market Rent tenancies converted automatically to Housing Choice Voucher tenancies on that date. All other existing contracts

remained in effect until the family's second reexamination after the merger date or when a new lease was executed.

The Housing Authority is responsible for complying with all changes in HUD regulations pertaining to these programs. If such changes conflict with this Administrative Plan, HUD regulations will have precedence. The Housing Authority will revise this Administrative Plan as needed to comply with changes in HUD regulations. The original Administrative Plan and any changes must be approved by the Board of Commissioners of the agency, the pertinent sections included in the Agency Administrative Plan, and a copy provided to HUD.

This Administrative Plan is a supporting document to the Housing Authority's Agency Plan, and is available for public review as required by 24 CFR 903.

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 982: Section 8 Tenant-Based Assistance - Housing Choice Voucher Program

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

E. RULES AND REGULATIONS [24 CFR 982.52]

This Administrative Plan is set forth to define the Housing Authority's local policies for operation of the housing programs in the context of Federal laws and Regulations. All issues related to Housing Choice Voucher not addressed in this document are governed by such Federal regulations, HUD Memos, Notices and guidelines, or other applicable law. The policies in this Administrative Plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

F. TERMINOLOGY

The Housing Authority of the County of San Joaquin is referred to as "Housing Authority" throughout this document.

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

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

"Landlord" and "owner" are used interchangeably.

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

"Non-citizens Rule" refers to the regulation effective June 19, 1995 restricting assistance to U.S.

citizens and eligible immigrants.

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

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

"Failure to Provide" refers to all requirements in the Family Obligation (see Chapter 15, "Denial or Termination of Assistance").

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

See Glossary for other terminology.

G. FAIR HOUSING POLICY [24 CFR 982.54(d)(6)]

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

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

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

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

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

The Housing Authority offices are accessible to persons with disabilities. Accessibility for the

hearing impaired is provided by the California Relay Service or TDD (209) 466-5735.

H. REASONABLE ACCOMMODATIONS POLICY [24 CFR 100.204]

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

A participant with a disability must first ask for a specific change to a policy or practice as an accommodation of their disability before the Housing Authority will treat a person differently than anyone else. The Housing Authority's policies and practices will be designed to provide assurances that persons with disabilities will be given reasonable accommodations, upon request, so that they may fully access and utilize the housing program and related services. The availability of requesting an accommodation will be made known by including notices on Housing Authority forms and letters.

This policy is intended to afford persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those who do not have disabilities and is applicable to all situations described in this Administrative Plan including when a family initiates contact with the Housing Authority, when the Housing Authority initiates contact with a family including when a family applies, and when the Housing Authority schedules or reschedules appointments of any kind.

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

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

Rehabilitated former drug users and alcoholics are covered under the ADA. However, a current drug user is not covered. In accordance with 5.403(a), individuals are not considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence. Individuals whose drug or alcohol addiction is a material factor to their disability are excluded from the definition. Individuals are considered disabled if disabling mental and physical limitations would persist if drug or alcohol abuse discontinued.

Once the person's status as a qualified person with a disability is confirmed, the Housing Authority will require that a professional third party competent to make the assessment and provide written verification that the person needs the specific accommodation due to their disability and the change is required for them to have equal access to the housing program.

If the Housing Authority finds that the requested accommodation creates an undue administrative or financial burden, the Housing Authority will either deny the request and/or present an alternate

accommodation that will still meet the need of the person.

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

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

The Housing Authority will provide a written decision to the person requesting the accommodation within fourteen (14) days. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, they may request an informal hearing to review the Housing Authority's decision.

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

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

Verification of Disability

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

Outreach

Outreach efforts will include notification of the Housing Authority's 504 Advisory Board as well as all other media and agencies listed in the Housing Authority's Administrative Plan regarding public notices (see section on opening and closing the waiting list in "Applying for Admission", Chapter 3).

Applying for Admission

All persons who wish to apply for any of the Housing Authority's programs must submit a pre-application in written format, as indicated in our public notice. Pre-applications will be made available in an accessible format upon request from a person with a disability.

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

I. LIMITED ENGLISH PROFICIENCY (LEP) POLICY

In accordance with Federal guidelines, the Housing Authority may make reasonable efforts to provide and arrange free language assistance for persons with Limited English Proficiency (LEP). An LEP individual is a person who does not speak English as their primary language and who has a limited ability to read, write, speak, or understand English. This policy was developed to serve applicants, participants, and/or persons eligible for housing assistance.

J. TRANSLATION OF DOCUMENTS

The Housing Authority has bilingual staff to assist non-English speaking families in Spanish, Tagalog and Cambodian.

In determining whether it is feasible to provide translation of documents written in English into other languages, the Housing Authority will consider the following factors:

- Number of applicants and participants in the jurisdiction who do not speak English and speak the other language.
- Estimated cost to Housing Authority per client of translation of English written documents into the other language.
- The availability of local organizations to provide translation services to non-English speaking families.
- Availability of bilingual staff to provide translation for non-English speaking families.

K. MANAGEMENT ASSESSMENT OBJECTIVES

The Housing Authority operates its housing assistance program with efficiency and can demonstrate to HUD auditors that the Housing Authority is using its resources in a manner that reflects its commitment to quality and service.

The Housing Authority policies and practices are consistent with the areas of measurement for the following HUD SEMAP indicators:

1. Selection from the Waiting List
2. Reasonable Rent
3. Determination of Adjusted Income
4. Utility Allowance Schedule
5. HQS Quality Control Inspections
6. HQS Enforcement
7. Expanding Housing Opportunities
8. Payment Standards
9. Annual Re-examinations
10. Correct Tenant Rent Calculations
11. Pre-Contract HQS Inspections
12. Annual HQS Inspections

13. Lease-up
14. Family Self-Sufficiency Enrollment and Escrow Account Balances
15. Bonus Indicator Deconcentration

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

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

The annual sample of files and records will be drawn in an unbiased manner, leaving a clear audit trail. The minimum sample size to be reviewed will relate directly to each factor.

L. RECORDS FOR MONITORING HOUSING AUTHORITY PERFORMANCE

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

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

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

M. PRIVACY RIGHTS [24 CFR 982.551 AND 24 CFR 5.212]

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

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

Any and all information which would lead one to determine the nature and/or severity of a person's disability must be kept in a separate folder and marked "confidential" or returned to the family member after its use. The personal information in this folder must not be released except on an "as needed" basis in cases where an accommodation is under consideration. All requests for access and granting of accommodations based on this information must be approved by the ~~Rental Assistance Manager~~ Director of Rental Assistance.

The Housing Authority's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files will be stored in a secure

location which is only accessible by authorized staff.

Housing Authority staff will not discuss family information contained in files unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action (reference Section 906 of the Personnel Policy).

The Housing Authority utilizes HUD's Enterprise Income Verification (EIV) system as an on-line source for income verification before or during a reexamination, through an independent source that systematically and uniformly maintains income information in a computerized format for a large number of individuals. This system enables the Housing Authority to check a variety of income sources for all family members, regardless of income sources reported by applicants and participants.

The Housing Authority staff may not disclose EIV data to any third parties (EIV data is property of HUD and protected by the Federal Privacy Act). Staff may only provide EIV data to the individual (only) to whom the record pertains. EIV data of minors may be provided to the minor's parent or guardian.

All files must be signed for when removed from the secured file storage area.

N. FAMILY OUTREACH

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

To reach persons who cannot read the newspaper, the Housing Authority will distribute fact sheets to the broadcasting media, and initiate personal contacts with members of the news media and community service personnel. The Housing Authority will also utilize public service announcements.

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

O. OWNER OUTREACH

The Housing Authority makes a concerted effort to keep private owners informed of legislative changes in the tenant-based program, which are designed to make the program more attractive to owners. This includes informing participant owners of applicable legislative changes in program requirements.

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

The Housing Authority maintains a list of interested landlords and a list of units available for the Housing Choice Voucher Program and updates this list at least every 30 days. When listings from owners are received, they will be compiled by the Housing Authority staff by bedroom size.

The Housing Authority will maintain a list of available housing units submitted by owners in all neighborhoods within the Housing Authority's jurisdiction to ensure greater mobility and housing choice to very low income households. The lists of owners and units will be provided upon request, at briefings, and can be viewed on our website at www.hacsj.com.

The staff of the Housing Authority initiates personal contact with private property owners and managers by conducting formal and informal discussions and meetings.

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

The Housing Authority has active participation in a community-based organization(s) comprised of private property and apartment owners and managers.

The Housing Authority encourages program participation by owners of units located outside areas of poverty or minority concentration. The Housing Authority periodically evaluates the demographic 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 choices and better housing opportunities to families. Voucher holders are informed of a broad range of areas where they may lease units inside the Housing Authority’s jurisdiction and given a list of landlords or other parties who are willing to lease units or help families who desire to live outside areas of poverty or minority concentration

The Housing Authority shall periodically:

- Develop working relationships with owners and real estate broker associations.

- Establish contact with civic, charitable or neighborhood organizations which have an interest in housing for low-income families and public agencies concerned with obtaining housing for displacements.

- Request the HUD Field office to furnish a list of HUD held properties available for rent.

- Explain the program, including equal opportunity requirements and nondiscrimination requirements, including the Fair Housing Amendment Act of 1988 and Americans with Disabilities Act, to real estate agents, landlords, and other groups that have dealings with low- income families or are interested in housing such families.

Chapter 2

ELIGIBILITY FOR ADMISSION

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

INTRODUCTION

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

A. ELIGIBILITY FACTORS [982.201(b)]

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

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

The HUD eligibility criteria are:

- An applicant must be a "family"
- An applicant must be within the appropriate income limits
- An applicant must furnish social security numbers for all family members age six and older
- An applicant must furnish declaration of citizenship or eligible immigrant status and verification where required
- At least one member of the applicant family must either be a U.S. citizen or have eligible immigration status before the Housing Authority may provide any financial assistance.

Reasons for denial of admission are addressed in Chapter 15, "Denial or Termination of Assistance". These reasons for denial constitute additional admission criteria. The family's initial eligibility for placement on the waiting list will be made in accordance with the eligibility factors.

Evidence of citizenship/eligible immigrant status will not be verified until the family is selected from the waiting list for final eligibility processing for issuance of a voucher, unless the Housing Authority determines that such eligibility is in question, whether or not the family is at or near the top of the waiting list.

B. FAMILY COMPOSITION [24 CFR 982.201(c)]

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

A "family" includes a family with or without a child or children. A group of persons consisting of two or more elderly persons or disabled persons living together, or one or more elderly or disabled persons living with one or more live-in aides is a family. The Housing Authority determines if any other group of persons qualifies as a "family."

A single person family may be:

- An elderly person
- A displaced person
- A person with a disability
- Individuals may not be considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence.

- Any other single person

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 increase the space available for other family members.

A family also includes:

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

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

Head of Household

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

Spouse of Head

Spouse means the husband or wife of the head.

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

Co-Head

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

Live-in Attendants [24 CFR 982.316]

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

- Is determined by the Housing Authority to be essential to the care and well being of an elderly person, a near-elderly person, or a person with disabilities;

- Is not obligated for the support of the person(s), and

- Would not be living in the unit except to provide care for the person(s).

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

- Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.

- Live-in aides are not subject to Non-Citizen Rule requirements.

- Live-in aides may not be considered as a remaining member of the tenant family.

- A Live-in aide will not be considered as a family member at a later date.

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

A live-in aide may only reside in the unit with the approval of the Housing Authority. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or caseworker. The verification provider must certify that a live-in aide is needed for the care of the family member who is elderly, near elderly fifty to sixty-one years old (50-61) or disabled.

The Housing Authority will approve a live-in aide if needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability. Approval of a live-in aide for reasonable accommodation will be in accordance with CFR 24 Part 8 and Chapter 1, Section H, "Reasonable Accommodations Policy" of this Administrative Plan.

Verification must include the hours the care will be provided.

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

- The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;

- The person commits drug-related criminal activity or violent criminal activity; or

- The person currently owes rent or other amounts to the Housing Authority or to another Housing Authority in connection with Housing Choice Voucher or public housing assistance under the 1937 Act.

Split Households Prior to Voucher Issuance [24 CFR 982.315]

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

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

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

Multiple Families in the Same Household

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

Joint Custody of Children

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

There will be a self-certification required of families who claim joint custody or temporary guardianship.

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

Student Eligibility [24 CFR 5.612]

No assistance shall be provided to any single Head of Household student who:

- Is enrolled full or part time in an institution of higher education;
- Is under 24 years of age;
- Is not a U.S. Veteran;
- Is unmarried;
- Does not have a dependant child;
- Is individually not income eligible and whose parents (individually or jointly) are not income

eligible for the program;

- The student is income eligible and has established a household separate from parents or legal guardians at least one year prior to application for occupancy.

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

To be eligible for assistance, an applicant must have an annual income at the time of admission that does not exceed the very low-income limits for occupancy established by HUD. (See Chapter 4, Section F for definition of income targeting.)

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

To be income eligible the family may be under the low-income limit in any of the following categories [24 CFR 982.201(b)]:

- A very low-income family.
- A low-income family that is 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 sixty (60) days of voucher issuance. Programs include any housing federally assisted under the 1937 Housing Act.
- A low-income family physically displaced by rental rehabilitation activity under 24 CFR.511.
- A low-income non-purchasing family residing in a HOPE 1 or HOPE 2 project.
- A low-income non-purchasing family residing in a project subject to a home-ownership program under 24 CFR 248.173.
- A low-income family or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165.
- A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a project subject to a resident home-ownership program.

To determine if the family is income-eligible, the Housing Authority compares the annual income of the family to the applicable income limit for the family's size. Families whose annual income exceeds the income limit will be denied admission and offered an informal review.

Portability

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

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

Families are required to provide verification of social security numbers for all family members prior to admission. This requirement also applies to persons joining the family after admission to the program. Failure to furnish verification of social security numbers is grounds for denial or termination of assistance.

Disclosure Requirements: each applicant must submit the following information to the HA when the applicant's eligibility is being determined:

1. The documentation necessary to verify the SSN of an individual who is required to disclose his or her SSN, by means of a valid SSN card issued by the Social Security Administration or such other evidence of SSN as described in this Administrative Plan.

2. IF the HA determines that the applicant is otherwise eligible but cannot provide proof of required SSN to participate in the program, the applicant may retain its place on the waiting list for the program but cannot become a participant until they can provide a complete and accurate SSN assigned to each member of the household.

The mandatory social security number requirements does not apply to individuals in mixed families, who do not contend eligible immigration status under HUD's non-citizens regulation nor does it interfere with existing requirements relative to pro-ration of assistance or screening for such families.

E. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS [24 CFR PART 5, SUBPART E]

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

For the citizenship/eligible immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

Mixed Families

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

All members ineligible

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

Non-citizen students

As defined by HUD in the non-citizen regulations at 24 CFR 5.522, they are not eligible for

assistance.

Appeals

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

Verification of Status before Admission

The Housing Authority will not provide assistance to any family prior to the verification of eligibility for the individual or at least one member of the family pursuant to this section.

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

A family will not be admitted to the program if any member of the family has been evicted from federally assisted housing for serious violations of the lease within the past five (5) years. A family will be denied admission to the program if any member of the family fails to sign and submit consent forms for obtaining information required by the Housing Authority, including HUD Form 9886.

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

- The family must not have violated any family obligation during a previous participation in the Housing Choice Voucher program for three (3) years prior to final eligibility determination.

- The Housing Authority will make an exception if the family member who violated the family obligation is not a current member of the household on the application.

- The family must pay any outstanding debt owed to the Housing Authority or another Housing Authority as a result of prior participation in any federal housing program within fifteen (15) days of Housing Authority notice to repay or enter into an appropriate repayment agreement and provide written proof of participation in the agreement.

- The family must be in good standing regarding any current payment agreement made with another Housing Authority for a previous debt incurred, before this Housing Authority will allow participation in its Housing Choice Voucher Program.

- The Housing Authority will check criminal history for all adults in the household to determine whether any member of the family has violated any of the prohibited behaviors as referenced in the section on screening and termination's policy (Chapter 15, "Denial or Termination of Assistance" of this Administrative Plan).

- If any applicant deliberately misrepresents the information on which eligibility or tenant rent is established, the Housing Authority may deny assistance and may refer the family file/record to the proper authorities for appropriate disposition (see Chapter 17 "Fraud").

- The family must pay any outstanding debt owed the HA or another HA as a result of prior participation in any federal housing program within 15 days of HA notice to repay.

G. TENANT SCREENING [24 CFR 982.307]

The Housing Authority will take into consideration any of the criteria for admission described in Chapter 15, "Denial or Termination of Assistance". The Housing Authority will not screen family behavior or suitability for tenancy. The Housing Authority will not be liable or responsible to the owner or other persons for the family's behavior or the family's conduct in tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. On or before the Housing Authority's approval of the tenancy, the Housing Authority will inform the owner that screening and selection for tenancy is the responsibility of the owner. The owner is responsible for screening families based on their tenancy histories, which may include:

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

The Housing Authority must offer the owner other information in the Housing Authority's possession concerning the family, including:

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

The Housing Authority may offer the owner other information in the Housing Authority's possession concerning the family, including:

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

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

The Housing Authority will advise families how to file a complaint if they have been discriminated against by an owner. The Housing Authority will advise the family to make a Fair Housing

complaint. The Housing Authority may also report the owner to HUD (Fair Housing/Equal Opportunity) or the local Fair Housing Organization.

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

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

I. INELIGIBLE FAMILIES

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they were denied due to non-citizen status. See Chapter 19, "Complaints and Appeals" of this Administrative Plan for additional information about reviews and hearings.

J. PROHIBITED ADMISSIONS CRITERIA [982.202(b)]

Admission to the program may not be based on:

- Where the family lives before admission to the program;
- Where the family will live with assistance under the program;
- Discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock;
- Discrimination because a family includes children;
- Whether a family decides to participate in a family self sufficiency program; or
- Other reasons listed in Chapter 1, Section G (Fair Housing Policy) and Section H (Reasonable Accommodations Policy) of this Administrative Plan.

Chapter 3

APPLYING FOR ADMISSION

[24 CFR 982.204]

INTRODUCTION

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

A. OVERVIEW OF THE APPLICATION TAKING PROCESS

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

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

When the waiting list is open, any family asking to be placed on the waiting list for Housing Choice Voucher rental assistance will be given the opportunity to complete a pre-application.

Pre-applications will be mailed to interested families upon request and is available on our website.

The application process will involve two phases. The first is the "initial" application for assistance (referred to as a pre-application). This first phase results in the family's placement on the waiting list.

The pre-application will be dated, time-stamped, and referred to the Housing Authority's eligibility office where it will be maintained until such time as it is needed for processing.

The second phase is the "final determination of eligibility" (referred to as the full application). The full application takes place when the family reaches the top of the waiting list. At this time the Housing Authority ensures that verification of all HUD and Housing Authority eligibility factors is current in order to determine the family's eligibility for the issuance of a voucher.

B. OPENING/CLOSING OF THE WAITING LIST [24 CFR 982.206, 982.54(d)(1)]

Opening the Waiting List

The Housing Authority will utilize the following procedures for opening the waiting list.
When the Housing Authority opens the waiting list, the Housing Authority will advertise through public notice in the following newspapers, minority publications and media entities:

- The Record
- Lodi Sentinel
- Tracy Press
- Manteca Bulletin
- Human Services Agency
- San Joaquin Fair Housing
- Senior Services Agency of San Joaquin County

- California State Employment Development Department
- Social Security Administration Office
- Local Center for Deafness
- Community Center for the Blind & Visual Impaired
- California State Department of Rehabilitation
- The notice will contain:

- The dates, times, and the locations where families may apply.
- The programs for which applications will be taken.
- A brief description of the program.
- Limitations, if any, on who may apply.

The notices will be made in an accessible format if requested. They will provide potential applicants with information that includes the Housing Authority address and telephone number, how to submit an application, information on eligibility requirements, and the availability of local preferences.

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

If the waiting list is open, the Housing Authority will accept applications from eligible families unless there is good cause for not accepting the application, such as denial of assistance because of action or inaction by members of the family for the grounds stated in Chapter 15, “Denial or Termination of Assistance” of this Administrative Plan.

Limits on Who May Apply

When the waiting list is open:

- Any family asking to be placed on the waiting list for the Housing Choice Voucher Program will be given the opportunity to complete a pre-application.

When the pre-application is submitted to the Housing Authority, it establishes the family's date and time of application for placement order on the waiting list.

Closing the Waiting List

The Housing Authority may stop applications if there are enough applicants to fill anticipated openings for the next 24 months. The waiting list may not be closed if it would have a

discriminatory effect inconsistent with applicable civil rights laws.

The Housing Authority may announce the closing of the waiting list by public notice.

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover and new allocations over the next 24 months. The Housing Authority will give at least 10 days notice prior to closing the list. When the period for accepting applications is over, the Housing Authority will add the new applicants to the list by:

- Separating the new applicants into groups based on preferences and ranking applicants within each group by date and time of application.

Limits on Who May Apply
When the waiting list is open:

- Any family asking to be placed on the waiting list for the Housing Choice Voucher Program will be given the opportunity to complete a pre-application.

When the pre-application is submitted to the Housing Authority, it establishes the family's date and time of application for placement order on the waiting list.

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

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

The purpose of the pre-application is to permit the Housing Authority to preliminarily assess family eligibility or ineligibility and to determine placement on the waiting list. The pre-application will contain at least the following information:

- Applicant name
- Family Size (number of bedrooms the family qualifies for under Housing Authority subsidy standards)
- Date and time of application
- Qualification for any local preference
- Racial or ethnic designation of the head of household
- Annual (gross) family income

Duplicate applications will not be accepted.

Pre-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 WAITING LIST [CFR 982.204]

Applicants are required to inform the Housing Authority in writing of household changes, including address. Applicants are also required to respond to requests from the Housing Authority to update information on their application and to determine their interest in assistance.

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

This written notification of preliminary eligibility will be:

- Given to the applicant at the time the pre-application is submitted;
- Mailed to the applicant by first class mail; or
- Distributed to the applicant in the manner requested as a specific accommodation.

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

E. TIME OF SELECTION [24 CFR 982.204]

When funding is available, families will be selected from the waiting list in their determined sequence, regardless of family size, subject to income targeting requirements.

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

Split Household

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

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

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

F. COMPLETION OF A FULL APPLICATION

All preferences claimed on the pre-application or while the family is on the waiting list will be verified after the family is selected from the waiting list during the full application process. The qualification for preference must exist at the time the preference is claimed and at the time of verification, because claim of a preference determines placement on the waiting list.

After the preference is verified, when the Housing Authority is ready to select applicants, applicants will be required to:

- Complete a Personal Declaration Form prior to the full application interview.
- Complete a full application packet in their own handwriting, unless assistance is needed. If a request for accommodation is made by a person with a disability, the Housing Authority interviewer will complete the full application form with answers supplied by the applicant. The applicant will then be interviewed by Housing Authority staff to review the information on the full application form.
- Participate in a full application interview with a Housing Authority representative during which the applicant will be required to furnish complete and accurate information as requested by the interviewer. The applicant will sign and certify that all information is complete and accurate.
- The full application packet will be communicated as requested as an accommodation to a person with a disability.

Requirement to Attend Interview

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

All adult family members are required to attend the interview and sign the housing application.

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

If an applicant fails to appear for a pre-scheduled appointment, the Housing Authority will automatically schedule a second appointment. If the applicant misses the second appointment without prior approval, the application is denied.

If the interview appointment letter is returned to the Housing Authority with a forwarding address, the Housing Authority will make no more than two (2) attempts to forward the appointment letter to the new forwarding address before canceling the application.

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

If an application is denied due to failure to attend the full application interview, the applicant will be notified in writing and offered an opportunity to request an informal review (see Chapter 19 "Complaints and Appeals" of this Administrative Plan).

All adult members must sign the HUD Form 9886, Release of Information, the application, the declarations and consents related to citizenship/immigration status and any other supplemental forms required by the Housing Authority. Applicants will be required to sign specific verification forms for information which is not covered by the HUD Form 9886. Failure to do so will be cause for denial of the application.

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

If the Housing Authority determines at or after the interview that additional information or document(s) are needed, the Housing Authority will request the document(s) or information in writing. The family will be given ten (10) business days to supply the information.

If the letter requesting the additional information is returned to the Housing Authority with a forwarding address, the Housing Authority will make no more than two (2) attempts to forward the appointment letter to the new forwarding address.

If the information is not supplied in this time period, the Housing Authority will provide the family a notification of denial for assistance (see Chapter 19 "Complaints and Appeals" of this Administrative Plan).

G. VERIFICATION [24 CFR 982.201(e)]

Information provided by the applicant will be verified using the verification procedures in Chapter 7 "Verification Procedures" of this Administrative Plan. Family composition, income, allowances and deductions, assets, full-time student status, eligibility and rent calculation factors, and other pertinent information will be verified. Verifications may not be more than sixty (60) days old at the time of issuance of the voucher.

If the HA determines at or after the interview that additional information or document(s) are needed, the HA will request the document(s) or information in writing. The family will be given seven (7) business days to supply the information.

If the information is not supplied in this time period, the HA will provide the family a notification of denial for assistance (see Chapter 19, "Complaints and Appeals").

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

After the verification process is completed, the Housing Authority will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by the Housing Authority, and the current eligibility criteria in effect. If the family is determined to be eligible, the Housing Authority will mail a notification of eligibility. A briefing

will be scheduled for the issuance of a voucher and the family's orientation to the housing program.

Chapter 4

ESTABLISHING PREFERENCES AND MAINTAINING THE WAITING LIST

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

INTRODUCTION

It is the Housing Authority'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 chapter explains the local preferences which the Housing Authority has adopted to meet local housing needs, defines the eligibility criteria for the preferences and explains the Housing Authority's system of applying them.

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

A. WAITING LIST [24 CFR 982.204]

The Housing Authority uses a single waiting list for admission to its Housing Choice Voucher tenant-based assistance program. Except for special admissions, applicants will be selected from the Housing Authority waiting list in accordance with policies and preferences and income targeting requirements defined in this Administrative Plan.

The Housing Authority will maintain information that permits proper selection from the waiting list. The waiting list contains the following information for each applicant listed:

- Applicant name
- Family unit size (number of bedrooms family qualifies for under Housing Authority subsidy standards)
- Date and time of application
- Qualification for any local preference
- Racial or ethnic designation of the head of household

B. SPECIAL ADMISSIONS [24 CFR 982.54(d), 982.203]

If HUD awards a Housing Authority program funding that is targeted for specifically named families, the Housing Authority will admit these families under a special admission procedure. Special admission families will be admitted outside of the regular waiting list process. They do not have to qualify for any preferences, nor are they required to be on the program waiting list.

The Housing Authority maintains separate records of these admissions.

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

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

C. WAITING LIST PREFERENCES [24 CFR 982.207]

An applicant will not be granted any preference if any member of the family has been evicted from federally assisted housing during the past three (3) years because of drug-related criminal activity. The Housing Authority may grant an exception to such a family if the culpable household member completed an approved, supervised drug rehabilitation program; the circumstances for the eviction no longer exist; or the evicted person clearly did not participate in or know about the drug related activity.

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

D. LOCAL PREFERENCES [24 CFR 982.207]

The Housing Authority will offer public notice when changing its preference system and the notice will be publicized using the same guidelines as those for opening and closing the waiting list. The Housing Authority uses the following local preference system:

Displaced by Government Action (5 points)

Families who were receiving Housing Choice Voucher assistance will take precedence over other waiting list place holders. New applicants to the Housing Choice Voucher program must be a family displaced by a natural disaster, including disasters recognized by a Federal government, which extensively damaged or destroyed their dwelling or is:

- Dilapidated as cited by city/county officials of a local code enforcement office and does not provide safe, adequate shelter; has one or more critical defects or a combination of defects requiring considerable repair or endangers the health, safety, and well-being of family.

- Has been declared unfit for habitation by a government agency.

Veteran Preference (4 points)

Current members of the military, veterans, or surviving spouses of veterans may qualify for this preference. Applicants must provide proof of honorable discharge. If discharge is less than honorable, applicant must provide proof of eligibility to receive veteran's benefits.

Residency Preference (2 points)

Families who live, work, or have been hired to work within San Joaquin County and/or residents moving to San Joaquin County who currently participate in an approved Cal work's Program at the time of submission of the pre-application.

Applicants who are working or who have been notified that they are hired to work in a residency preference area must be treated as residents of the residency preference area. The Housing Authority may treat graduates of or active participants in, education and training programs in a residency preference area as residents of the residency preference area if the education or training program is designed to prepare individuals for the job market.

Disability Preference (1 point)
This preference is extended to disabled persons or families with a disabled member as defined in this Administrative Plan. Proof of disability will be required at time of selection.

The Housing Authority will use the following to select among applicants on the waiting list with the same preference status:

- Date and time of receipt of a completed application.

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

At the time of application, an applicant's entitlement to a local preference may be made on the following basis. An applicant's certification that they qualify for a preference will be accepted without verification at the initial application. When the family is selected from the waiting list for the final determination of eligibility, the preference will be verified.

If the preference verification indicates that an applicant does not qualify for the preference, the applicant will be returned to the waiting list without the local preference and given an opportunity for an informal review.

If, at the time the family applied, the preference claim was the only reason for placement of the family on the list and the family cannot verify their eligibility for the preference as of the date of application, the family will be removed from the list.

F. TARGETED FUNDING [24 CFR 982.203]

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

Applicants who are admitted under targeted funding which are not identified as a special admission are identified by codes in the automated system. The following types of program funding may be "targeted" programs:

- Family Unification Program
- A family displaced because of demolition or disposition of a public housing project
- A family residing in a multi-family rental housing project when HUD sells, forecloses or demolishes the project
- Housing covered by the Low Income Housing Preservation and Resident Homeownership Act of 1990 (41 U.S.C. 4101 et seq.) CFR 248.173)
- A non-purchasing family residing in a project subject to a homeownership program (under 24 CFR 248.173)
- A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term
- A non-purchasing family residing in a HOPE 1 or HOPE 2 project.

G. INCOME TARGETING

In accordance with the Quality Housing and Work Responsibility Act (QHWRA) of 1998, each

fiscal year the Housing Authority will reserve a minimum of seventy-five percent (75%) of its Housing Choice Voucher new admissions for families whose income does not exceed thirty percent (30%) of the area median income. HUD refers to these families as "extremely low-income families." The Housing Authority will admit families who qualify under the extremely low-income limit to meet the income-targeting requirement, regardless of preference.

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

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

The Housing Authority shall have the discretion, at least annually, to exercise the "fungibility" provision of the QHWRA. This provision allows the Housing Authority to admit less than the minimum forty percent (40%) of its extremely low-income families in a fiscal year to its public housing program to the extent that the Housing Authority's admission of extremely low income families in the tenant-based assistance program exceeds seventy-five percent (75%) of all admissions during the fiscal year. If exercising this option the Housing Authority will follow the fungibility threshold limitations as set forth in QHWRA legislation.

The discretion by the Housing Authority to exercise the fungibility provision is also reflected in the Housing Authority's Public Housing Admissions and Continued Occupancy Policy.

H. PREFERENCE AND INCOME TARGETING ELIGIBILITY [24 CFR 982.207]

Change in Circumstances

Changes in an applicant's circumstances while on the waiting list may affect the family's entitlement to a preference. Applicants are required to notify the Housing Authority in writing when their circumstances change.

When an applicant claims an additional preference, they will be placed on the waiting list in the appropriate order determined by the newly claimed preference. The exception to this is that if at the time the family applied, the waiting list was only open to families who claimed that preference. In such case, the applicant must verify that they were eligible for the first preference before they are returned to the waiting list with the new preference.

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

Cross-Listing of Different Housing Programs and Housing Choice Voucher [24 CFR 982.205(a)]

The Housing Authority will not merge its waiting lists. If the waiting list for the Housing Authority's Public Housing program, and/or Project-Based Voucher Program is open at the time an applicant applies for Housing Choice Voucher, the Housing Authority must offer to place the family on its waiting lists for the other programs.

Project Based Voucher Units Designated for Elderly or Disabled Families

Developments specifically designed for elderly or disabled families may enter into contract under the Project Based Voucher Program. An elderly family is defined as a family whose head, spouse, co-head, or sole member is a person who is 62 years of age or older. A disabled family is a family whose head, spouse, co-head, or sole member is a person with a disability [24 CFR 5.403].

Preference will be given in tenant selection for units in the project based development designated for senior or disabled families. In selecting elderly or disabled families to fill these units, the Housing Authority must also apply any preferences established in this Administrative Plan. The Housing Authority may not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

If there are not enough elderly families to occupy the units in a designated senior Project Based Voucher development, the Housing Authority may allow near-elderly families to occupy the units. A near-elderly family is a family whose head, spouse, or co-head is at least 50 years old but is less than 62 years of age. When there are insufficient elderly families on the waiting list who wish to reside in a Project Based Voucher Program development designated as a senior complex, near-elderly families will be selected.

Other Housing Assistance [24 CFR 982.205(b)]

Other housing assistance means a Federal, State or local housing subsidy, as determined by HUD, including Public Housing.

The Housing Authority may not take any of the following actions because an applicant has applied for, received, or refused other housing.

- Refuse to list the applicant on the Housing Authority waiting list for tenant-based assistance;
- Deny any admission preference for which the applicant is currently qualified;
- Change the applicant's place on the waiting list based on preference, date and time of application, or other factors affecting selection under the Housing Authority selection policy; or
- Remove the applicant from the waiting list.

I. ORDER OF SELECTION [24 CFR 982.207(e)]

Local preferences, as described in Section D of this chapter, will be used to select families from the waiting list. The established local preferences reflect local housing needs and priorities.

In order to avoid unnecessary delays of admission to the program and to ensure that those who qualify for a particular unit can be placed in that unit, the Housing Authority will utilize a point system to move that applicant (or all applicants with that same preference) to the top of the waiting list. As in all situations, the Housing Authority will then ensure that all applicants with the same

local preference are prioritized and selected by date and time of application.

The Housing Authority's method for selecting applicants from a preference category leaves a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in this Administrative Plan.

J. FINAL VERIFICATION OF PREFERENCES [24 CFR 982.207]

Preference information on applications will be updated as applicants are selected from the waiting list. At that time, the Housing Authority will obtain necessary verifications of preference at the interview and by third party verification.

K. PREFERENCE DENIAL [24 CFR 982.207]

If the Housing Authority denies a preference, the Housing Authority will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for an informal review with Applications Compliance Supervisor or his/her designee. 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.

L. REMOVAL FROM WAITING LIST AND PURGING [24 CFR 982.204(c)]

The waiting list will be purged as necessary. The Housing Authority may notify applicants by mail to ensure that the waiting list is current and accurate. The mailing will ask for confirmation of continued interest.

Any mailings to the applicant which require a response will state that failure to respond within ten (10) days will result in the applicant's name being removed from the waiting list. An extension of thirty (30) days to respond will be granted, if requested and needed as a reasonable accommodation for a person with a disability.

If a letter is returned by the Post Office without a forwarding address, the applicant will be removed from the waiting list without further notice, and the envelope and letter will be maintained in the file. If a letter is returned with a forwarding address, the Housing Authority will make no more than two (2) attempts to forward the appointment letter to the new forwarding address before removing the applicant from the wait list.

If an applicant is removed from the waiting list for failure to respond, they will not be entitled to reinstatement unless the Application's Compliance Supervisor or his/her designee determines there were circumstances beyond the person's control.

Applicants are required to contact the Housing Authority periodically.

The Housing Authority allows a grace period of thirty (30) days after completion of the purge. Applicants who respond during this grace period will be reinstated.

Chapter 5

SUBSIDY STANDARDS

[24 CFR 982.54(d)(9)]

INTRODUCTION

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

A. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]

The Housing Authority does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the voucher. The Housing Authority'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.

The Housing Authority will consider factors such as family characteristics including sex, age, or relationship. Consideration will also be given for medical reasons and the presence of a live-in aide.

Generally, the Housing Authority assigns one bedroom to two people within the following guidelines:

- Foster children will be included in determining unit size only if they will be in the unit for more than 12 months.
- Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendant's family.
- Space may be provided for a child who is away at school but who lives with the family during school recesses.

A single pregnant woman with no other family members must be treated as a two-person family. Single person families shall be allocated zero or a one bedroom voucher depending on funding availability. Space may not be provided for a family member, other than a spouse, who will be absent most of the time, such as a member who is away in the military.

GUIDELINES FOR DETERMINING VOUCHER SIZE

Voucher Size	Persons in Household	
	Minimum Number	**Maximum Number**
0 Bedroom	1	2
1 Bedroom	1	4
2 Bedrooms	2	6
3 Bedrooms	3	8
4 Bedrooms	4	10
5 Bedrooms	6	12
6 Bedrooms	8	14

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

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

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

Request for Exceptions to Subsidy Standards

The family may request a larger sized voucher than indicated by the Housing Authority's subsidy standards. Such request must be made in writing within ten (10) days of the Housing Authority's determination of bedroom size. The request must explain the need or justification for a larger bedroom. Documentation verifying the need or justification will be required as appropriate.

The Housing Authority will not issue a larger voucher due to additions of family members other than by birth, adoption, marriage, or court-awarded custody.

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

Housing Authority Error

If the Housing Authority errs in the bedroom size designation, the family will be issued a voucher of the appropriate size so that the family is not penalized.

Changes for Applicants

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

Changes for Participants

The members of the family residing in the unit must be approved by the Housing Authority. The family must obtain approval of any additional family member before the new member occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform the Housing Authority within 30 days. The above referenced guidelines will apply.

Under housed Families

If a unit does not meet the HQS space standards because of an increase in family size (unit too small), the Housing Authority must issue the family a new voucher of the appropriate size and the family and Housing Authority must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rent by the family, the Housing Authority must terminate the HAP contract in accordance with its terms.

Over housed Families

If a participant has a decrease in the family size, the family has the option to be issued a new voucher or remain in the unit they are currently renting. If the family chooses to remain in the unit, the subsidy standard will be lowered at the next annual reexamination. If the family chooses to move, the voucher issued will be for the correct subsidy standard. The amount the family pays for rent should be affordable and the tenant portion of rent and the current utility allowance cannot exceed 40% of their adjusted income at the time of lease-up. The Housing Authority rent will be based on the payment standard for the number of bedrooms the family is eligible for or the actual number of bedrooms in the unit, whichever is less. In cases where the gross rent is less than the payment standard, it will be used as the payment standard.

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

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

The Housing Authority and family have been unable to locate a unit within thirty (30) days.

C. UNIT SIZE SELECTED [24 CFR 982.402(c)

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

Subsidy Limitation

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

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

Utility Allowance

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

Housing Quality Standards

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

HQS GUIDELINES FOR UNIT SIZE SELECTED

Unit Size	Maximum Number in Household
0 Bedroom	2
1 Bedroom	4
2 Bedrooms	6
3 Bedrooms	8
4 Bedrooms	10
5 Bedrooms	12
6 Bedrooms	14

Chapter 6

FACTORS RELATED TO TOTAL TENANT PAYMENT AND FAMILY SHARE DETERMINATION

[24 CFR Part 5, Subparts E and F; 24 CFR 982

INTRODUCTION

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

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

A. INCOME AND ALLOWANCES [24 CFR 5.609]

Income

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

Annual Income

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

Adjusted Income

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

HUD has five allowable deductions from annual income:

1. Dependent Allowance: $480 for each family member (other than the head or spouse) who are minors or who are 18 and older and are full-time students or who are disabled.

2. Elderly/Disabled Allowance: $400 per family for families whose head or spouse is 62 or over or disabled.

3. Allowable Medical Expenses: Deducted for all family members of an eligible elderly/disabled family.

4. Child Care Expenses: Deducted for the care of children under 13 when child care is necessary to allow an adult member to work, attend school, or actively seek employment.

5. Allowable Disability Assistance Expenses: Deducted for attendant care or auxiliary apparatus for persons with disabilities if needed to enable the individual or an adult family member to work.

B. MANDATORY EARNED INCOME DISALLOWANCE (MEID) FROM RENT DETERMINATIONS [24 CFR 5.616; 982.201(b)(3)]

Initial Twelve-Month Exclusion

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

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

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

Second Twelve-Month Exclusion and Phase-in

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

Maximum Four Year Disallowance

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

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

A disabled family qualified for the earned income exclusion is a family that is receiving tenant-based rental assistance under the Housing Choice Voucher Program and must meet one or more of the following conditions:

- Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

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

- Whose annual income increases, as a result of new employment or increased earnings of a family member during or within six (6) months after receiving assistance, benefits or services under any State program for TANF provided that the total amount over a six-month period is at least $500. The qualifying TANF assistance may consist of any amount of monthly income maintenance, and/or at least $500 in such TANF benefits and services as one-time payments, wage subsidies and transportation assistance.

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

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

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

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

Applicability to Child Care Expense Deductions

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

Tracking the Earned Income Exclusion

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

Such documentation will include:

- Date the increase in earned income was reported by the family
- Name of the family member whose earned income increased
- Reason for the increase in earned income (refer to Section B above)
- Amount of the increase in earned income (amount to be excluded)
- Date the increase in income is first excluded from annual income
- Date(s) earned income ended and resumed during the initial cumulative twelve (12) month period of exclusion (if any)

- Date the family member has received a total of twelve (12) months of the initial exclusion

- Date the twelve (12) month phase-in period began

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

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

- Ending date of the maximum forty-eight (48) months, four (4) year disallowance period which is forty-eight (48) months from the date of the initial earned income disallowance

The Housing Authority will maintain a tracking system to ensure correct application of the earned income disallowance. Refer to Chapter 12, Section C, "Reporting Interim Changes", for increases in income that must be reported.

Resident Service Stipend [24 CFR 5.600(c)(8)(iv)]

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed $200 per individual per month) received by a resident for performing a service for the Housing Authority or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the Housing Authority's governing board. No resident may receive more than one such stipend during the same period of time.

Inapplicability to Admission

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

C. MINIMUM RENT [24 CFR 5.630]

Minimum Rent

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

Hardship Requests for an Exception to Minimum Rent

The Housing Authority recognizes that in some circumstances even the minimum rent may create a financial hardship for families. The Housing Authority will review all relevant circumstances brought to the Housing Authority's attention regarding financial hardship as it applies to the minimum rent. The following section states the Housing Authority's procedures and policies in regard to minimum rent financial hardship as set forth by the Quality Housing and Work

Responsibility Act of 1998. HUD has defined circumstances under which a hardship could be claimed.

Criteria for Hardship Exception

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

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

- The family would be evicted as a result of the imposition of the minimum rent requirement.
- The income of the family has decreased because of changed circumstances, including:
- Loss of employment
- Death in the family
- Other circumstances as determined by the Housing Authority or HUD

Housing Authority Notification to Families of Right to Hardship Exception

The Housing Authority will notify all families subject to minimum rents of their right to request a minimum rent hardship exception. "Subject to minimum rent" means the minimum rent was the greatest figure in the calculation of the greatest of thirty percent (30%) of monthly adjusted income, ten percent (10%) of monthly income, minimum rent or welfare rent.

If the minimum rent is the greatest figure in the calculation of Total Tenant Payment, Housing Authority staff will include a copy of the notice regarding hardship request provided to the family in the family's file.

The Housing Authority notification will advise families that hardship exception determinations are subject to Housing Authority review and hearing procedures.

The Housing Authority will review all family requests for exception from the minimum rent due to financial hardships.

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

The Housing Authority will request documentation as proof of financial hardship. The Housing Authority will use its standard verification procedures to verify circumstances which have resulted in financial hardship.

Requests for minimum rent exception must include a statement of the family hardship that qualify

the family for an exception.

Suspension of Minimum Rent

The Housing Authority will grant the minimum rent exception to all families who request it, effective the first of the following month.

The minimum rent will be suspended until the Housing Authority determines whether the hardship is:

- Covered by statute;
- Temporary or long term.

"Suspension" means that the Housing Authority must not use the minimum rent calculation until the Housing Authority has made this decision. During the minimum rent suspension period, the family will not be required to pay a minimum rent and the housing assistance payment will be increased accordingly. If the Housing Authority determines that the minimum rent is not covered by statute, the Housing Authority will impose a minimum rent including payment for minimum rent from the time of suspension.

Temporary Hardship

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

The Housing Authority will offer a repayment agreement to the family for any such rent not paid during the temporary hardship period (see Chapter 18, "Owner and Family Debts to the Housing Authority" in this Administration Plan for the payment agreement policy).

Long-Term Duration Hardships

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

Retroactive Determination

The Housing Authority will reimburse the family for any minimum rent charges which took effect after October 21, 1998, that qualified for one of the mandatory exceptions. If the family is owed a retroactive payment, the Housing Authority will offset the family's future rent contribution payments by the amount in which the Housing Authority owes the family.

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

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

the income of the spouse or the head of the household if that person is temporarily absent, even if that person is not on the lease.

"Temporarily absent" is defined as away from the unit for more than thirty (30) days. The income of persons permanently absent will not be counted. If the spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

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

Absence of Any Member

Any member of the household will be considered permanently absent if they are away from the unit for more than ninety (90) consecutive days except as otherwise provided in this chapter. 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 Housing Authority's "Absence of Entire Family" policy later in this chapter.

Absence due to Medical Reasons

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the Housing Authority 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 180 days, the family member will not be considered permanently absent.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the Housing Authority's "Absence of Entire Family" policy later in this chapter.

Absence due to Full-time Student Status

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

A student (other than head of household or spouse) who attends school away from home but lives with the family during school recesses may, at the family's choice, be considered either temporarily or permanently absent.

If the family decides 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 determination of voucher size.

Absence due to Incarceration

If the sole member is incarcerated for more than sixty (60) consecutive days, they will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if they are incarcerated for sixty (60) consecutive days, or one hundred and eighty (180) days, in a twelve month period**.**

The Housing Authority will determine if the reason for incarceration is for drug-related or violent criminal activity.

Absence of Children due to Placement in Foster Care

If the family includes a child or children temporarily absent from the home due to placement in foster care, the Housing Authority 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 twelve (12) months or recertification date, which ever is first, from the date of removal of the children, the voucher size will be reduced. If all children are removed from the home permanently, the voucher size will be reduced in accordance with the Housing Authority's subsidy standards.

Absence of Entire Family

These policy guidelines address situations when the family is absent from the unit, but has not moved out of the unit. In cases where the family has moved out of the unit, the Housing Authority will terminate assistance in accordance with appropriate termination procedures contained in this Administrative Plan.

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

Families must notify the Housing Authority at least thirty (30) days before leaving the unit or no less than fourteen (14) days after leaving the unit if they are going to be absent from the unit for more than thirty (30) consecutive days.

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

If it is determined that the family is absent from the unit, the Housing Authority will not continue assistance payments.

“Absence” means that no family member is residing in the unit.

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

- Write letters to the family at the unit;
- Telephone the family at the unit;
- Interview neighbors;
- Verify if utilities are in service; and/or
- Check with the Post Office.

A person with a disability may request an extension of time as an accommodation, provided that the extension does not go beyond the HUD allowed one hundred eighty (180) consecutive days limit.

If the absence which resulted in termination of assistance was due to a person's disability, and the Housing Authority can verify that the person was unable to notify the Housing Authority in

accordance with the family's responsibilities, and if funding is available, the Housing Authority may reinstate the family as an accommodation if requested by the family, as long as the period was within one hundred eighty (180) days**.**

Caretaker for Children

If neither parent remains in the household and the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the Housing Authority will treat that adult as a visitor for the first ninety (90) days. If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, the voucher will be transferred to the caretaker.

If the appropriate agency cannot confirm the guardianship status of the caretaker, the Housing Authority will review the status at ninety (90) day intervals. If custody or legal guardianship has not been awarded by the court, but the action is in process, the Housing Authority will secure verification from social services staff or the attorney as to the status.

If custody is awarded for a limited time in excess of stated period, the Housing Authority will state in writing that the transfer of the voucher is for that limited time or as long as they have custody of the children. The Housing Authority will use discretion as deemed appropriate in determining any further assignation of the voucher on behalf of the children.

The caretaker will be allowed to remain in the unit, as a visitor, until a determination of custody is made. The Housing Authority will transfer the voucher to the caretaker, in the absence of a court order, if the caretaker has been in the unit for more than six (6) months and it is reasonable to expect that custody will be granted.

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

If a member of the household is subject to a court order that restricts them from the home for more than ninety (90) consecutive days, the person will be considered permanently absent.

Visitors

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

Absence of evidence of any other address will be considered verification that the visitor is a member of the household.

Statements from neighbors and/or the landlord will be considered in making the determination. Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the household and the Housing

Authority will terminate assistance since prior approval was not requested for the addition.

Minors and college students who were part of the family but who now live away from home during the school year and are no longer on the lease may visit for up to ninety (90) days per year without being considered a member of the household.

In a joint custody arrangement, if the minor is in the household less than 182 days per year, the minor will be considered to be an eligible visitor and not a family member.

Reporting Additions to Owner and Housing Authority

Reporting changes in household composition to the Housing Authority is both a HUD and a Housing Authority requirement.

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

If the family does not obtain prior written approval from the Housing Authority, any person the family has permitted to move in will be considered an unauthorized household member. In the event that a visitor continues to reside in the unit after the maximum allowable time, the family must report it to the Housing Authority in writing within thirty (30) days of the maximum allowable time.

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

In addition, the Housing Authority will require the family to obtain prior written approval from the owner when there are changes in family composition other than birth, adoption or court awarded custody.

Reporting Absences to the Housing Authority

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

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

The Housing Authority will conduct an interim evaluation for changes which affect the Total Tenant Payment in accordance with the interim policy.

E. AVERAGING INCOME

When annual income cannot be anticipated for a full twelve (12) months, the Housing Authority may average known sources of income that vary to compute an annual income, or annualize current income and conduct an interim reexamination if income changes.

If there are bonuses or overtime which the employer cannot anticipate for the next twelve (12) months, bonuses and overtime received the previous year will be used.

If, by averaging an estimate can be made for those families whose income fluctuates from month to month, this estimate will be used so as to reduce the number of interim adjustments. The method used depends on the regularity, source and type of income.

F. MINIMUM INCOME

There is no minimum income requirement. Families who report zero income are required to undergo an interim recertification every ninety (90) days.

Families that report zero income will be required to provide information regarding their means of basic subsistence, such as food, utilities, transportation, etc., by completing a Monthly Expenditure Form.

The Housing Authority will request credit checks for all adult members of families who report zero income. Where credit reports show credit accounts open and payments current, the Housing Authority will take action to investigate the possibility of fraud or program abuse (see "Program Integrity Addendum" of this Administrative Plan).

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

G. INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME [24 CFR 982.54(D)(10)]

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, the Housing Authority will calculate the income by using the following methodology and 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 of the person permanently confined to the nursing home and give the family the medical deductions allowable on behalf of the person in the nursing home.

H. 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 six (6) months or more frequently will be considered a "regular" contribution or gift. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts (see Chapter 7 "Verification Procedures" of this Administration Plan for further definition).

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

I. 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 Housing Authority will use the amount awarded by the court unless the family can verify that they are not receiving the full amount and verification of item(s) below are provided.

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

- The Housing Authority receives verification from the agency responsible for enforcement or collection.
- The family furnishes documentation of child support or alimony collection action filed through a child support enforcement/collection agency, or has filed an enforcement or collection action through an attorney.
- It is the family's responsibility to supply a certified copy of the divorce decree.

J. LUMP-SUM PAYMENTS [24 CFR 5.609]

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

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

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

- The Housing Authority uses a calculation method which calculates retroactively or prospectively depending on the circumstances.
- The Housing Authority will calculate prospectively if the family reported the payment within thirty (30) days and retroactively to date of receipt if the receipt was not reported within that time frame.

Retroactive Calculation Methodology

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

The Housing Authority will determine the amount of income for each certification period, including the lump sum, and recalculate the tenant rent for each certification period to determine the amount due the Housing Authority.

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

Attorney Fees

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

K. CONTRIBUTIONS TO RETIREMENT FUNDS - ASSETS

Contributions to company retirement/pension funds are handled as follows:

- While an individual is employed, count as assets only the amounts the family can withdraw without retiring or terminating employment.
- After retirement or termination of employment, count any amount the employee elects to receive as a lump sum.

L. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.609(b)(3)]

The Housing Authority must count assets disposed of for less than fair market value during the two years preceding certification or reexamination. The Housing Authority will count the difference between the market value and the actual payment received in calculating total assets.

Assets disposed of as a result of a foreclosure or a bankruptcy is not considered to be assets disposed of for less than fair market value. Assets disposed of as a result of a divorce or separation is not considered to be assets disposed of for less than fair market value.

The Housing Authority's minimum threshold for counting assets disposed of for less than fair market value is $1,000. If the total value of assets disposed of within a one-year period is less than $500, they will not be considered an asset.

M. CHILD CARE EXPENSES [24 CFR 5.603]

Child care expenses for children under thirteen (13) years old may be deducted from annual income if they enable an adult to work or attend school full time, or to actively seek employment. In the case of a child attending private school, only after-hours care can be counted as child care expenses.

In cases where an adult family member is available to provide child care, child care expenses will not be allowed as a deduction unless there is a documented reason that the family member is unable to care for the child. Examples of those adult members who would be considered unable to care for the child include:

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

Allowable deductions for child care expenses are based on the following guidelines:

Child Care to Work

The maximum child care expense allowed cannot exceed 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 reasonable travel time to and from school.

Amount of Expense

The Housing Authority will survey the local care providers in the community and collect data as a guideline. If the hourly rate materially exceeds the guideline, the Housing Authority may calculate the allowance using the guideline.

N. MEDICAL EXPENSES [24 CFR 5.603]

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

Non-prescription medicines and chiropractic care must be doctor recommended in order to be considered a medical expense.

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

O. Medicare Drug Prescription Program (Part D)

Medicare prescription drug coverage is insurance that covers both brand-name and generic prescription drugs at participating pharmacies. Medicare prescription drug coverage provides protection for people who have very high drug costs. Everyone with Medicare, regardless of income, health status, or prescription drug usage, will have access to prescription drug coverage beginning on January 1, 2006, as follows:

- Low income families with limited assets will qualify, but family must enroll in a plan that meets their prescription drug needs.

- Persons receiving SSI will automatically qualify.

- A one time $600 subsidy (transitional assistance) will be provided to eligible Medicare beneficiaries. This subsidy must be excluded as income**.** The family may provide this verification (if not, the Housing Authority will need to do a third-party verification).

- Un-reimbursed out-of-pocket expenses for prescription drugs must be counted in the family's medical expense deduction.

- Some persons may be required to pay a monthly premium up to $37 which will be counted as a medical deduction. The family may pay the premium directly or it may be deducted directly from their SSI check.

Families are not required to report they have enrolled until their next recertification (through February, 2007).

P. PRO-RATION OF ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.520]

Applicability

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

Prorated Assistance Calculation

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

Q. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS

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

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

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

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

Imputed welfare income is the amount of annual income not actually received by a family as a result of a specified welfare benefit reduction that is included in the family's income for rental contribution. Imputed welfare income is not included in annual income if the family was not an assisted resident at the time of sanction.

The amount of imputed welfare income is offset by the amount of additional income a family receives that begins after the sanction was imposed.

When additional income is at least equal to the imputed welfare income, the imputed welfare income is reduced to zero.

Verification Before Denying a Request to Reduce Rent

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

The welfare agency, at the request of the Housing Authority, will inform the Housing Authority of:

- Amount and term of specified welfare benefit reduction for the family;
- Reason for the reduction; and
- Subsequent changes in term or amount of reduction.

R. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS [24 CFR 982.517]

When funding is available, the Housing Authority will provide families an allowance for tenant paid utilities. The same utility allowance schedule is used for all tenant-based programs.

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

The Housing Authority's utility allowance schedule and the utility allowance for an individual family must include the utilities and services that are necessary in the locality to provide housing that complies with the housing quality standards.

The Housing Authority may not provide any allowance for non-essential utility costs, such as costs of cable or satellite television.

The Housing Authority must classify utilities in the utility allowance schedule according to the following general categories: space heating, air conditioning, cooking, water heating, water, sewer, trash collection, other electric, refrigerator (for tenant-supplied refrigerator), range (for tenant-supplied range); and other services as specified by HUD.

A tenant-paid air conditioning allowance will be provided throughout our jurisdiction. The air conditioning allowance will only be granted to families in the area when the Housing Authority has confirmed that the unit actually has an air conditioner in the unit.

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

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

When the calculation on the HUD 50058 form results in a utility reimbursement payment due to the family, the Housing Authority will provide a utility reimbursement payment to the family each month. The check will be made out directly to the tenant.

Chapter 7

VERIFICATION PROCEDURES

[24 CFR Part 5, 24 CFR 982.516]

INTRODUCTION

HUD regulations require that the factors of eligibility and Total Tenant Payment be verified by the Housing Authority. Housing Authority staff will obtain written verification from independent sources whenever possible and will document tenant files whenever third party verifications are not possible as to why third party verification was impossible to obtain.

Applicants and program participants must provide true and complete information to the Housing Authority whenever information is requested. The Housing Authority's verification requirements are designed to maintain program integrity. This chapter explains the Housing Authority's procedures and standards for verification of preferences, income, assets, allowable deductions, family status, and changes in family composition. The Housing Authority will obtain proper authorization from the family before requesting information from independent sources.

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

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

Enterprise Income Verification (EIV): The Housing Authority utilizes HUD's Enterprise Income Verification (EIV) system as an on-line source for income verification before or during a reexamination, through an independent source that systematically and uniformly maintains income information in a computerized format for a large number of individuals. This system enables the Housing Authority to check a variety of income sources for all family members, regardless of income sources reported by applicants and participants.

The Housing Authority staff may not disclose EIV data to any third parties (EIV data is property of HUD and protected by the Federal Privacy Act). Staff may only provide EIV data to the individual to whom the record pertains. EIV data of minors may be provided to the minor's parent or guardian.

1. **Third-Party Written:** The Housing Authority's next choice is a written third-party verification to substantiate claims made by an applicant or resident.

2. **Third-Party Oral:** The Housing Authority may also use telephone verifications.

3. **Review of Documents:** The Housing Authority will review documents, when relevant, to substantiate the claim of an applicant or resident.

4. **Certification/Self-Declaration:** An affidavit, certification, or statement made under penalty of perjury, and witnessed by the Housing Authority.

Third party verification of Social Security (SS) and Supplemental Security Income (SSI) benefits of participants and household members is available through HUD's Enterprise Income Verification (EIV) System. The Housing Authority is required to use the EIV system to verify SS/SSI benefits of current participants and household members.

If EIV is not available and the participant and/or household member are unable to provide the requested document(s), ask the participant/household member to utilize one of the following options:

- Ask the participant to request a *Proof of Income Letter* from SSA's toll-free number at 1-800-772-1213; **or**
- While meeting with the applicant, help the applicant request a benefit verification letter from SSA's website at www.socialsecurity.gov. This service is free and SSA will send the letter to the applicant within 10 days. To access the site for requesting benefit verification letters, go to the Social Security Online front page and select *What You Can do Online* and follow the instructions for requesting a *Proof of Income Letter*. Assist the applicant in answering questions and explain how the applicant should provide the letter once they receive it. Upon receipt, the applicant/household member should provide the PHA with the original SSA benefit letter. The PHA should make a photocopy of the document for the PHA file and return the original document to the individual. The PHA should use the listed gross benefit amount to calculate annual

income from social security benefits. SSA encourages recipients to use the SSA's website rather than the toll-free number to request *Proof of Income Letters.*

- The SSA will charge the Housing Authority a fee for third party verifications of social security benefits. Therefore, to avoid incurring third party verification costs, the Housing Authority will use the methods noted above to obtain verification for each household member that receives social security benefits

The Housing Authority will allow two (2) weeks for return of third-party verifications before going to the next method. The Housing Authority will document the file as to why third-party written verification was not used. Below are some examples of acceptable file documentation:

- New admission, information not available in EIV
- New tenant, information not available in EIV
- Current tenant, information not available in EIV due to identity validation error
- Current tenant, information not available in EIV, reason unknown

For applicants, verifications may not be more than sixty (60) days old at the time of voucher issuance. For participants, they are valid for one hundred twenty (120) days from the effective date of change.

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, electronic mail or fax. The family will be required to sign an authorization for the information source to release the specified information.

Verifications received electronically directly from the source are considered third party written verifications.

Third-party verification forms will not be hand carried by the family to and from the third party source under any circumstances.

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 "Third Party Oral Verification Form" or "Person Contacted Form", noting with whom they spoke, the date of the conversation, and the facts provided. The Housing Authority must originate the call. If oral third party verification is not available, the Housing Authority will go to the next method of verification, "Review of Documents".

Review of Documents

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

All such documents, excluding government checks, will be photocopied and retained in the applicant file.

In cases where documents are viewed which cannot be photocopied, staff viewing the document(s) will complete a "Certification of Document Viewed".

The Housing Authority will accept verifications in the form of computerized printouts delivered by the family from the following agencies:

- Social Security Administration
- Veterans Administration
- Welfare Assistance
- Employment Development Department
    - City or County Courts

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

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

The Housing Authority will accept electronic mail and faxed documents. The Housing Authority will accept photo copies provided the information is confirmed over the phone.

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

The Housing Authority will not delay the processing of an application beyond thirty (30) days because a third party information provider does not return the verification in a timely manner.

Self-Certification/Self-Declaration

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

Self-certification means certification or statement under penalty of perjury and must be witnessed.

Self-certification will not be permitted for situations qualifying a family for a local preference, such as an involuntarily displaced family and substandard housing. Third-party certification will be required during the application process.

B. RELEASE OF INFORMATION [24 CFR 5.230]

Each family member age 18 and older and each family head and spouse, regardless of age will be required to sign the HUD 9886 Release of Information/Privacy Act form. In addition, family members will be required to sign specific authorization forms when information is needed that is not covered by the HUD form 9886, Authorization for Release of Information/Privacy Act Notice.

Each member requested to consent to the release of specific information will be provided with a

copy of the appropriate forms for their review and signature.

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

C. COMPUTER MATCHING 24 CFR 5.234

Where allowed by HUD and/or other State or local agencies, computer matching will be done.

The Housing Authority will utilize the HUD established computer-based Enterprise Income Verification (EIV) System for obtaining Social Security Benefits, Supplemental Security Income, benefit history and tenant income discrepancy reports.

When computer matching results in a discrepancy with information in the Housing Authority records, the Housing Authority will follow up with the family and other verification sources to resolve this discrepancy. If the family has unreported or underreported income, the Housing Authority will follow the procedures in Chapter 17, "Program Integrity Addendum" of this Administrative Plan.

D. ITEMS TO BE VERIFIED [24 CFR 982.516]

The following items will be verified:

- All income.
- Zero income status of household. Zero income applicants and residents will be required to complete a family expense form at each certification or recertification.
- 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 where it allows an adult family member to be employed, is actively seeking employment or to further their education.
- Total medical expenses of all family members in household whose head or spouse is elderly or disabled.
- Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus for a disabled member of the family, which allows an adult family member to be employed.
- Disability for determination of preferences, allowances or deductions.
- U.S. citizenship/eligible immigrant status.
- Social Security numbers for all family members over 6 years of age or older who

have been issued a social security number.

- "Preference" status based upon Housing Authority preferences.
  - Familial or marital status when needed for head or spouse definition.
  - Verification of Reduction in Benefits for Noncompliance. The Housing Authority will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance before denying the family's request for rent reduction.
  - Legal Identity
  - Family Composition

E. VERIFICATION OF INCOME [24 CFR 982.516]

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

Employment Income

Verification forms request the employer to specify the following:

- Dates of employment
- Amount and frequency of pay
- Date of the last pay increase
- Likelihood of change of employment status and effective date of any known salary increase during the next 12 months
- Year-to-date earnings
- Estimated income from overtime, tips, bonus pay expected during next 12 months
- Acceptable methods of verification include, in this order:
- Enterprise Income Verification (EIV) System printout
- Employment verification form completed by the employer.
- Check stubs or earning statements, which indicate the employee's gross pay, frequency of pay or year-to-date earnings.
- W-2 forms plus income tax return forms.
- Self-certifications or income tax returns signed by the family may be used for verifying self-employment income, or income from tips and other gratuities. (For some self

employment types, where there is the potential for substantial income, self-certification should be unacceptable)

- Credit Checks

Applicants and program participants may be required to sign an authorization for release of information from the Internal Revenue Service for further verification of income.

In cases where there are questions about the validity of information provided by the family, the Housing Authority will require the most recent federal income tax statements.

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

Social Security, Pensions, Supplemental Security Income (SSI), Disability Income
Acceptable methods of verification include, in this order:

- Enterprise Income Verification (EIV) System printout
- Benefit verification form completed by agency providing the benefits.
- Award or benefit notification letters prepared and signed by the providing agency.
- Computer report electronically obtained or in hard copy.
- Bank statement for direct deposit.

Social Security Benefit Verification letters must be current and dated within 60 days of working up the file. Applicants/household members can obtain current benefit verification letters by:

- Calling SSA at 1-800-772-1213
- Accessing SSA website at www.ssa.gov

Unemployment Compensation
Acceptable methods of verification include, in this order:

- Enterprise Income Verification (EIV) System printout
- Verification form completed by the Employment Development Department
- Computer report electronically obtained or in hard copy, from unemployment office stating payment dates and amounts
- Payment Stubs

Welfare Payments or General Assistance

Acceptable methods of verification include, in this order:

- Housing Authority verification form completed by payment provider
- Written statement from payment provider indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months.
- Computer-generated Passport to Services and/or Notice of Action.

Alimony or Child Support Payments

Acceptable methods of verification include, in this order:

1. Housing Authority verification form completed by payment provider.
2. Copy of latest check and/or payment stubs from court trustee. The Housing Authority must record the date, amount, and number of the check.
3. Oral Verification from the District Attorney's Child Support Division
4. Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.

Family's self-certification of amount received and the likelihood of support payments being received in the future, or that support payments are not being received.

If payments are irregular, the family must provide:

1. Housing Authority verification form completed by parent provider or person paying the support.
2. A welfare notice of action showing amounts received by the welfare agency for child support.
3. A written statement from an attorney certifying that a collection or enforcement action has been filed.
4. An affidavit from the family indicating the amount(s) received.
5. A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement.

Net Income from a Business

In order to verify the net income from a business, the Housing Authority will view IRS and financial documents from prior years and use this information to anticipate the income for the next twelve (12) months.

Acceptable methods of verification include:

- IRS Form 1040, including:
- Schedule C (Small Business)
- Schedule E (Rental Property Income)
- Schedule F (Farm Income)
- Audited or un-audited financial statement(s) of the business.
- Credit report or loan application.

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

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

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expenses will be computed using straight-line depreciation rules.

Child Care Business

If an applicant/participant is operating a licensed day care business, income will be verified as with any other business.

If the applicant/participant is operating a “cash and carry” operation (which may or may not be licensed), the Housing Authority will require that the applicant/participant complete a form for each customer which indicates: name of person, name of children who are being cared for, phone number, number of hours the children are 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.

The Housing Authority may conduct interim reevaluations every ninety (90) days and require the participant to provide a log with the information about customers and income.

If child care services were terminated, a third-party verification form may be sent to the parent whose child was cared for.

Recurring Gifts

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

- The person who provides the gifts

- The value of the gifts
- The regularity (dates) of the gifts
- The purpose of the gifts

The Housing Authority will follow the third-party verification procedures as outlined in Section A of this chapter.

Zero Income Status

Families claiming to have no income will be required to sign verification forms to determine that forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household. The family will be required to complete a "Monthly Expenditure Form".

The Housing Authority will request information from the State Employment Development Department and the IRS.

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

Minimum Income

There is no minimum income requirement. Families who report zero income are required to undergo an interim recertification every ninety (90) days.

Families that report zero income will be required to provide information regarding their means of basic subsistence, such as food, utilities, transportation, etc., by completing a Monthly Expenditure Form.

The Housing Authority will request credit checks for all adult members of families who report zero income. Where credit reports show credit accounts open and payments current, the Housing Authority will take action to investigate the possibility of fraud or program abuse (see "Program Integrity Addendum" of this Administrative Plan).

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

Full-time Student Status

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

Financial aid, scholarships and grants received by full-time students are not counted towards family income. Verification of full-time student status includes:

- Written verification from the registrar's office or other school official.
- School records indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution.

F. INCOME FROM ASSETS [24 CFR 982.516]

Checking/Savings Account Interest Income and Dividends

Acceptable methods of verification include, in this order:

- Account statements, passbooks, certificates of deposit, or Housing Authority verification forms completed by the financial institution.
- 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 the Housing Authority must adjust the information to project earnings expected for the next twelve (12) months.

Interest Income from Mortgages or Similar Arrangements

Acceptable methods of verification include, in this order:

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

Net Rental Income from Property Owned by Family

Acceptable methods of verification include, in this order:

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

G. VERIFICATION OF ASSETS

Family Assets

The Housing Authority will require the information necessary to determine the current cash value of the family's assets (the net amount the family would receive if the asset were converted to cash). Acceptable verifications may include any of the following:

- Housing Authority verification forms, letters, or documents completed by a financial institution or broker.
- Passbooks, checking/savings 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 deducted 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 (FMV) During Two Years Preceding Effective Date of Certification or Recertification

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

If the family certifies that they have disposed of assets for less than fair market value, verification is required that shows: (a) all assets disposed of for less than FMV, (b) the date they were disposed of, (c) the amount the family received, and (d) the market value of the assets at the time of disposition. Third party verification will be obtained wherever possible.

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

Child Care Expenses

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

Verifications must specify the child care provider's name, address, telephone number, Social Security number, the names of the children cared for, the number of hours the child care occurs, the rate of pay, and the typical yearly amount paid, including school and vacation periods. The family must provide certification as to whether any of those payments have been or will be paid or reimbursed by outside sources.

Medical Expenses and Disability Assistance Expenses

In order for a family to qualify for medical expenses, the head or spouse must be disabled. If the head or spouse is disabled, all medical expenses for all family members in the household will be counted. Families who claim medical expenses will be required to submit a certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source. All expense claims will be verified by one or more of the methods listed below:

- 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 of Medicare premiums to be paid by the family over the next twelve (12) months. A computer printout will be accepted.

Medicare Drug Prescription Program (Part D)

Medicare prescription drug coverage is insurance that covers both brand-name and generic prescription drugs at participating pharmacies. Medicare prescription drug coverage provides protection for people who have very high drug costs. Everyone with Medicare, regardless of income, health status, or prescription drug usage, will have access to prescription drug coverage beginning on January 1, 2006, as follows:

- Low income families with limited assets will qualify, but family must enroll in a plan that meets their prescription drug needs.

- Persons receiving SSI will automatically qualify.

- A one time $600 subsidy (transitional assistance) will be provided to eligible Medicare beneficiaries. This subsidy must be excluded as income**.** The family may provide this verification (if not, the Housing Authority will need to do a third-party verification).

- Un-reimbursed out-of-pocket expenses for prescription drugs must be counted in the family's medical expense deduction.

- Some persons may be required to pay a monthly premium up to $37 which will be counted as a medical deduction. The family may pay the premium directly or it may be deducted directly from their SSI check.

- Families are not required to report they have enrolled until their next recertification (through February, 2007).

- **Attendant Care Expenses**
- A reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for

calculation purposes. The following items will be accepted:

- Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or stubs from the agency providing the services.

- Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next twelve (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 twelve (12) months.

- Receipts or other records of medical expenses incurred during the past twelve (12) months that can be used to anticipate future medical expenses. The Housing Authority may use this approach for "general medical expenses" such as non-prescription drugs and regular visits to doctors or dentists, but not for a one time nonrecurring expense.

The Housing Authority will use the standard mileage rate as published by the IRS, or cab fare, bus fare, or other public transportation cost for verification of the cost of transportation directly related to medical treatment.

I. ASSISTANCE TO PERSONS WITH DISABILITIES [24 CFR 5.611]

In All Cases

- Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit them to be employed or to function sufficiently and independently or to enable another family member to be employed.

- Family's certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

Attendant Care

- Attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided.

- Certification of family and attendant and/or copies of canceled checks family used to make payments.

Auxiliary Apparatus

- Receipts for purchases or proof of monthly payments and maintenance expenses for auxiliary apparatus.

- In the case where the person with disabilities is employed, a statement from the employer that the auxiliary apparatus is necessary for employment.

J. VERIFYING NON-FINANCIAL FACTORS

Verification of Legal Identity

In order to prevent program abuse, the Housing Authority will require applicants to furnish verification of legal identity for all family members.

The documents listed below will be considered as acceptable verification of legal identity for adults. If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required:

- Certificate of birth, naturalization papers
- Church issued baptismal certificate
- Current valid driver's license
- U.S. military discharge (DD 214)
- U.S. Passport
- Voter's registration
- Company/agency identification card
- Department of Motor Vehicles identification card
- Hospital records

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

- Certificate of birth
- Adoption papers
- Custody agreement
- Health and Human Services ID
- School records

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

Verification of Marital Status

Verification of marriage status is a marriage certificate. Verification of a separation may be a copy of court-ordered documentation or other records. Verification of divorce status will be a certified copy of the divorce decree, signed by a court officer.

Familial Relationships

Certification will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification. The following verifications will always be required if applicable:

Verification of relationship

- Official identification showing names
- Birth certificates
- Baptismal certificates

Verification of guardianship

- Court-ordered assignment
- Affidavit of parent

Evidence of an established family relationship

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

Verification from social services agency and/or school records

Verification of Permanent Absence of Family Member

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

- Husband or wife institutes divorce action. Appropriate documentation from the court is required.

- Husband or wife institutes legal separation. Appropriate documentation from the court is required.

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

- Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease/rental agreement, if available.

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

If the adult family member is incarcerated, a document from the court or the correctional facility may be obtained stating how long they will be incarcerated. The Housing Authority may contact the correctional facility directly.

If no other proof can be provided, the Housing Authority will accept a self-certification from the head of household or the spouse or co-head, if the head is the absent member.

Verification of Change in Family Composition

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

Verification of Disability

Verification of disability must be receipt of SSI or SSA disability payments under Section 221 of the Social Security Act or 102(8) of the Developmental Disabilities Assistance and Bill of Rights

Act (42 U.S.C. 6001(8) or verified by appropriate diagnostician such as physician, psychiatrist, psychologist, therapist, rehab specialist, or licensed social worker, using the HUD language as the verification format.

Verification of Citizenship/Eligible Immigrant Status [24 CFR 5.508, 5.510, 5.512, 5.514]

To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants. Individuals who are neither may elect not to contend their status. Eligible immigrants must fall into one of the categories specified by the regulations and must have their status verified by the U.S. Citizenship and Immigration Services (USCIS). Each family member must declare their status once.

Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while the Housing Authority hearing is pending.

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

- United States Birth Certificate
- United States Passport
- Resident alien/registration card
- Social Security card
- Other appropriate documentation as determined by the Housing Authority

Eligible immigrants, who are 62 or over, are required to sign a declaration of eligible immigration status and provide proof of age.

Non-citizens with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents which are copied front and back and returned to the family. The Housing Authority verifies the status through the U.S. Citizenship and Immigration Services. If this primary verification fails to verify status, the Housing Authority must request within ten (10) days that the U.S. Citizenship and Immigration Services conduct a manual search.

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

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

Failure to Provide

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

Time of Verification

For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same time as verification of other factors of eligibility for final eligibility determination.

The Housing Authority will not provide assistance to any family prior to the affirmative establishment and verification of the eligibility of the individual or at least one member of the family.

For family members added after other members have been verified, the verification occurs at the same time the member is added to the household or at the first recertification after the new member moves in.

Once verification has been completed for any covered program, it need not be repeated except that, in the case of port-in families, if the initial Housing Authority does not supply the documents, the Housing Authority must conduct the determination.

Extensions of Time to Provide Documents

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

Acceptable Documents of Eligible Immigration

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

- Alien Registration Receipt Card (I-551)
- Arrival-Departure Record (I-94)
- Temporary Resident Card (I-688)
- Employment Authorization Card (I-688 A or B)
- Receipt issued by the U.S. Citizenship and Immigration Services for issuance of replacement of any of the above documents that shows individual's entitlement has been verified.

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

If the Housing Authority determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside permanently in the family's unit, the family's assistance will be terminated for twenty-four (24) months, unless the ineligible individual has already been considered in prorating the family's assistance.

Verification of Social Security Numbers [24 CFR 5.216]

Disclosure required:
When a participant requests to add a new household member, the participant must submit the SSN to the HA at the time of the request or at the time of processing the interim reexamination or recertification of family composition that includes the new member(s).

If the participant or any member of the participant's household had a previously undisclosed SSN, or has been assigned a new SSN, the participant must submit the complete and accurate SSN assigned to the participant or household member involved at the next interim or regularly scheduled reexamination.

Termination of assistance or termination of participants:
The HA must terminate the assistance or tenancy or both of a participant, if the participant does not meet the applicable SSN disclosure, documentation and verification requirements.

Submission of evidence of citizenship or eligible immigration status (continues to be the same):

- For U.S. citizens or U.S. nationals, the evidence consists of a signed declaration of U.S. citizenship or U.S. national. The HA must obtain verification of the declaration by requiring presentation of a U.S. Passport, U.S. birth certificate, Employment Authorization card, Temporary Resident card or other appropriate documentation outlined in section 214.

- For non-citizens, adequate evidence of a signed declaration or eligible immigration status on the Section 214 document.

HUD makes it clear that the above requirements are not intended to apply to individuals in mixed families, who do not contend eligible immigration status under HUD's non-citizens regulation nor does it interfere with existing requirements relative to pro-ration of assistance or screening for such families, or authorize their eviction or denial of admission on the basis of the new requirements pertaining to obtaining social security numbers.

Medical Need for Larger Unit
A written certification that a larger unit is necessary must be obtained from a reliable, knowledgeable professional.

K. VERIFICATION OF WAITING LIST PREFERENCES [24 CFR 982.207]
Local Preferences as determined by the Housing Authority

Verification of a Local Preference
Documents will be accepted, as applicable, as proof of residency and veteran/active serviceperson status. Other situations that qualify a family for a local preference must be certified by a third-party.

Federally Declared Disaster Areas

Families who were receiving Housing Choice Voucher assistance will take precedence over other waiting list place holders. New applicants to the Housing Choice Voucher program must be a family displaced by a natural disaster, including disasters recognized by the Federal government, which extensively damaged or destroyed their dwelling.

Involuntary Displacement

Families who claim they are being or have been displaced due to either a disaster or government action:

- Family to provide written verification by the displacing agency, or by a service agency such as the Red Cross.

Families who claim they have been or are about to be displaced to avoid reprisals for providing information to assist police in a criminal investigation**:**

- Certification of threat assessment by a law enforcement agency.

- Oral or written recommendation from law enforcement agency or HUD.

Displacement by inaccessibility of unit:

- A statement from the owner of the critical elements that are inaccessible, and that the owner is not going to make the needed modifications, or permit the family to make the modifications.

- An inspection by the Housing Authority to verify inaccessibility of critical elements.

- Statement from the owner of the building that the accommodations required will not be made.

- If the owner permits the tenant to make the modifications, verification that the family cannot afford the expense.

Displacement by HUD disposition of a project:

- Written verification from HUD.

Determination of Standard Replacement Housing:

- Inspection by a Housing Authority inspector and/or certification by landlord.

Residency Preference

For families who live, work or have been hired to work in the jurisdiction of the Housing Authority. In order to verify that an applicant is a resident, the Housing Authority will require a minimum of three (3) of the following documents: rent receipts, leases, utility bills, employer or agency records, school records, driver's license, voter's registration records, credit reports, statement from household with whom the family is residing. For families who have been hired to work in jurisdiction of the Housing Authority, a statement from the employer will be required.

Veterans Preference

This preference is available to current members of the U.S. Military Armed Forces, veterans, or surviving spouses of veterans. The Housing Authority will require U.S. government documents which indicate that the applicant qualifies under the above definition.

Disability Preference

This preference is available for families with a member who has a disability as defined in this Administrative Plan.

The Housing Authority will require appropriate documentation from a knowledgeable professional.

The Housing Authority will not inquire as to the nature of the disability except as to verify necessity for accessible unit. An award letter or other proof of eligibility for Social Security Disability or Supplemental Security Income will be acceptable.

Chapter 8

VOUCHER ISSUANCE AND BRIEFINGS

[24 CFR 982.301, 982.302]

INTRODUCTION

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

A. ISSUANCE OF VOUCHERS [24 CFR 982.204(d), 982.54(d) (2)]

When funding is available, the Housing Authority will issue vouchers to applicants whose eligibility has been determined.

The number of vouchers issued must ensure that the Housing Authority stays as close as possible to 100 percent (100%) lease-up. The Housing Authority performs a monthly calculation electronically to determine whether vouchers can be issued.

B. BRIEFING TYPES AND REQUIRED ATTENDANCE [24 CFR 982.301]

Initial Applicant Briefing

A full HUD required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in groups and individual meetings. Families who attend group briefings and still have the need for individual assistance will be referred to the Applications Compliance Supervisor or his/her designee. Briefings will be conducted in English.

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

The Housing Authority will not issue a voucher to a family unless the household representative has attended a briefing and signed the voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend two (2) scheduled briefings, without prior notification and approval of the Housing Authority, may be denied admission based on failure to supply information needed for certification. The Housing Authority will conduct individual briefings for families with disabilities at their home, upon request by the family, if required for reasonable accommodation.

Briefing Packet [24 CFR 982.301(b)]

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

The family is provided with the following information and materials:

1. The term of the voucher, and the Housing Authority policy for requesting extensions or suspensions of the voucher (referred to as tolling).

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

3. The jurisdiction where the family may lease a unit. For a family that qualifies to lease a unit outside the Housing Authority jurisdiction under portability procedures, the information must include an explanation of how portability works, including a list of neighboring housing

agencies with the name, address and telephone number of a portability contact person at each for use by families who move under portability.

4. The HUD required Tenancy Addendum, which must be included in the lease.

5. The "Request for Tenancy Approval Form" and a description of the procedure for requesting approval for a unit.

6. A statement of the Housing Authority policy on providing information about families to prospective owners.

7. The Housing Authority subsidy standards including when and how exceptions are made and how the voucher size relates to the unit size selected.

8. The HUD brochure "A Good Place to Live" on how to select a unit that complies with HQS.

9. The HUD brochure on lead-based paint entitled "Protect Your Family from Lead in Your Home".

10. Information on Federal, State and local equal opportunity laws and a copy of the housing discrimination complaint form. The Housing Authority will also include the pamphlet "Fair Housing: It's Your Right" and other information about fair housing laws and guidelines. The Housing Authority will give participants who claim discrimination a copy of HUD Form 903 to file a complaint.

11. A list of landlords or other parties willing to lease to assisted families or help in the search and known units available for the voucher issued. The list includes landlords or other parties who are willing to lease units or help families find units outside areas of poverty or minority concentration.

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

13. The family obligations under the program.

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

15. Housing Authority informal hearing procedures including when the Housing Authority is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

16. Information regarding the Housing Authority's outreach program which assists families who are interested in, or experiencing difficulty in obtaining available housing units in areas outside of minority concentrated locations.

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

18. An Owner's Handbook and an HQS checklist.

19. Procedures for notifying the Housing Authority and/or HUD of program abuses such as side payments, extra charges, violations of tenant rights, and owner failure to repair.

20. The family's rights as a tenant and as a program participant.

21. Requirements for reporting changes between annual re-certifications.

22. Information on security deposits and legal referral services.

23. Exercising choice in residency.

24. Choosing a unit carefully and only after due consideration.

25. The Family Self Sufficiency program and its advantages.

26. If the family includes a person with disabilities, the Housing Authority will ensure compliance with 24 CFR 8.6 to ensure effective communication.

Move Briefing

Appropriate information will be provided to participants who will be reissued a voucher to move, and who have been recertified within the last one hundred twenty (120) days, and have given notice of intent to vacate to their landlord. This briefing may include incoming portable families.

Owner Briefing

Briefings are held for owners as needed. Prospective owners are also welcome at the tenant briefing. The purpose of the briefing is to assure successful owner participation in the program. The briefing covers the responsibilities and roles of the three parties.

C. ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW INCOME OR MINORITY CONCENTRATION

At the briefing, families are encouraged to search for housing in non-impacted areas and the Housing Authority will provide assistance to families who wish to do so.

The Housing Authority will investigate and analyze when voucher holders are experiencing difficulties locating or obtaining housing units outside areas of concentration.

The assistance provided to such families includes:

- Providing families with a search record form to gather and record information
- Direct contact with landlords
- Counseling with the family
- Providing information about services in various non-impacted areas

- Formal or informal discussions with landlord groups
- Formal or informal discussions with social service agencies
- Meeting with rental referral companies or agencies
- Meeting with Fair Housing groups or agencies

D. SECURITY DEPOSIT REQUIREMENTS [24 CFR 982.313]

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

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

E. TERM OF VOUCHER [24 CFR 982.303]

During the briefing session, each household will be issued a voucher which represents a contractual agreement between the Housing Authority and the family specifying the rights and responsibilities of each party. It does not constitute admission to the program which occurs when the lease and contract become effective. The voucher is valid for a period of at least sixty (60) calendar days from the date of issuance. The family must submit the Request for Tenancy Approval (RTA) and a Lease/Rental Agreement within the sixty (60) day period unless an extension has been granted by the Housing Authority.

Extensions

The Housing Authority may extend the voucher in one or more increments. Unless approved by the Director of Rental Assistance or his/her designee, no more than two (2) thirty (30) days or less will be granted and never for a total of more than one hundred twenty (120) days. If as a reasonable accommodation, the family needs an extension in excess of one hundred twenty (120) days, the Housing Authority will review such request on a case by case basis.

A family must submit a written request for an extension of the voucher time period. All requests for extensions must be received prior to the expiration date of the voucher. Extensions are permissible at the discretion of the Housing Authority up to a maximum of an additional sixty (60) days primarily for these reasons:

- Extenuating circumstances such as hospitalization or a family emergency for an extended period of time which has affected the family's ability to find a unit within the initial sixty (60) day period (verification is required).

- The Housing Authority is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of the Housing Authority, throughout the initial sixty (60) day period. A completed search record is required.

- The family was prevented from finding a unit due to disability accessibility requirements or a large size five (5) bedroom unit requirement. The search record is part of the required verification.

Expirations

If the voucher has expired, and has not been extended by the Housing Authority or expires after an extension, the family will be denied assistance. The family will not be entitled to a review or hearing. If the family is currently assisted, they may remain as a participant in their unit if there is an assisted contract in effect.

Tolling Days

The voucher term will be suspended (the clock on the family's voucher is stopped) from the date a Request for Tenancy Approval is received until the Housing Authority approves or denies the request. The Housing Authority may grant a family a suspension of the voucher term if the family has submitted a request for approval of the tenancy during the term of the voucher. The family is entitled to any remaining time from suspension date to the voucher expiration date.

Assistance to Voucher Holders

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

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

After the first sixty (60) days of the search, the family is required to maintain a search record and report to the Housing Authority every fourteen (14) days.

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

In those instances when a family assisted under the Housing Choice Voucher program becomes divided into two otherwise eligible families due to divorce, legal separation, or the division of the family, and the new families cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, the Director of Rental Assistance or his/her designee 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 the dependent children.
- Which family member was the head of household when the voucher was initially issued (listed on the initial application).
- The composition of the new family units, and which unit contains elderly or disabled members.
- Whether domestic violence was involved in the breakup.

- Which of the family members remain in the original assisted unit.

- If a court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement or judicial decree, the Housing Authority is bound by the court's determination of which family members continue to receive assistance in the program.

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

G. REMAINING MEMBER OF TENANT FAMILY – RETENTION OF VOUCHER [24 CFR 982.315]

To be considered the remaining member of the tenant family, the person must have been previously approved by the Housing Authority to be living in the unit.

A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the family.

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

- The court has to have awarded emancipated minor status to the minor.

- The Housing Authority has to have verified that social services and/or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the children for an indefinite period.

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

Chapter 9

REQUEST FOR APPROVAL OF TENANCY AND CONTRACT EXECUTION

[24 CFR 982.302]

INTRODUCTION [24 CFR 982.305(a)]

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

After families are issued a voucher, they may search for a unit anywhere within the jurisdiction of the Housing Authority, or outside of the Housing Authority'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 Payment (HAP) Contract with the Housing Authority. This chapter defines the types of eligible housing, the Housing Authority's policies which pertain to initial inspections, lease requirements, owner disapproval, and the processing of the Request for Tenancy Approval (RTA).

K. TERM OF ASSISTED TENANCY [24 CFR 982.309]

The Request for Tenancy Approval (RTA) and a copy of the proposed lease, including the HUD prescribed tenancy addendum, must be submitted by the family during the term of the voucher. The family must submit the RTA in the form and manner required by the Housing Authority.

The RTA must be signed by both the owner and voucher holder. The Housing Authority will not permit the family to submit more than one RTA at a time. The Housing Authority will review the proposed lease and the RTA documents to determine whether or not they are approvable. The request will be approved if:

- The unit is an eligible type of housing
- The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan)
- The rent is reasonable and approvable
- The security deposit is approvable in accordance with State or local law
- The proposed lease complies with HUD and Housing Authority requirements (see "Section D" of this chapter).
- The owner is approvable, and there are no conflicts of interest (see Chapter 16, "Owner Disapproval and Restriction").

In addition to the above, at the time a family initially receives assistance (new admissions and moves), if the gross rent for the unit exceeds the applicable payment standard for the family, the family share of rent may not exceed forty percent (40%) of the family monthly adjusted income (see Chapter 11, "Owner Rents, Rent Reasonableness and Payment Standards").

Disapproval of Request for Tenancy Approval (RTA)

If the Housing Authority determines that the RTA cannot be approved for any reason, the landlord and the family will be notified in writing.

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

The time limit on the Voucher will be suspended while the RTA is being processed.

L. ELIGIBLE TYPES OF HOUSING [24 CFR 982.352]

The Housing Authority will approve any of the following types of housing in the voucher program:

- All structure types can be utilized
- Manufactured homes where the tenant leases the mobile home and the pad
- Manufactured homes where the tenant owns the mobile home and leases the pad
- Units owned (but not subsidized) by the Housing Authority (following HUD prescribed requirements)
- Shared Housing that meets Housing Quality Standards
- Single Room Occupancy

The Housing Authority will not approve:

- A unit occupied by the owner or by any person with an interest in the unit, other than manufactured homes as described above
- Nursing homes or other institutions that provide care
- School dormitories and institutional housing
- Any other type of housing prohibited by HUD

M. RESTRICTION ON RENTING FROM RELATIVES [24 CFR 982.306 (d)]

Effective June 17, 1998, the Department of Housing and Urban Development (HUD) has limited the circumstances under which landlords can lease a unit to relatives under the Housing Choice Voucher program. This policy applies to new admissions and to transfers. The Housing Authority will not approve a unit if the landlord is related to any of the tenant's family members in one of the following ways:

- Parent
- Child
- Grandparent

- Grandchild
- Sister
- Brother

The Housing may approve a unit where the owner and the tenant are related if it determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities.

The Housing Authority will not approve shared housing assistance for a family if the owner resides in the unit and is related by blood and/or marriage to the assisted family. Although other regulations permit the leasing of a rental unit from certain relatives when needed as a reasonable accommodation, the U.S. Department of Housing and Urban Development (HUD) has not established a similarly regulatory provision for shared housing.

N. LEASE REVIEW [24 CFR 982.308]

The Housing Authority will review the lease, particularly noting the approvability of optional charges and compliance with regulations and State and local law. The tenant also must have legal capacity to enter a lease under State and local law. Responsibility for utilities, appliances and optional services must correspond to those provided on the RTA.

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

- The names of the owner and tenant
- The address of the unit rented (including apartment number, if any)
- The amount of the monthly rent to owner
- The utilities and appliances to be supplied by the owner and what utilities and appliances are to be supplied by the family
- The HUD prescribed tenancy addendum must be included in the lease word-for-word before the lease is executed

Effective September 15, 2000, the owner's lease must include the Lead Warning Statement and disclosure information required by 24 CFR 35.92(b).

House rules of the owner may be attached to the lease provided they do not violate any fair housing provisions and do not conflict with the tenancy addendum.

Actions before Lease Term

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

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

Term of the Assisted Tenancy

The initial term of the lease must be for at least one year. The Housing Authority may approve a shorter initial term if the Housing Authority determines that:

- The shorter term would improve housing opportunities for the tenant
- The shorter term is the prevailing local market practice

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

O. 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 services, appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by the Housing Authority.

Any appliances, services or other items which are routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit,

cannot be put under separate agreement and must be included in the lease. For there to be a separate agreement, the family must have the option of not utilizing the service, appliance or other item.

The family is not liable under the lease for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.

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 Housing Authority. If agreements are entered into at a later date, they must be approved by the Housing Authority and attached to the lease.

The Housing Authority will not approve separate 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.

F. INITIAL INSPECTIONS [24 CFR 982.305(a) & (b)]

See Chapter 10, "Housing Quality Standards and Inspections" in this Administrative Plan.

P. RENT LIMITATIONS

The Housing Authority will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market, and the rent charged by the owner for a comparable unassisted unit in the building or premises.

By accepting each monthly housing assistance payment from the Housing Authority, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner is required to provide the Housing Authority with information requested on rents charged by the owner on the premises or elsewhere.

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

Q. PROPOSED RENT [24 CFR 982.502]

In any of the programs, if the proposed contract rent is not reasonable and at the family's request, the Housing Authority will negotiate with the owner to reduce the rent to a reasonable rent. If the rent is not affordable because the family share would be more than forty percent (40%) of the family's monthly adjusted income, the Housing Authority will negotiate with the owner to reduce the rent to an affordable rent for the family.

At the family's request, the Housing Authority will negotiate with the owner to reduce the rent or include some or all of the utilities in the rent to owner. If the rent can be approved after negotiations with the owner, the Housing Authority will continue processing the RTA. If the

revised rent involves a change in the provision of utilities, a new RTA and lease must be submitted by the owner.

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

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

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

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

The Housing Authority will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, payment of utility bills, eviction history, respecting the rights of other residents, damage to units, drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

A statement of the Housing Authority's policy on release of information to prospective landlords will be included in the briefing packet which is provided to the family.
The Housing Authority will provide documented information regarding tenancy history for the past two (2) years to prospective landlords, upon written request from the landlord (if such information is available to the Housing Authority). The Housing Authority may provide the following information, based on documentation in its possession:

- Damage to rental units

The information will be provided in writing.

Only designated staff may provide this information. The Housing Authority'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 [24 CFR 982.306]

See Chapter 16, "Owner Disapproval and Restriction."

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

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

S. CONTRACT EXECUTION PROCESS [24 CFR 982.305©]

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

The Housing Authority 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 Housing Authority representatives are authorized to execute a contract on behalf of the Housing Authority:

- Director of Rental Assistance
- Compliance Supervisors

Owners must provide the current address of their residence (not a Post Office box). If families lease properties owned by relatives, the owner's current address will be compared to the subsidized unit's address.

Owners must provide a Federal Employer Tax Identification number or Social Security number. The owner must provide a home telephone number and business number if applicable. A driver's license or other photo identification may be requested. Owners must also submit proof of ownership of the property, such as a Grant Deed or Tax Bill, and a copy of the Management Agreement if the property is managed by a management agent.

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

Chapter 10

HOUSING QUALITY STANDARDS AND INSPECTIONS

[24 CFR 982.401]

INTRODUCTION

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

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

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

The Housing Authority 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 the City of Stockton Building/Housing 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. The Housing Authority will not promote any additional acceptability criteria which are likely to adversely affect the health or safety of participant families, or severely restrict housing choice.

All utilities must be in service prior to the inspection. If the utilities are not in service at the time of inspection, the Inspector will notify the tenant or owner (whomever is responsible for the utilities according to the RTA) to have the utilities turned on. The Inspector will schedule a re-inspection.

If the tenant is responsible for supplying the stove and/or the refrigerator, the stove and/or refrigerator must be placed in the unit before the inspection.

There are four types of inspections the Housing Authority will perform:

1. Initial/move-in: conducted upon receipt of Request for Tenancy Approval
2. Annual: must be conducted within twelve months of the last annual inspection
3. Special/complaint: at the request of owner, family, an agency or a third-party
4. Quality Control

B. INITIAL HQS INSPECTION [24 CFR 982.401(a), 982.305(b) (2)]

Timely Initial HQS Inspection

The Housing Authority will make every reasonable effort to conduct initial HQS inspections for the family and owner in a manner that is time efficient and indicative of good customer service. The Housing Authority will periodically review the average time required for a family and owner to have a unit inspected from the time the RTA is submitted by the family and owner to the Housing Authority.

The Housing Authority will inspect the unit, determine whether the unit satisfies the HQS and notify the family and owner of the determination within 15 days unless the Housing Authority determines that it is unable to do so in the stated timeframe, in which case the file will be appropriately documented.

If the Housing Authority determines after a review of files that the average time for a family and owner to obtain an initial inspection is longer than 15 days, the Housing Authority will review staffing needs relevant to HQS inspection.

The initial inspection will be conducted to:

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

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

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

- If the unit fails the initial HQS inspection, the family and owner will be advised to notify the Housing Authority once repairs are completed.

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

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

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

The Housing Authority conducts an inspection in accordance with HQS at least annually, as required by SEMAP. Special inspections may be scheduled between anniversary dates. HQS deficiencies which cause a unit to fail must be corrected by the landlord, unless it is a deficiency for which the tenant is responsible.

The family must allow the Housing Authority to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)]. Inspections will be conducted on business days only. Reasonable hours to conduct an inspection are between 7:00 a.m. and 5:00 p.m. The Housing Authority will notify the family in writing or by phone at least 24 hours prior to the inspection.

The family and owner are notified of the date and time of the inspection appointment by mail and/or phone. If the family is unable to be present, they must reschedule the appointment so that the inspection is completed within thirty (30) days.

If the family misses two (2) inspection appointments, the family has violated a family obligation and their assistance will be terminated in accordance with the termination procedures in this Administrative Plan.

The family and owner are provided a notice of the re-inspection appointment by mail. If the family is not at home for the re-inspection appointment, a card will be left at the unit and another appointment is automatically scheduled. The appointment letter contains a warning of abatement (in the case of owner responsibility) and a notice of the owner's responsibility to notify the family.

Time Standards for Repairs

Emergency items which endanger the family's health or safety must be corrected by the owner within 24 hours of notification (see “Emergency Repair Items” section G).

For non-emergency items, repairs must be made within 30 days.

For major repairs, the Inspector may approve an extension beyond 30 days.

Rent Increases

Rent to owner increases will not be approved if the unit is in a failed condition.

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

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

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

The Housing Authority will inspect only the items which were reported, but if the inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs.

If the annual inspection date is within one hundred twenty (120) days of a special inspection, and as long as all items are inspected that are included in an annual inspection, the special inspection will be categorized as annual and all annual procedures will be followed.

E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b)]

Quality Control inspections will be performed by the Director of Rental Assistance or Compliance Supervisor on the number of files required by SEMAP. The purpose of Quality Control inspections is to ascertain that each inspector is conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in application of the HQS.

The sampling of files will include recently completed inspections (within the prior three (3) months), a cross-section of neighborhoods, and a cross-section of inspectors.

F. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS [24 CFR 982.401 (a)]

The Housing Authority adheres to the acceptability criteria in the program regulations with local codes and the additions described below:

1. Smoke detectors for persons with hearing disabilities. One smoke detector for the hearing impaired will be required in the household per the following criteria:

    - Must be located within the bedroom of the hearing impaired person and hardwired to the primary smoke detector

    - Hearing impaired smoke detectors must meet the following qualifications:
        - 177 candela strobe light
        - 85 decibel (dBA)

    The Housing Authority will accept landlord or tenant certification that the appropriate criteria has been met.

2. Doors:

   Doors cannot have double key dead bolt locks

3. Security:

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

4. Bedrooms:

   Bedrooms in basements, attics or garages are not allowed unless they meet local code and HQS requirements and must have adequate ventilation and emergency exit capability. Verifications regarding local requirements may be requested.

5. Water Heater:

   Water heaters must have a temperature-pressure relief valve and discharge line (directed towards the floor or outside of the living area) as a safeguard against build up of steam if the water heater malfunctions. Discharge pipes must be made of rigid pipe material (not garden hose or thin plastic pipe). Water heaters shall be anchored or strapped to resist horizontal displacement due to earthquake motion. Strapping shall be at points within the upper one-third and lower one-third of the appliance's vertical dimensions. At the lower point, the strapping shall maintain a minimum distance of 4 inches above the controls.

6. Pools:

   Pools should not be empty or create unsafe conditions for the family. The Housing Authority may request that a fence be built around the pool or other safety devices be installed to ensure the safety of small children.

7. Fences:

   For safety reasons, owners may be requested to install, repair or remove a fence.

8. Mail Boxes:

   Each unit must have its own official mailbox where the U.S. Postal Service officially delivers mail to the physical addresses.

9. Utility Meters:

   Each unit must have individual meters to measure the family's consumption if they are to be responsible for paying certain utilities, such as gas, water and electricity. The owner will be responsible for paying utilities for units with centralized meters.

Tenant Preference Items

HUD requires the Housing Authority to enforce minimum HQS but also requires that certain judgment about acceptability be left to the family.

Modifications

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

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

G. EMERGENCY REPAIR ITEMS [24 CFR 982. 404]

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

- 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 when outside temperature is below 50 degrees Fahrenheit and temperature inside unit is below 60 degrees Fahrenheit
- Utilities not in service
- No running hot water
- Broken glass where someone could be injured
- Obstacle which prevents tenant's entrance or exit
- Lack of functioning toilet
- Inoperable smoke detector

The Housing Authority may give a short extension (not more than 48 additional hours) whenever the responsible party cannot be notified or it is impossible to correct the repair within the twenty-four (24) hour period.

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 make the repair, proper authorities will be notified by the Housing Authority.

If the emergency repair item(s) are not corrected in the time period required by the Housing Authority and the owner is responsible, the housing assistance payment will be abated and the HAP Contract will be terminated.

If the emergency repair item(s) are not corrected in the time period required by the Housing Authority, and it is an HQS breach which is a family obligation, the Housing Authority will terminate the assistance to the family.

Smoke Detectors

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

Each dwelling unit must have at least one battery-operated or hard-wired smoke detector, in proper operating condition, on each level of the dwelling unit, including basements (except for crawl spaces and unfinished attics). Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or it successor standards). If the dwelling unit is occupied by any hearing impaired person, smoke detectors must have an alarm system, designed for hearing impaired person as specified in NFPA 74 (or successor standards).

If the smoke detector is not operating properly the Housing Authority will contact the owner by phone and request the owner to repair the smoke detector within 24 hours.

If the Housing Authority determines that the family has purposely disconnected the smoke detector (by removing batteries or other means), the family will be required to repair the smoke detector within 24 hours and the Housing Authority will re-inspect the unit the following day.

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

H. CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS) [24 CFR 982.405, 982.453]

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

Abatement

If an owner fails to correct HQS deficiencies by the time specified by the Housing Authority, HUD requires the Housing Authority to abate housing assistance payments. No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The notice of abatement states that the tenant is not responsible for the Housing Authority's portion of rent that is abated. Owner rents are not abated as a result of HQS violations caused by the family.

Extensions

Extensions will be granted in cases where the Housing Authority has determined that the owner has made a good faith effort to correct the deficiencies and is unable to do so for reasons beyond the owner's control such as:

- 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.

- Other extenuating circumstances may be considered by the Housing Authority on a case by case basis.

The extension will be made for a period of time not to exceed ninety (90) days. At the end of that time, at the Housing Authority's discretion, if the work is not completed or substantially completed, the Housing Authority will begin the abatement.

Termination of Contract

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

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

I. DETERMINATION OF RESPONSIBILITY [24 CFR 982.404]

Certain HQS deficiencies are considered the responsibility of the family:

- Tenant-paid utilities not in service.

- Failure to provide or maintain family-supplied appliances.

- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under State law or court practice.

The owner may be responsible for all other HQS violations.

J. CONSEQUENCES IF FAMILY IS RESPONSIBLE [24 CFR 982.404(b)]

If non-emergency violations of HQS are determined to be the responsibility of the family, the Housing Authority will require the family make any repair(s) or corrections within thirty (30) days. If the repair(s) or correction(s) are not made in this time period, the Housing Authority will terminate assistance to the family, after providing an opportunity for an informal hearing.

Extensions in these cases must be approved by the Director of Rental Assistance or his/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 11

OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS

[24 CFR 982.503, 982.504, 982.505, 982.507]

INTRODUCTION

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

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

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

This chapter explains the Housing Authority's procedures for determination of rent-reasonableness, payments to owners, adjustments to the payment standards, and rent adjustments.

A. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM

The rent to owner is not only limited by rent reasonableness. The Housing Authority must demonstrate that the rent to owner is reasonable in comparison to rent for other comparable unassisted units.

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

During the initial term of the lease, the owner may not raise the rent to owner. When funding is available, the Housing Authority will review the owner's request to increase the contract rent.

B. MAKING PAYMENTS TO OWNERS [24 CFR 982.451]

Once the HAP Contract is executed, the Housing Authority begins processing payments to the landlord. A HAP register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made automatically to the HAP register for the following month. Checks are disbursed by the Accounting Department to the owner each month. Checks may be picked up by the owner at the Housing Authority. Checks will only be disbursed on the first working day of the month. Exceptions may be made with the approval of the Director of Rental Assistance in cases of hardship.

Checks that are not received will not be replaced until a written request has been received from the payee and a stop payment has been put on the check.

Excess Payments

The total of rent paid by the tenant plus the HAP to the owner may not be more than the rent to owner. The owner must immediately return any excess payment to the Housing Authority.

Owners who do not return excess payments will be subject to penalties as outlined in Chapter 18, "Owner or Family Debts to the Housing Authority" in this Administrative Plan.

Late Payments to Owners

The Housing Authority must make housing assistance payments to the owner promptly and in accordance with the HAP contract.

The Housing Authority will pay a late fee to the owner for housing assistance payments that are not received by the owner by the 5th business day of the month, if requested by the owner. Any such late fee to be paid by the Housing Authority will be equal to, but not greater than, the established amount of late fee charged to their tenant for late payment.

Proof of "mailed to" date will be:

- The date the HAP register was run; if the first of the month falls on a weekend or legal holiday, payments will be mailed on the following business day.

Proof of "received by owner" will be:

- Five (5) calendar days after date of mailing by Housing Authority or written certification from the owner, including but not limited to written information from the Post Office and/or postal carrier or other mail processing center.

These terms apply to re-certifications only. Payments to owners on all new contracts will be mailed within thirty (30) days of a passed HQS inspection, providing that all documents have been executed under program guidelines.

To assist the Housing Authority in its outreach efforts to owners and to provide better customer service, the Housing Authority will offer to make automatic monthly HAP deposits into the bank account of the owner. If the owner agrees to such an arrangement with the Housing Authority, the date the bank shows as the deposit date, will be the official date of record and will be the determining factor in cases involving late payment penalties.

The Housing Authority will not be obligated to pay any late payment penalty if HUD determines that late payment is due to factors beyond the Housing Authority's control, such as a delay in the receipt of program funds from HUD. The Housing Authority will use administrative fee income or the administrative fee reserve as its only source for late payment penalty. The Housing Authority will not use any program funds for the payment of late fee penalties to the owner.

C. RENT REASONABLENESS DETERMINATIONS [24 CFR 982.507]

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

The Housing Authority will not approve a lease until it is determined that the initial rent to owner is a reasonable rent. The Housing Authority must re-determine the reasonable rent before any increase in the rent to owner, and if there is a five percent (5%) or greater decrease in the published FMR in effect sixty (60) days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the contract anniversary.

The Housing Authority must re-determine rent reasonableness if directed by HUD and based on a need identified by the Housing Authority's auditing system. The Housing Authority may elect to re-determine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or re-determined by the Housing Authority.

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

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

The market areas for rent reasonableness are zip codes within the Housing Authority's jurisdiction. Subject units within a defined housing market area will be compared to similar units within the same area.

The following items may 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
- Maintenance
- Utilities

Rent Reasonableness Methodology

Information is gathered on rental units in the Housing Authority of the County of San Joaquin market area, and each unit is rated, using the Housing Authority's rent reasonableness system. Using an automated method, the average rents are identified for units of like size and type within the same market area. Each defined factor of the items listed above on the unit to be assisted will be compared, using a point adjustment system, to those factors of comparable unassisted units in the database. The average will be adjusted up or down based on the dollar value of all HUD required comparable items in comparison with the total database.

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

The payment standard is used to calculate the housing assistance payment for a family. In accordance with HUD regulation, and at the Housing Authority's discretion, the voucher payment standard amount is set by the Housing Authority between ninety percent (90%) and one hundred ten percent (110%) of the HUD published Fair Market Rent (FMR). This is considered the basic range. The Housing Authority reviews the appropriateness of the payment standard annually when the FMR is published. In determining whether a change is needed, the Housing Authority will ensure that the payment standard is always within the range of ninety percent (90%) and one hundred ten percent (110%) of the new FMR, unless an exception payment standard has been approved by HUD.

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

The Housing Authority may approve a higher payment standard within the basic range, if required as a reasonable accommodation for a family that includes a person with disabilities.

E. ADJUSTMENTS TO PAYMENT STANDARDS [24 CFR 982.503]

Payment standards may be adjusted, within HUD regulatory limitations, to increase housing assistance payments in order to keep the family's rents affordable. The Housing Authority will not raise payment standards solely to make "high end" units available to voucher holders. The Housing Authority may use some or all of the measures below in making its determination whether an adjustment should be made to the payment standards.

Assisted Family Rent Burdens

The Housing Authority will review its voucher payment standard amounts at least annually to determine whether more than forty percent (40%) of families in a particular unit size are paying more than thirty percent (30%) of their annual adjusted income for rent.

If it is determined that particular unit sizes in the Housing Authority's jurisdiction have payment standard amounts that are creating rent burdens for families, the Housing Authority will modify its payment standards for those particular unit sizes.

The Housing Authority will increase its payment standard within the basic range for those particular unit sizes to help reduce the percentage of annual income that participant families in the Housing Authority's jurisdiction are paying.

The Housing Authority will establish a separate voucher payment standard, within the basic range, for designated parts of its jurisdiction if it determines that a higher payment standard is needed in these designated areas to provide families with quality housing choices and to give families an opportunity to move outside areas of high poverty and low income.

Availability of Suitable Vacant Units below the Payment Standard

The Housing Authority will review its rent reasonableness data and vacancy rate data to determine whether there is an ample supply of vacant units below the payment standard.

Quality of Units Selected

The Housing Authority will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

Housing Authority Decision Point

The Housing Authority will review the quality and size of units where the rents to owner are above the payment standard by more than twenty-five percent (25%). If more than fifty percent (50%) of families have selected above-average units or have selected larger units than the voucher size, the Housing Authority may elect not to increase the payment standard nor continue the analysis.

If the analysis continues, the Housing Authority will divide those rents between contracts within the first year and after the first year. If the rents to owner are more than twenty-five percent (25%) above the average, in any bedroom size, the Housing Authority will continue the analysis. If not, the Housing Authority may elect not to increase the payment standard for certain bedroom sizes.

Rent to Owner Increases
The Housing Authority may review a sample of the units to determine how often owners are increasing rents and the average percent of increase by bedroom size.

Time to Locate Housing
The Housing Authority may consider the average time period for families to lease up under the voucher program. If more than sixty percent (60%) of voucher holders are unable to locate suitable housing within the term of the voucher and the Housing Authority determines that this is due to sixty percent (60%) of rents in the jurisdiction being unaffordable for families even with the presence of a voucher the payment standard may be adjusted.

Lowering of the Payment Standard
Lowering of the FMR may require an adjustment of the payment standard. Additionally, statistical analysis may reveal that the payment standard should be lowered. In any case, the payment standard will not be set below ninety percent (90%) of the FMR without authorization from HUD.

Financial Feasibility
Before increasing the payment standard, the Housing Authority may review the budget to determine the impact projected subsidy increases would have on funding available for the program and number of families served.

For this purpose, the Housing Authority 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 Housing Authority for at least three years to document the analysis and findings to justify whether or not the payment standard was changed.

F. EXCEPTION PAYMENT STANDARDS

If the dwelling unit is located in an exception area, the Housing Authority must use the appropriate payment standard amount established by the Housing Authority for the exception area in accordance with regulation 24 CFR 982.503(c).

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

The owner is required to notify the Housing Authority, in writing, at least sixty (60) days before any change in the amount of rent to owner is scheduled to go into effect. Any requested change in rent to owner will be subject to rent reasonableness requirements [24 CFR 982.507].

H. ENHANCED VOUCHERS

Statutory changes related to housing conversion actions for expiring Project Based federal assistance contracts under Section 236 or Section 221 Opt-out Conversions for expiring Project Based federal assistance contracts to tenant based assistance.

In 1999, Congress enacted an Appropriation Act under Title IV, Section 408, allocating funds for enhanced subsidy payments for qualified, privately held affordable multi-family housing developments, expiring as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165.

Families impacted by conversion actions are eligible to receive and enhanced payment standard while residing in preservation eligible projects. The enhanced payment standard will be applicable provided the gross rent is reasonable and exceeds the applicable Housing Authority payment standard. Enhanced voucher assistance will continue as long as the family resides in covered project.

Families receiving enhanced tenant based/enhanced voucher assistance have a special statutory minimum rent requirement. The families new enhanced voucher minimum rent will be the greater of (A) the percentage of the monthly adjusted income the family paid for gross rent on the effective date of conversion, or (B) 30 percent (30%) of the family's current adjusted monthly income. If the family's income subsequently decreases to a significant extent, (15% or more from the gross family income) the enhanced minimum rent changes from an actual dollar amount to a specific percentage of income.

I. OVERSIZED UNIT/OVER-HOUSED FAMILY PAYMENT STANDARD

The Housing Authority issues the eligible family an enhanced voucher based on the subsidy standards and not the actual size of the unit the family is presently occupying. If an appropriate size unit is not available, then the family must make a good faith effort to locate a unit outside the project.

Chapter 12

RECERTIFICATIONS

[24 CFR 982.516]

INTRODUCTION

In accordance with HUD requirements, the Housing Authority will reexamine the income and household composition of all families at least annually. Families will be provided accurate annual and interim rent adjustments. Recertifications and interim examinations will be processed in a manner that ensures families are given reasonable notice of rent increases. All annual activities will be coordinated in accordance with HUD regulations. It is a HUD requirement that families report all changes in household composition. This chapter defines the Housing Authority's policy for conducting annual re-certifications and coordinating annual activities. It also explains the interim reporting requirements for families, and the standards for timely reporting.

A. ANNUAL ACTIVITIES [24 CFR 982.516]

There are two (2) activities the Housing Authority must conduct on an annual basis. These activities will be coordinated whenever possible:

1. Recertification of income and family composition
2. HQS inspection

At each annual anniversary date of the HAP contract, the Housing Authority must adjust the rent to owner at the request of the owner. The rent must be reasonable (as determined by the Housing Authority in accordance with 982.503).

The Housing Authority produces a monthly listing of units under contract to ensure that timely reviews of rent to owner, housing quality standards, and factors related to family share can be made. Requests for rent adjustments and other monetary changes will be transmitted to the Accounting Department.

Moves between Reexaminations

At the discretion of the Housing Authority when families move to another dwelling unit, an annual recertification will be scheduled (unless a recertification has occurred in the last one hundred twenty (120) days and the anniversary date will be changed). Income limits are not used as a test for continued eligibility at recertification.

Reexamination Notice to the Family

The Housing Authority will maintain a reexamination tracking system and the household will be notified by mail of the date and time for their interview at least ninety (90) days in advance of the anniversary date. If requested as an accommodation by a person with a disability, the Housing Authority will provide the notice in an accessible format. The Housing Authority 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.

Procedure

The Housing Authority's procedure for conducting annual re-certifications will be:

- Schedule the date and time of appointments and mail a notification to the family.
- If necessary and appropriate, permit the family to change the scheduled date and time of appointments by telephone or in writing.

Completion of Annual Recertification

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

Persons with Disabilities

Persons with disabilities who are unable to come to the Housing Authority's office will be granted

an accommodation by conducting the interview at the person's home**,** upon verification that the accommodation requested meets the need presented by the disability.

Collection of Information [24 CFR 982.516(f)]

The Housing Authority has established appropriate recertification procedures necessary to ensure that the income data provided by families is complete and accurate. The Housing Authority will require the family to complete a Personal Declaration Form prior to all recertification interviews.

Requirements to Attend

All adult household members will be required to attend the recertification interview. If the head of household is unable to attend the interview, the spouse or co-head may recertify for the family, provided that the head comes in within thirty (30) days to recertify.

Failure to Respond to Notification to Recertify

The written notification must state which family members are required to attend the interview. The family may call to request another appointment date up to twenty-four (24) hours prior to the interview.

If the family does not appear for the recertification interview, and has not rescheduled or made prior arrangements with the Housing Authority**,** the Housing Authority will reschedule a second appointment.

If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, the Housing Authority will send the family a notice of termination and offer them an informal hearing.

If the annual recertification letter is returned to the Housing Authority with a forwarding address, the Leasing Specialist will make no more than two (2) attempts to forward the appointment letter to the new forwarding address.

Exceptions to these policies may be made by the Director of Rental Assistance or his/her designee, if the family is able to document an emergency situation that prevented them from canceling or attending the appointment or if requested as a reasonable accommodation for a person with a disability.

Documents Required From the Family

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

- Documentation of income or no income for all family members
- Documentation of all assets
- Documentation of any deductions/allowances
- Documentation to support claims
- Personal Declaration Form completed by head of household
- Birth certificate, picture I.D. and social security cards for new family members
- Three (3) current months of rent receipts

Verification of Information

The Housing Authority will follow the verification procedures and guidelines described in this Administrative Plan. Verifications for reexaminations must be less than one hundred twenty (120) days old.

College Student Redetermination of Eligibility

Each college student within a household must provide a *written/signed certification* that the student does or does not anticipate receiving financial support from the student's parent(s) or guardian(s) and the amount of support.

The college student *must not be claimed* as a dependent by parent(s) or legal guardian(s) on the Internal Revenue Services (IRS) tax return.

Each college student receiving an athletic scholarship must provide 3rd party verification of amounts used towards housing costs.

The PHA must verify, via independent third-party verification, all amounts anticipated to be received outside of the family during the 12-month period following admission and the effective date of the annual reexamination.

This may be achieved by requesting a copy of the college student's Form 1040EZ, 1040, or 1040A tax returns for the prior year. The PHA will check the box that asks whether the student's parents (or someone else) can claim him/her on their tax return (see box "5" for Form 1040 EZ and box "6a" for Forms 1040 and 1040A). The PHA may also, if practicable, review the college student's parents or guardians tax returns. The college student must supply any information that the PHA or HUD determines is necessary in administration of public housing, voucher, or certificate programs (24 CFR 960.259 and 982.551).

Currently, the full amount of financial assistance from federal and state grants and/or loans, academic scholarships, and work study program wages paid directly to the student or the educational institution is not included in the determination of annual or adjusted income (24 CFR 5.609 (c)(6)).

Tenant Rent Increase

If the tenant rent increases, a thirty (30) day notice is mailed to the family prior to the scheduled effective date of the annual recertification.

If less than thirty (30) days are remaining before the scheduled effective date of the annual recertification, the tenant rent increase will be effective on the first of the following month.

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there will be a retroactive increase in rent to the scheduled effective date of the annual recertification.

Tenant Rent Decreases

If the tenant rent decreases, it will be effective on the anniversary date. If the family causes a delay

so that the processing of the reexamination is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the reexamination processing by the Housing Authority.

B. REPORTING INTERIM CHANGES [24 CFR 982.516]

Program participants must report all changes in household composition within thirty (30) days to the Housing Authority between annual reexaminations. This includes additions due to birth, adoption and court-awarded custody. The family must obtain Housing Authority approval prior to all other additions to the household.

If any new family member is added, family income must include any income of the new family member. The Housing Authority will conduct a reexamination to determine such additional income and will make the appropriate adjustments in the housing assistance payment and family unit size.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at an interim or regular recertification after moving into the unit.

An interim reexamination does not affect the date of the annual recertification. An interim reexamination will be scheduled for families with zero or unstable income every ninety (90) days.

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

Interim Reexamination Policy

Increases in Income

Families will be required to report all increases in income/assets within thirty (30) days of the increase.

The Housing Authority will not conduct interim reexaminations when families have an increase in monthly adjusted income of $200 or less. Participants in the Family Self Sufficiency program are exempt from this rule as increases in income will generate a change in their escrow balance.

Decreases in Income

Participants may report a decrease in income and other changes which would reduce the amount of tenant rent, such as an increase in allowances or deductions. The Housing Authority must calculate the change if a decrease in income is reported.

Decreases in the tenant portion of the rent will be made effective the first day of the month following the month in which the change was reported, if the change was reported in writing on or before the fifteenth (15th) day of the month. If reported after the fifteenth (15th) day of the month, the effective date of the tenant portion of rent will be effective on the first day of the second month after the change was reported.

Housing Authority Errors

If the Housing Authority makes a calculation error at admission to the program or at an annual

reexamination, an interim reexamination will be conducted if necessary to correct the error, but the family will not be charged retroactively. Families will be given decreases, when applicable retroactive to when the decrease for the change would have been effective if calculated correctly.

C. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS

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

- Fraud
- Failure to participate in an economic self-sufficiency program
- Noncompliance with a work activities requirement

However, the Housing Authority will reduce the rent if the welfare assistance reduction is a result of:

- The expiration of a lifetime time limit on receiving benefits

- A situation where the family has complied with welfare program requirements but cannot or has not obtained employment.

- The family member has complied with welfare program requirements, but the durational time limit, sue as a cap on the length of the time a family can receive benefits, causes the family to lose their welfare benefits.

The Housing Authority will notify affected families that they have the right to an informal hearing regarding these requirements.

Definition of "Imputed Welfare Income"

The amount of annual income, not actually received by a family, as a result of a specified welfare benefit reduction, that is included in the family's income for purposes of determining rent.

The amount of imputed welfare income is determined by the Housing Authority, based on written information supplied to the Housing Authority by the welfare agency, including:

- The amount of the benefit reduction
- The term of the benefit reduction
- The reason for the reduction
- Subsequent changes in the term or amount of the benefit reduction.

The family's annual income will include the imputed welfare income, as determined at the family's annual or interim reexamination, during the term of the welfare benefits reduction (as specified by the welfare agency). The amount of imputed welfare income will be offset by the amount of additional income the family receives that commences after the sanction was imposed. When additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income will be reduced to zero.

If the family claims the amount of imputed welfare income has been calculated incorrectly, designated staff will review the calculation for accuracy. If the imputed welfare income amount is correct, the Housing Authority will provide a written notice to the family that includes:

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

- A statement that the family may request an informal hearing if they do not agree with the Housing Authority determination. (Also see Chapter 7, "Verification Procedures.")

Verification before Denying a Request to Reduce Rent

The Housing Authority will obtain written verification from the welfare agency (San Joaquin County Human Services Agency) stating that the family's benefits have been reduced for fraud or noncompliance *before* denying the family's request for rent reduction. The Housing Authority will rely on the welfare agency's written notice to the Housing Authority regarding welfare sanctions. The welfare agency, at the request of the Housing Authority, will inform the Housing Authority of the:

- Amount and term of specified welfare benefit reduction for the family;
- Reason for the reduction; and
- Subsequent changes in term or amount of reduction.

Family Dispute of Amount of Imputed Welfare Income

If the family disputes the amount of imputed income and the Housing Authority denies the family's request to modify the amount, the Housing Authority will provide the tenant with a notice of denial, which will include:

- An explanation for the Housing Authority's determination of the amount of imputed welfare income.

- A statement that the tenant may request an informal hearing.

- A statement that the information received from the welfare agency cannot be disputed at the informal hearing, and the issue to be examined at the informal hearing will be the Housing Authority's determination of the amount of imputed welfare income, not the welfare agency's determination to sanction the welfare benefits.

Cooperation Agreements [24 CFR 5.613]

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

The Housing Authority has taken an active approach in creating an effective working relationship between the Housing Authority and the local welfare agency for the purpose of targeting economic self-sufficiency programs throughout the community that are available to HCV participants.

The Housing Authority and the local welfare agency have mutually agreed to exchange information

regarding any economic self-sufficiency and/or other appropriate programs or services that would benefit HCV participants.

D. DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS (MEID) [24 CFR 5.616; 982.201(b) (3)]

Initial Twelve-Month Exclusion

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

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

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

Second Twelve-Month Exclusion and Phase-in

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

Maximum Four Year Disallowance

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

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

A disabled family qualified for the earned income exclusion is a family that is receiving tenant-based rental assistance under the Housing Choice Voucher Program and must meet one or more of the following conditions:

- Whose annual income increases as a result of employment of a family member who is a person with

disabilities and who was previously unemployed for one or more years prior to employment;

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

- Whose annual income increases, as a result of new employment or increased earnings of a family member during or within six (6) months after receiving assistance, benefits or services under any State program for TANF provided that the total amount over a six-month period is at least $500. The qualifying TANF assistance may consist of any amount of monthly income maintenance, and/or at least $500 in such TANF benefits and services as one-time payments, wage subsidies and transportation assistance.

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

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

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

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

Applicability to Child Care Expense Deductions

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

Tracking the Earned Income Exclusion

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

Such documentation will include:

- Date the increase in earned income was reported by the family
- Name of the family member whose earned income increased
- Reason for the increase in earned income
- Amount of the increase in earned income (amount to be excluded)
- Date the increase in income is first excluded from annual income
- Date(s) earned income ended and resumed during the initial cumulative twelve (12) month period of exclusion (if any)
- Date the family member has received a total of twelve (12) months of the initial exclusion
- Date the twelve (12) month phase-in period began
- Date(s) earned income ended and resumed during the second cumulative twelve (12) month period (phase-in) of exclusion (if any)
- Date the family member has received a total of twelve (12) months of the phase-in exclusion
- Ending date of the maximum forty-eight (48) month, four (4) year disallowance period which is forty-eight (48) months from the date of the initial earned income disallowance

The Housing Authority will maintain a tracking system to ensure correct application of the earned income disallowance. Refer to Chapter 12, Section C, Reporting Interim Changes, for increases in income that must be reported.

Inapplicability to Admission

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

E. NOTIFICATION OF RESULTS OF RECERTIFICATIONS [HUD NOTICE PIH 98-6]

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

The notice of rent change is mailed to the owner and the tenant. Signatures are not required by the Housing Authority. If the family disagrees with the rent adjustment, they may request an informal hearing.

F. TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS) [24 CFR 982.516(c)]

Standard for Timely Reporting of Changes

The Housing Authority requires that families report interim changes to the Housing Authority within thirty (30) days of when the change occurs. Any information, document or signature needed

from the family which is needed to verify the change must be provided within thirty (30) days of the change.

If the change is not reported within the required time period, or if the family fails to provide documentation or signatures, it will be considered untimely reporting.

Procedures when the Change is Reported in a Timely Manner

The Housing Authority will notify the family and the owner of any change in the Housing Assistance Payment to be effective according to the following guidelines:

- Increases in the tenant rent are effective on the first of the month following at least thirty (30) days notice. An increase in a monthly adjusted income of $200 or less will not result in a change in the tenant's portion.

- Decreases in the tenant portion of the rent will be made effective the first day of the month following the month in which the change was reported, if the change was reported in writing on or before the fifteenth (15th) day of the month. If reported after the fifteenth (15th) day of the month, the effective date of the tenant portion of rent will be effective on the first day of the second month after the change was reported. However, no rent reductions will be processed until all the facts have been verified, even if a retroactive adjustment results.

The change will not be made until the third party verification is received.

Procedures when the Change is Not Reported by the Family in a Timely Manner

If the family does not report the change as described under timely reporting, the family will have caused an unreasonable delay in the interim 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.

- Decreases in the tenant portion of the rent will be made effective the first day of the month following the month in which the change was reported, if the change was reported in writing on or before the fifteenth (15th) day of the month. If reported after the fifteenth (15th) day of the month, the effective date of the tenant portion of rent will be effective on the first day of the second month after the change was reported.

Procedures when the Change is Not Processed by the Housing Authority in a Timely Manner

"Processed in a timely manner" means that the change goes into effect on the date it should when the family reports the change in a timely manner. If the change cannot be made effective on that date, the change is not processed by the Housing Authority in a timely manner.

In this case, an increase will be effective after the required thirty (30) days notice prior to the first of the month after completion of processing by the Housing Authority.

If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.

G. CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.518]

Under the Non-citizens Rule, "mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

The non-citizens rule was implemented prior to November 29, 1996, and "mixed" families who were participants as of June 19, 1995, shall continue receiving full assistance if they meet all of the following criteria:

- The head of household or spouse is a U.S. citizen or has eligible immigrant status; and
- All members of the family other than the head, the spouse, parents of the head or the spouse, and children of the head or spouse are citizens or eligible immigrants. The family may change the head of household to qualify under this provision.

"Mixed" families who qualify for continued assistance after November 29, 1996, may receive prorated assistance only.

H. MISREPRESENTATION OF FAMILY CIRCUMSTANCES

If any participant deliberately misrepresents the information on which eligibility or tenant rent is established, the Housing Authority may terminate assistance and may refer the family file/record to the proper authorities for appropriate disposition.

Chapter 13

MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

[24 CFR 982.314, 982.353, 982.355(a)]

INTRODUCTION

HUD regulations permit families to move with continued assistance to another unit within the Housing Authority's jurisdiction, or to a unit outside of the Housing Authority's jurisdiction under portability procedures. The regulations also allow the Housing Authority 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 Housing Authority's jurisdiction, and the policies for restriction and limitations on moves.

A. ALLOWABLE MOVES

A family may move to a new unit with continued assistance if:

- The assisted lease for the old unit has terminated because the Housing Authority 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 (and if the family has a right to terminate the lease on notice to owner).

B. RESTRICTIONS ON MOVES [24 CFR 982.314, 982.552(a)]

Families will not be permitted to move during the initial year of assisted occupancy.

Families will not be permitted to move more than once in a twelve (12) month period.

The Housing Authority will deny permission to move if there is insufficient funding for continued assistance.

The Housing Authority will deny permission to move if:

- The family has violated a family obligation.
- The family owes the Housing Authority money and is in arrears or has defaulted on a repayment agreement.
- The family has moved or been issued a voucher within the last twelve (12) months.

The Director of Rental Assistance and his/her designee may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control.

C. PROCEDURE FOR MOVES [24 CFR 982.314]

Issuance of Voucher

Subject to the restrictions on moves and at the discretion of the Housing Authority, if the family has not been recertified within the last one hundred twenty (120) days, the Housing Authority will issue the voucher to move after conducting the recertification.

If the family does not locate a new unit, they may remain in the current unit so long as the owner permits.

The annual recertification date will be changed to coincide with the new lease-up date.

Notice Requirements

Briefing sessions emphasize the family's responsibility to give the owner and the Housing Authority proper written notice of any intent to move.

The family must give the owner the required number of day's written notice of intent to vacate specified in the lease and must give a copy to the Housing Authority simultaneously.

Time of Contract Change

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move except that there will be no overlapping assistance.

In a move, assistance stops at the old unit at the end of the month in which the tenant ceased to occupy, unless proper notice was given to end a lease mid-month. Assistance will start on the new unit on the effective date of the lease and contract. Housing assistance payments may overlap for the month in which the family moves.

D. PORTABILITY [24 CFR 982.353]

Portability applies to families moving out of or into the Housing Authority's jurisdiction within the United States and its territories.

E. OUTGOING PORTABILITY [24 CFR 982.353, 982.355]

Within the limitations of the regulations and this policy, a participant family has the right to receive tenant-based voucher assistance to lease a unit outside the Housing Authority's jurisdiction, anywhere in the United States, in the jurisdiction of a Housing Authority with a tenant-based program. When a family requests to move outside of the Housing Authority's jurisdiction, the request must specify the area to which the family wants to move.

The initial Housing Authority must promptly notify the receiving Housing Authority to expect the incoming family. This means the initial Housing Authority contacts the receiving Housing Authority on the family's behalf, typically by telephone, fax or electronic mail. Simply referring the family to HUD or a website for information on the receiving Housing Authority's address does not fulfill the responsibilities of the initial Housing Authority under the program regulations. The initial Housing Authority must also advise the family how to contact and request assistance from the Housing Authority (i.e. the name and telephone number of the staff person responsible for working with incoming portability families, and any procedures related to appointments for voucher issuance the Housing Authority has shared with the initial Housing Authority). The revised HUD Form 52665 now contains a line that the initial Housing Authority uses to identify the Housing Authority to which the initial Housing Authority is referring the family.

If there is more than one Housing Authority in the area in which the family has selected a unit, the family will select the receiving Housing Authority.

Receiving Housing Authority Processing Responsibilities / Restrictions on Portability

Applicants

If the head or spouse did not have a domicile (legal residence) in the Housing Authority's jurisdiction at the date of their initial application for assistance, the family will not be permitted to exercise portability upon initial issuance of a voucher, unless the Housing Authority approves such move. (NOTE: legal domicile is defined by local government.)

For a portable family that was not already receiving assistance in the Housing Authority's tenant based program, the Housing Authority must determine whether the family is eligible for admission under the receiving Housing Authority's program.

Participants

After an applicant has leased-up in the jurisdiction of the initial housing agency, they cannot exercise portability during the first year of assisted occupancy, except in the following circumstances:

- The receiving and initial Housing Authority's agree to allow the move
- The family's move relates to an opportunity for education, job training or employment

The Housing Authority will not permit families to exercise portability for the following reasons:

- If the family is in violation of a family obligation
- If the family owes money to the Housing Authority
- If the family has moved out of its assisted unit in violation of the lease

F. INCOMING PORTABILITY [24 CFR 982.355]

Absorption or Administration

The Housing Authority will accept a family with a valid voucher from another jurisdiction and administer or absorb the voucher. If administering, the family will be issued a "portability" voucher by the Housing Authority. The term of the voucher will not expire before the expiration date of any initial Housing Authority voucher. The family must submit a Request for Lease Approval for an eligible unit to the receiving Housing Authority during the term of the receiving Housing Authority voucher. The receiving Housing Authority may grant extensions in accordance with this Administrative Plan. However, if the family decides not to lease-up in the Housing Authority's jurisdiction, they must contact the initial Housing Authority to request an extension.

The Housing Authority may absorb all incoming portable families provided that there is funding available.

When the Housing Authority does not absorb the incoming voucher, it will administer the initial Housing Authority's voucher and the receiving Housing Authority's policies will prevail.

For admission to the program a family must be income eligible in the area where the family initially leases a unit with assistance under the program.

The receiving Housing Authority does not re-determine eligibility for a portable family that was already receiving assistance in the initial Housing Authority Housing Choice Voucher Program.

The Housing Authority will issue a "portability" voucher according to its own subsidy standards. If the family has a change in family composition which would change the voucher size, the receiving Housing Authority will change to the proper size based on its own subsidy standards.

Income and Total Tenant Payment of Incoming Portables [982.353(d)]

As the receiving Housing Authority, the Housing Authority will conduct a recertification interview

but only verify the information provided if the documents are missing or are over one hundred twenty (120) days old, whichever is applicable, or there has been a change in the family's circumstances.

If the Housing Authority conducts a recertification of the family, it will not cause a delay in the issuance of a voucher.

If the family's income is such that a $0 subsidy amount is determined prior to lease-up in the Housing Authority's jurisdiction, the Housing Authority will refuse to enter into a contract on behalf of the family at $0 assistance.

Requests for Approval of Tenancy

A briefing will be mandatory for all portability families.

When the family submits a Request for Tenancy Approval (RTA), it will be processed using the Housing Authority's policies. If the family does not submit a - RTA or does not execute a lease, the initial Housing Authority will be notified within sixty (60) days by the Housing Authority.

If the family leases up successfully, the Housing Authority will notify the initial Housing Authority within sixty (60) days and the billing process will commence.

The Housing Authority will notify the initial Housing Authority if the family fails to submit a RTA for an eligible unit within the term of the voucher.

If the Housing Authority denies assistance to the family, the Housing Authority will notify the initial Housing Authority within sixty (60) days and the family will be offered a review or hearing.

The Housing Authority will notify the family of its responsibility to contact the initial Housing Authority if the family wishes to move outside the Housing Authority's jurisdiction under continued portability.

Regular Program Functions

The Housing Authority will perform all program functions applicable to the tenant-based assistance program, such as:

- Annual reexaminations of family income and composition.
- Annual inspection of the unit.
- Interim examinations when requested or deemed necessary by the Housing Authority.

Terminations

The Housing Authority will notify the initial Housing Authority in writing of any termination of assistance within sixty (60) days of the termination. If an informal hearing is required and is requested by the family, the hearing will be conducted by the Housing Authority, using the regular hearing procedures included in this Administrative Plan. A copy of the hearing decision will be furnished to the initial Housing Authority.

The initial Housing Authority will be responsible for collecting amounts owed by the family for claims paid and for monitoring repayment. If the initial Housing Authority notifies the Housing Authority that the family is in arrears or the family has refused to sign a payment agreement, the Housing Authority will terminate assistance to the family.

The receiving Housing Authority will be required to submit hearing determinations to the initial Housing Authority within thirty (30) days.

Required Documents

As receiving Housing Authority, the Housing Authority will require the following documents from the initial Housing Authority:

- A copy of the family's voucher, with issue and expiration dates, formally acknowledging the family's ability to move under portability.
- The most recent HUD Form 50058 and verifications of:
    - Current information related to eligibility and rent payments.
    - The administrative fee schedule for billing purposes.

Billing Procedures

As receiving Housing Authority, the Housing Authority will bill the initial Housing Authority monthly for Housing Assistance Payments. The billing cycle for other amounts, including administrative fees and special claims will be monthly unless requested otherwise by the initial Housing Authority.

The Housing Authority will bill 100% of the Housing Assistance Payment, 100% of special claims and 80% of the Administrative Fee (at the initial Housing Authority's rate) for each "portability" voucher leased as of the first day of the month.

The Housing Authority will notify the initial Housing Authority of changes in subsidy amounts and will expect the initial Housing Authority to notify the Housing Authority of changes in the administrative fee amount to be billed.

Summary of Portability Billing Deadlines

The following summarizes the relevant deadlines under the portability billing procedures.

- Submission of Initial Billing Amount (Part II of the Form HUD 50058): The Housing Authority must submit initial billing notice (1) no later than 10 working days following the date the HAP contract was executed and (2) in time that it will be received no later than 60 days following the expiration date of the family's voucher issued by the initial Housing Authority.
- Payment of First Billing Amount: The initial Housing Authority makes payment within 30 days of receipt of Part II of the HUD Form 50058 indicating billing amount.

- Payment of Subsequent Billing Amounts: The initial Housing Authority is responsible for ensuring that subsequent billing amounts are received no later than the fifth working day of each month for which the monthly billing amount is due.

- Notification of Change in Billing Amount or Other Action: The Housing Authority notifies the initial Housing Authority of any change in the billing amount as soon as possible (preferably before the effective date to avoid retroactive adjustments) but I no circumstance any later than 10 working days following the effective date of the change.

Chapter 14

CONTRACT TERMINATIONS

[24 CFR 982.311(b)(c)]

INTRODUCTION

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

A. CONTRACT TERMINATION [24 CFR 982.311]

The term of the HAP Contract is the same as the term of the lease. The contract between the owner and the Housing Authority may be terminated by the Housing Authority, or by the owner or tenant terminating the lease.

No future subsidy payments on behalf of the family will be made by the Housing Authority to the owner after the month in which the contract is terminated. The owner must reimburse the Housing Authority for any subsidies paid by the Housing Authority for any period after the contract termination date.

If the family continues to occupy the unit after the HAP contract is terminated, the family is responsible for the total amount of rent due to the owner.

After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit. The contract for the new unit may begin during the month in which the family moved from the old unit.

B. TERMINATION BY THE FAMILY: MOVES [24 CFR 982.314(c)(2)]

Family termination of the lease must be in accordance with the terms of the lease.

C. TERMINATION OF TENANCY BY THE OWNER: EVICTIONS [24 CFR 982.310, 982.455]

If the owner wishes to terminate the lease, the owner must provide proper notice as stated in the lease.

During the term of the lease, the owner may not terminate the tenancy except for any of the following:

- Serious or repeated violations of the lease, including but not limited to failure to pay rent or other amounts due under the lease, or repeated violation of the terms and conditions of the lease.

- Violations of Federal, State or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises.

- Any drug-related or criminal activity on or off the premises by a covered person that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, persons residing in the immediate vicinity of the premises, or property management personnel.

- Criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises or any drug-related criminal activity on or near the premises.

- Any violent criminal activity by a covered person on or near the premises.

- A tenant who is a fugitive felon or parole violator.

During the initial term of the lease, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do Other good cause, after the initial term of the lease, includes but is not limited to:

- Tenant history of disturbance of neighbors, destruction of property, or behavior resulting in damage to the premises.
- Business or economic reason for regaining possession
- Owner's desire to repossess unit for personal use
- Tenant's refusal to accept offer of a new lease

The owner must give ninety (90) days written notice of termination and must have good cause to terminate the tenancy during the first year. The owner's notice must state the reason for termination. If after the initial term of the lease, the owner may terminate tenancy without cause. 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 under State or local law to commence an eviction action.

During the initial term, the Housing Authority 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 the Housing Authority's decision regarding termination of assistance.

Housing assistance payments are paid to the owner under the terms of the HAP Contract. If the owner has begun eviction and the family continues to reside in the unit, the Housing Authority 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 Housing Authority will continue housing assistance payments until the family moves or is evicted from the unit.

If the action is finalized in court, the owner must provide the Housing Authority with the documentation, including notice of the lock-out date.

The Housing Authority 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 Housing Authority, the owner certifies that the tenant is still in the unit, the rent is reasonable and they are in compliance with the contract.

If an eviction is not due to a serious or repeated violation of the lease, and if the Housing Authority has no other grounds for termination of assistance, the Housing Authority may issue a new voucher so that the family can move with continued assistance.

Evidence of Criminal Activity [24 CFR 982.310]

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction and without satisfying the standard of proof used for a criminal conviction.

Owner Discretion [24 CFR 982.310]

In deciding whether to terminate tenancy because of criminal activity by members of the family, the owner has the discretion to consider all of the circumstances in each case, including the seriousness of the offending action. The owner may use discretion in reviewing the extent of participation or culpability of individual family members. The owner may also consider the tenant's personal attempts to mitigate the offending action and whether there is a demand for assisted housing by families who will abide by the lease.

When determining whether to terminate the tenancy for illegal drug use or alcohol abuse, the owner may consider whether the family member:

- Is no longer engaging in the illegal drug use or alcohol abuse
- Has successfully completed a supervised drug or alcohol rehab program
- Has otherwise been successfully rehabilitated

The owner may require the tenant to submit evidence of any of the three above.

The owner may impose, as a condition of continued tenancy for other family members, a requirement that family members who participated in or were culpable for the action or failure must not reside in the unit. Actions of termination by the owner must be consistent with the fair housing and equal opportunities as stated in 24 CFR 5.105.

D. TERMINATION OF THE CONTRACT BY HOUSING AUTHORITY [24 CFR 982.404(a), 982.453, 982.454, 982.552(a)(3)]

The term of the HAP contract terminates when the lease terminates, when the Housing Authority terminates program assistance for the family, and when the owner has breached the HAP contract (see Chapter 16, "Owner Disapproval and Restriction").

The Housing Authority will also terminate the contract if:

- The family is in violation of any of their family obligations.

- The family is required to move from a unit when the unit does not meet the HQS space standards because of an increase in family size or a change in family composition.

- Funding is no longer available under the Annual Contributions Contract.

- The contract will terminate automatically if one hundred eighty (180) days have passed since the last housing assistance payment to the owner.

Notice of Termination

When the Housing Authority terminates the HAP contract under the violation of HQS space standards, the Housing Authority will provide the owner and family written notice of termination of the contract, and the HAP contract terminates at the end of the calendar month that follows the calendar month in which the Housing Authority gives such notice to the owner.

Chapter 15

DENIAL OR TERMINATION OF ASSISTANCE

[24 CFR 5.903, 5.905, 982.54, 24 CFR 982.552, 982.553]

INTRODUCTION

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

A. FAMILY OBLIGATIONS [24 CFR 982.551]

1. The family must supply any information that the Housing Authority or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR 982.551). "Information" includes any requested certification, release or other documentation.

2. The family must supply any information requested by the Housing Authority or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.

3. The family must disclose and verify Social Security Numbers (in accordance with 24 CFR 5.216) and must sign and submit consent forms for obtaining information in accordance with 24 CFR 5.230.

4. All information supplied by the family must be true and complete.

5. The family is responsible for an HQS breach caused by the family in accordance with 24 CFR 982.404(b).

6. The family must allow the Housing Authority to inspect the unit at reasonable times and after reasonable notice.

7. The family may not commit any serious or repeated violations of the lease.

8. The family must notify the owner and, at the same time, notify the Housing Authority before the family moves out of the unit or terminates the lease upon notice to the owner.

9. The family must promptly give the Housing Authority a copy of any owner eviction notice.

10. The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

11. The composition of the assisted family residing in the unit must be approved by the Housing Authority. The family must promptly inform the Housing Authority of the birth, adoption or court-awarded custody of a child. The family must request Housing Authority approval to add any other family member as an occupant of the unit.

12. The family must promptly notify the Housing Authority if any family member no longer resides in the unit.

13. If the Housing Authority has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or Housing Authority approval is denied, the family may not allow a foster child or live-in aide to reside with the assisted family.

14. 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.

15. The family must not sublease or let the unit.

16. The family must not assign the lease or transfer the unit.

17. The family must supply any information or certification requested by the Housing Authority to verify that the family is living in the unit, or relating to family absence from the unit, including any Housing Authority requested information or certification on the purposes of family absences. The family must cooperate with the Housing Authority for this purpose. The family must promptly notify the Housing Authority of absence from the unit.

18. The family must not own or have any interest in the unit except families participating in the Homeownership Option Program.

19. The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with any Federal housing programs.

20. The members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

21. The household members may not engage in drug-related criminal activity or other violent criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

22. An assisted family, or members of the family, may not receive Housing Choice Voucher 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.

23. The members of the family must not engage in threatening, abusive, or violent behavior toward Housing Authority personnel.

B. GROUNDS FOR DENIAL/TERMINATION [24 CFR 982.552, 982.553]

If denial or termination is based upon behavior resulting from a disability, the Housing Authority will delay the denial or termination in order to determine if there is an accommodation, which would negate the behavior resulting from the disability.

Form of Denial/Termination

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

- Denial for placement on the Housing Authority waiting list
- Denying or withdrawing a voucher

- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures

Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an existing HAP contract
- Refusing to process or provide assistance under portability procedures

Mandatory Denial of Assistance [24 CFR 982.54(d), 982.552(b), 982.553(a), and 982.553(b)]
The Housing Authority must deny assistance to applicants:

- If any member of the family fails to sign and submit HUD or Housing Authority required consent forms for obtaining information in accordance with 24 CFR Part 5, Subparts B and F.

- If no member of the family is a U.S. citizen or eligible immigrant (see "Procedures for Non-Citizens" in this chapter).

- If any member of the family has been evicted from federally assisted housing for drug-related criminal activity, the Housing Authority must deny admission for three (3) years after the eviction occurred, unless the household member completed an approved, supervised drug rehabilitation program or the circumstances for the eviction no longer exist.

- If any member of the family is currently engaging in illegal use of a drug or the Housing Authority determines that the use or pattern of use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

- If any member of the family's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

- If any member of the family has ever been convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.

- If any member of the family is subject to a lifetime registration requirement under a State sex offender registration program (see Section C. Denial of Assistance for Sex Offenders)

Mandatory Termination of Assistance [24 CFR 982.54(d), 982.552(b), 982.553(a), and 982.553(b)]

The Housing Authority must terminate assistance for participants:

- If any member of the family fails to sign and submit HUD or Housing Authority required consent forms for obtaining information in accordance with 24 CFR Part 5, Subparts B and F.

- If no member of the family is a U.S. citizen or eligible immigrant (see "Procedures for Non-

Citizens" in this chapter).

- If any member of the family is currently engaging in illegal use of a drug or the Housing Authority determines that the use or pattern of use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

- If any member of the family's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

- If the family is under contract and one hundred eighty (180) days have elapsed since the Housing Authority's last housing assistance payment was made (see Chapter 14, "Contract Terminations").

- If the family is evicted from housing assisted under the program for serious and repeated violations of the lease.

- If any member of the family is or has ever been convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.

- If any member of the family is subject to a lifetime registration requirement under a State sex offender registration program ("Drug Related and Violent Criminal Activity" in this chapter).

- If any member of the family does not meet the applicable SSN disclosure, documentation and verification requirements. This rule does not apply to mixed families who do not contend eligible immigration status under HUD's non-citizens regulation nor does it interfere with existing requirements relative to pro-ration of assistance or screening for such families.

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

The Housing Authority will deny program assistance for an applicant, or 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.

- Any member of the family has ever been evicted from public housing in the last three (3) years.

- If any Housing Authority has ever terminated assistance under the program for any member of the family.

- If any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program.

- The family currently owes rent or other amounts to the Housing Authority or to another Housing Authority in connection with the Housing Choice Voucher Program or public housing assistance under the 1937 Act.

- The family has not reimbursed any Housing Authority for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

- The family breaches an agreement with a Housing Authority to pay amounts owed to a Housing Authority, or amounts paid to an owner by a Housing Authority. The Housing Authority at its discretion may offer the family the opportunity to enter into a repayment agreement. The Housing Authority will prescribe the terms of the agreement (see Chapter 18, "Owner or Family Debts to the Housing Authority").

- The family participating in an FSS program fails to comply, without good cause, with the family's FSS contract of participation.

- The family has engaged in or threatened abusive or violent behavior toward Housing Authority personnel. Abusive or violent behavior towards Housing Authority 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 intent to abuse or commit violence. Actual physical abuse or violence will always be cause for termination.

- If any member of the family engages in, or has engaged in drug or alcohol abuse that interferes with the health, safety or peaceful enjoyment of other residents (see "Family Obligations" in this chapter).

- Crime by any family member, such as:

  - Fraud, bribery or other corrupt or criminal act in connection with any Federal housing program.

  - Drug-related criminal activity (as defined by law).

  - Violent criminal activity (see "Drug related and Violent Criminal Activity" in this chapter).

  - Criminal use of physical force against person or property.

  - Other criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents, persons residing in the vicinity, Housing Authority employees/contractors, the owner, or property management staff.

- If the Housing Authority determines that any household member is engaging in or has

engaged in drug-related criminal activity while participating in the Housing Choice Voucher program, within the past five (5) years, the Housing Authority may terminate assistance.

- If the family violates the lease by engaging in drug-related or violent criminal activity, the Housing Authority may terminate assistance.

- If the Housing Authority determines that a member of the household is fleeing to avoid prosecution, or custody or confinement after conviction, that is a felony under the laws of the place from which the individual flees, the Housing Authority will terminate assistance.

- If the Housing Authority determines that a member of the household is violating a condition of probation or parole imposed under Federal or State law, the Housing Authority will terminate assistance.

- In appropriate cases, the Housing Authority may permit the family to continue receiving assistance provided that family members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the Housing Authority may consider individual circumstances upon the advice of Juvenile Court officials.

  The Housing Authority must find elements of crime covered by civil standards and with a preponderance of evidence. The Housing Authority is not required to show proof of crime beyond a reasonable doubt.

- No assistance shall be provided to any individual who is:

  1. Enrolled as a student (full time or part time) at an institution of higher education
  2. Under 24 years of age
  3. Not a U.S. Veteran
  4. Unmarried
  5. Does not have a dependent child; and
  6. Not otherwise individually eligible, or has parents who, individually or jointly, are not eligible to receive assistance

Violence Against Women and Justice Department Reauthorization Act of 2005 (VAWA 2005)

The new requirements of VAWA 2005 that are incorporated into the Housing Choice Voucher HAP Contract and Tenancy Addendum are as follows:

- An incident of actual or threatened domestic violence, dating violence, or stalking will not be construed as serious or repeated violations of the lease or other “good cause” for termination of the assistance, tenancy, or occupancy rights of a victim of abuse (section 8(o)(7)(C) of the U.S. Housing Act of 1937).

- Criminal activity directly relating to abuse, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant’s

family is the victim or threatened victim of that abuse (section 8(o)(7)(D)(i) of the U.S. Housing Act of 1937).

- Notwithstanding the VAWA restriction on admission, occupancy or terminations of occupancy or assistance, or any Federal, State or local law to the contrary, a PHA may terminate assistance to or an owner or manager may "bifurcate" a lease, or otherwise remove a household member from a lease, without regard to whether a household member is a signatory to the lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members of others. This action may be taken without evicting, removing, terminating assistance to, or occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State and local law for the termination of leases or assistance under the Housing Choice Voucher Program (section 8(o)(7)(D)(ii) of the U.S. Housing Act of 1937).

- Nothing in section 8(o)(7)(D)(i) may be construed to limit the authority of a public housing agency, owner or manager, when notified, to honor court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up (section 8(o)(7)(D)(iii) of the U.S. Housing Act of 1937).

- Nothing in section 8(o)(7)(D)(i) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager or public housing agency does not subject an individual is or has bee a victim of domestic violence, dating violence or stalking to a more demanding stand than other tenants in determining whether to evict or terminate (section 8(o)(7)(D)(iv) of the U.S. Housing Act of 1937).

- Nothing in section 8(o)(7)(D)(i) shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than section 8(o)(7)(D)(i) for victims of domestic violence, dating violence or stalking (section 8(o)(7)(D)(iv) of the U.S. Housing Act of 1937).

Portability in the Housing Choice Voucher Program

In addition to the protections to victims or domestic violence which must be taken into consideration when a Housing Authority contemplates terminating a family's participation in the Housing Choice Voucher Program, VAWA 2005 also amended section 8(r) of the U.S. Housing Act to provide an exception to the prohibition against a family moving under the portability provisions in violation of the lease. VAWA 2005 provides that the family may receive a voucher and move in violation of the lease under the portability procedure if the family has complied with all other obligations of the voucher program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence or staking and who reasonable believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

Explanations and Terms

The term "promptly" when used with the family obligations always means "within thirty (30) days." Denial or termination of assistance is always optional except where this Administrative Plan or the regulations state otherwise.

Housing Authority Discretion [24 CFR 982.552(c)]

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the Housing Authority has discretion to consider all of the circumstances in each case, including the seriousness of the case. The Housing Authority will use its discretion in reviewing the extent of participation or culpability of individual family members and the length of time since the violation occurred. The Housing Authority may also review the family's more recent history and record of compliance, and the effects that denial or termination of assistance may have on other family members who were not involved in the action or failure to act.

The Housing Authority may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in, or were culpable for the action or failure to act, will not reside in the unit. The Housing Authority may permit the other members of a family to continue in the program.

HQS Breach

The Inspector and/or the Director of Rental Assistance 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 Director of Rental Assistance or his/her designee.

Lease Violations

One or more of 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 violations of the lease.
- If the owner notified 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 HA determines that the cause is a serious or repeated violation of the lease based on available evidence.
- If the owner notifies the family of termination of tenancy assistance for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and
- If there are police reports, neighborhood complaints, or other third party information, and the HA has verified the information.

Proposed Additions to the Family

The Housing Authority will deny a family's request to add additional family members who are:

- Persons who have been evicted from public housing.

- Persons who have previously violated a family obligation listed in 24 CFR 982.551 of the HUD regulations.

- Persons who have been part of a family whose assistance has been terminated under the voucher program.

- Persons who commit drug-related criminal activity or violent criminal activity.

- Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program.

- Persons who currently owe rent or other amounts to the Housing Authority or to another Housing Authority in connection with the Housing Choice Voucher Program or public housing assistance under the 1937 Act.

- Persons who have engaged in or threatened abusive or violent behavior toward Housing Authority personnel.

Family Member Moves Out

Families are required to notify the Housing Authority if any family member leaves the assisted household. When the family notifies the Housing Authority, they must furnish the following information:

- The date the family member moved out
- The new address, if known, of the family member
- A statement as to the length of time the family member will be out of the household.
- Persons who do not meet the HA's definition of family.

Limitation on Profit-making Activity in Unit

If the Housing Authority determines that the use of the unit as a business is not incidental to its use as a dwelling unit, it will be considered a program violation. If the Housing Authority determines that the business is not legal, it will be considered a program violation.

Interest in Unit

The owner may not reside in the assisted unit regardless of whether they are a member of the assisted family, unless the family owns the mobile home and rents the pad, excluding shared housing, unless the client is a participant in the Homeownership Option Program.

Fraud

In each case, the Housing Authority will consider which family members were involved, the circumstances, and any hardship that might be caused to innocent members.

In the event of false citizenship claims, see "Procedures for Non-citizens" in this Chapter.

C. DRUG RELATED AND VIOLENT CRIMINAL ACTIVITY

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

"Violent criminal activity" includes any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage, and the activity is being engaged in by any family member.

Definitions for other terms used in this chapter are provided in the Glossary.

Ineligibility for Drug-Related or Violent Activity

In an effort to prevent future drug related and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents, and as required by 24 CFR 982, Subpart L and CFR Part 5, Subpart J, the Housing Authority will endeavor to screen applicants as thoroughly and fairly as possible for drug-related and violent criminal behavior. Such screening will apply to any member of the household who is 18 years of age or older.

Persons evicted from federally assisted housing because of drug-related criminal activity are ineligible for admission to the Housing Choice Voucher Program for a three (3) year period beginning on the date of such eviction, unless the household member completed an approved, supervised drug rehabilitation program or the circumstances for the eviction no longer exist. For example, the individual involved in drugs is no longer in the household because the person is deceased or incarcerated.

Applicants may be denied assistance if they have been arrested and convicted of a drug-related or violent crime, or evicted from federally assisted housing due to drug-related or violent criminal activity within the last three (3) years prior to the date of the certification interview.

Participants may be terminated who have been arrested and convicted of a drug-related or violent crime, and/or evicted from federally assisted housing due to drug-related or violent criminal activity within the last three (3) years prior to the date of the notice to terminate assistance, or whose activities have created a disturbance in the building or neighborhood.

Screening Out Illegal Drug Users and Alcohol Abusers

The Housing Authority will deny participation in the program to applicants in cases where the Housing Authority determines there is reasonable cause to believe that the person is illegally using drugs, 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 the Housing Authority determines that there is a pattern of illegal use of a drug, or pattern of alcohol abuse.

The Housing Authority will consider the use of a drug or alcohol to be a pattern if there is more than one incident documented and verified by the Housing Authority during the previous six (6)

months.

Denial of Assistance for Sex Offenders

The Housing Authority will deny admission if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. In screening applicants, the Housing Authority will perform criminal history background checks to determine whether any household member is subject to a lifetime sex offender registration requirement.

Confidentiality of Criminal Records

The Housing Authority 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 is not to be determined by the number of witnesses, but by the greater weight of all evidence.

"Credible evidence" may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence, can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants where illegal drugs were found or illegal activity discovered.

The Housing Authority may pursue fact-finding efforts as needed to obtain credible evidence.

The Housing Authority may terminate assistance for criminal activity by a household member under this section if the Housing Authority has determined that the household member has engaged in the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

Notice of Termination of Assistance

In any case where the Housing Authority decides to terminate assistance to the family, the Housing Authority must give the family written notice which states:

- The reason(s) for the proposed termination
- A copy of the criminal record information, if applicable
- The effective date of the proposed termination
- The family's right, if they disagree, to request an informal hearing to be held before termination of assistance

- The date by which a request for an informal hearing must be received by the Housing Authority

If the Housing Authority proposes to terminate assistance for criminal activity as shown by a criminal record, the Housing Authority will provide the subject of the record and the tenant with a copy of the criminal record.

If the Notice of Proposed Termination letter is returned to the Housing Authority with a forwarding address, the Leasing Specialist will make no more than two (2) attempts to forward the appointment letter to the new forwarding address.

The Housing Authority 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 [24 CFR 5.514, 5.516, 5.518]

Denial or Termination due to Ineligible Immigrant Status

Applicant or participant families in which all members are neither U.S. citizens nor eligible immigrants are not eligible for assistance and must have their assistance terminated. The Housing Authority must offer the family an opportunity for a hearing (see Chapter 2, "Eligibility for Admission").

Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

False or Incomplete Information

When the Housing Authority has clear, concrete, or substantial documentation (such as a permanent resident card or information from another agency) that contradicts the declaration of citizenship made by an applicant or participant, an investigation will be conducted and the individual will be given an opportunity to present relevant information.

If the individual is unable to verify their citizenship, the Housing Authority will give them an opportunity to provide a new declaration as an eligible immigrant or an opportunity to elect not to contend their status.

The Housing Authority will then verify eligible status and deny, terminate, or prorate as applicable.

The Housing Authority will deny or terminate assistance based on the submission of false information or misrepresentation.

Procedure for Denial or Termination

If the family (or any member) claimed eligible immigrant status and the U.S. Citizenship and Immigration Services (USCIS) primary and secondary verifications failed to document the status, the family may make an appeal to the USCIS and request a hearing with the Housing Authority either after the USCIS appeal or in lieu of the USCIS appeal.

After the Housing Authority has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable).

E. ZERO ($0) ASSISTANCE TENANTS [24 CFR 982.455(a)]

The family may remain in the unit at $0 assistance for up to one hundred eighty (180) days after the last HAP payment. If the family is still in the unit after one hundred eighty (180) days, the assistance will be terminated. If, within the one hundred eighty (180) day timeframe, an owner rent increase or a decrease in the total tenant payment causes the family to be eligible for a housing assistance payment, the Housing Authority will resume assistance payments for the family.

In order for a family to move to another unit during the one hundred eighty (180) days, the rent for the new unit would have to be high enough to necessitate a housing assistance payment.

F. OPTION NOT TO TERMINATE FOR MISREPRESENTATION [24 CFR 982.551, 982.552(c)]

If the family has misrepresented any facts that caused the Housing Authority to overpay assistance, the Housing Authority 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 Housing Authority in full.

G. MISREPRESENTATION IN COLLUSION WITH OWNER [24 CFR 982.551, 982.552 (c)]

If the family intentionally, willingly, and knowingly commits fraud or is involved in any other illegal scheme with the owner, the Housing Authority will deny or terminate assistance.

In making this determination, the Housing Authority will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

H. MISSED APPOINTMENTS AND DEADLINES [24 CFR 982.551, 982.552 (c)]

It is a family obligation to supply information, documentation, and certification as needed for the Housing Authority to fulfill its responsibilities. The Housing Authority schedules appointments and sets deadlines in order to obtain the required information. The obligations also require that the family allows the Housing Authority to inspect the unit, and appointments are scheduled for this purpose.

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying the Housing Authority, may be sent a Notice of Proposed Termination of Assistance for failure to provide required information, or for failure to allow the Housing Authority 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 Administrative Plan. Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

- Eligibility for admissions

- Verification procedures
- Voucher issuance and briefings
- Housing quality standards inspections
- Recertifications
- Appeals

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

- Medical emergency
- Any other emergency not including incarceration

Procedure when Appointments are Missed or Information is not Provided

For most purposes in this Administrative Plan, the family will be given two (2) opportunities before being issued a Notice of Proposed Termination or denial for breach of a family obligation.

After issuance of the termination notice, if the family offers to correct the breach within the time allowed to request a hearing. The notice may be rescinded if the family offers to cure and the family does not have a history of non-compliance.

Chapter 16

OWNER DISAPPROVAL AND RESTRICTION

[24 CFR 982.54, 982.306, 982.453]

INTRODUCTION

It is the policy of the Housing Authority to recruit owners to participate in the voucher program. The Housing Authority will provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of the Housing Authority. The regulations define when the Housing Authority must disallow an owner participation in the program, and they provide the Housing Authority discretion to disapprove or otherwise restrict the participation of owners in certain categories. This chapter describes the criteria for owner disapproval, and the various penalties for owner violations.

A. DISAPPROVAL OF OWNER [24 CFR 982.306, 982.54(d)(8)]

The owner does not have the right to participate in the program. For purposes of this section, "owner" includes a principal or other interested party. The Housing Authority will disapprove the owner for the following reasons:

- HUD or other agency directly related has informed the Housing Authority that the owner has been disbarred, suspended, or subject to a limited denial of participation.

- HUD has informed the Housing Authority that the Federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other Federal equal opportunity requirements and such action is pending.

- HUD has informed the Housing Authority that a court or administrative agency has determined that the owner violated the Fair Housing Act or other Federal equal opportunity requirements.

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

- In cases where the owner and tenant bear the same last name, the Housing Authority may at its discretion, require the family and or owner to certify whether they are related to each other in any way.

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).

- The owner has committed fraud, bribery or any other corrupt act in connection with any Federal housing program.

- The owner has engaged in drug-related criminal activity or any violent criminal activity.

- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs or with applicable housing standards for units leased with project-based Housing Choice Voucher assistance or leased under any other Federal housing program.

- The owner has a history or practice of renting units that fail to meet State or local housing codes.

- The owner has not paid State or local real estate taxes, fines or assessments.

- The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD.

- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Housing Choice Voucher or any other Federally assisted housing program for activity by the tenant, any member of the household, a guest or another person under the control of any member of the household that:
    - Threatens the right to peaceful enjoyment of the premises by other residents.
    - Threatens the health or safety of owners, other residents, employees of the Housing Authority, or other persons engaged in management of the housing.
    - Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises.
    - Engages in drug-related criminal activity or violent criminal activity.

B. OWNER RESTRICTIONS AND PENALTIES [24 CFR 982.453]

If an owner has committed fraud or abuse or is guilty of frequent or serious contract violations, the Housing Authority will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The Housing Authority may also terminate some or all contracts with the owner.

Before imposing any penalty against an owner, the Housing Authority 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 violation.

See Chapter 17, “Program Integrity Addendum” for guidance as to how owner fraud will be handled.

C. CHANGE IN OWNERSHIP

A change in ownership may require execution of a new contract.

The Housing Authority may approve the assignment of the HAP contract at the previous owner’s request. The Housing Authority may approve the assignment, since they are a party to the contract. The Housing Authority may deny approval of assignment of the contract, for any of the reasons listed in “Disapproval of Owner” in this chapter.

The Housing Authority will process a change of ownership only upon the written request of the new owner and only if accompanied by a copy of the recorded deed or other document showing the transfer of title and the Federal Tax Identification number or Social Security number of the new owner.

If the new owner does not want an assignment of the contract, the Housing Authority will terminate the HAP contract with the old owner, since they are no longer the owner. The new owner may offer the family a new assisted lease. The family may elect to enter into the new lease or move to another unit.

Chapter 17

PROGRAM INTEGRITY ADDENDUM

[24 CFR 792.101 to 792.204, 982.54]

INTRODUCTION

This chapter outlines the Housing Authority's policies for the prevention, detection and investigation of program abuse and fraud. HUD conservatively estimates that 600 million dollars is paid annually to program participants who falsify or omit material facts in order to gain more rental assistance than they are entitled to under the law. HUD further estimates that 12% of all HUD assisted families are either totally ineligible, or are receiving benefits which exceed their legal entitlement. The Housing Authority (HA) is committed to ensuring that the proper level of benefits is paid to all participating families, and that housing resources reach only income eligible families so that program integrity can be maintained.

The Housing Authority will take all steps necessary to prevent fraud, waste and mismanagement so that program resources are utilized judiciously.

A. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD

Under no circumstance will the Housing Authority undertake an inquiry or an audit of a participating family arbitrarily. The Housing Authority's expectation is that participating families will comply with HUD requirements, provisions of the voucher, and other program rules. Housing Authority staff will make every effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, the Housing Authority has a responsibility to HUD, to the community, and to eligible families in need of housing assistance, to monitor participants and owners for compliance and when indicators of possible abuse come to the Housing Authority's attention, to investigate such claims.

The Housing Authority will initiate an investigation of a participating family only in the event of one or more of the following circumstances:

- Referrals, Complaints or Tips. The Housing Authority will follow up on referrals from other agencies, companies or persons which are received by mail, telephone or in person, which allege that a family is in non-compliance with, or otherwise violating the family obligations or any other program rule. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A copy of the allegation will be retained in the family's file.

- Internal File Review. A follow-up will be made if Housing Authority staff discovers (as a function of a certification, recertification, an interim redetermination, or a quality control review) information or facts which conflict with previous file data, the Housing Authority's knowledge of the family, or is discrepant with statements made by the family.

- Verification of Documentation. A follow-up will be made if the Housing Authority receives independent verification or documentation which conflicts with representations in the family's file (such as public record information or credit bureau reports, or reports from other agencies).

B. STEPS THE HOUSING AUTHORITY WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD

The Housing Authority will utilize various methods and practices (listed below) to prevent program abuse, noncompliance, and willful violations of program rules by applicants and participating families. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by families.

- Things You Should Know (HUD-1140-OIG). This program integrity bulletin (created by HUD's Inspector General) will be furnished and explained to all applicants to promote understanding of program rules, and to clarify the Housing Authority's expectations for cooperation and compliance.

- Briefing Session. Mandatory orientation sessions will be conducted by the Housing Authority staff for all prospective program participants, either prior to or upon issuance of a voucher. At the conclusion of all Program Orientation Sessions, the family representative

will be required to sign a "Housing Choice Voucher" to confirm that all rules and pertinent regulations were explained to them.

- Review and Explanation of Forms. Staff will explain all required forms and review the contents of all (re)certification documents prior to signature.

The Housing Authority will routinely provide participant counseling as a part of every recertification interview in order to clarify any confusion pertaining to program rules and requirements.

C. STEPS THE HOUSING AUTHORITY WILL TAKE TO DETECT PROGRAM ABUSE AND FRAUD

The Housing Authority staff will maintain a high level of alertness to indicators of possible abuse and fraud by assisted families.

- Quality Control File Reviews. Prior to initial certification, and at the completion of all subsequent recertifications, each participant file will be reviewed. Such reviews shall include, but are not limited to:

  - Assurance that verification of all income and deductions is present.
  - Changes in reported Social Security Numbers or dates of birth.
  - Authenticity of file documents.
  - Ratio between reported income and expenditures.
  - Review of signatures for consistency with previously signed file documents.
  - All forms are correctly dated and signed.

- Observation. The Housing Authority will maintain high awareness of circumstances which may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income. Observations will be documented in the family's file.

- Public Records may be reviewed by Housing Authority staff.

- State Wage Data Record Keepers. Inquiries to State Wage and Employment record keeping agencies as authorized under Public Law 100-628, the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, may be made in order to detect unreported wages or unemployment compensation benefits.

- Credit Bureau Inquiries. Credit Bureau inquiries may be made (with proper authorization by the participant) in the following circumstances:

  - When an allegation is received by the Housing Authority wherein unreported income sources are disclosed.

  - When a participant's expenditures exceed their reported income and no plausible explanation is given.

D. THE HOUSING AUTHORITY'S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD

The Housing Authority staff will encourage all participating families to report suspected abuse. All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented and placed in the participant's file. All allegations, complaints and tips will be carefully evaluated in order to determine if they warrant follow-up.

The Housing Authority will not follow up on allegations which are vague or otherwise nonspecific. Only allegations which contain one or more independently verifiable facts will be reviewed.

File Review

An internal file review will be conducted to determine:

- If the subject of the allegation is a current voucher holder of the Housing Authority and if so, to determine whether or not the information reported has been previously disclosed by the family.

- It will then be determined if the Housing Authority is the most appropriate authority to do a follow-up (more so than police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

Conclusion of Preliminary Review

If at the conclusion of the preliminary file review, there are facts contained in the allegation which conflict with file data, and the facts are independently verifiable, the Leasing Specialist will initiate an investigation to determine if the allegation is true or false.

E. OVERPAYMENT TO OWNERS

If the Housing Authority determines that the owner has retained housing assistance or claim payments the owner is not entitled to, the Housing Authority 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 Housing Authority will:

- Require the owner to pay the amount in full within 30 days

- Pursue collections through a collection agency

- Restrict the owner from future participation

F. HOW THE HOUSING AUTHORITY WILL INVESTIGATE ALLEGATIONS OF ABUSE AND FRAUD

If the Housing Authority determines that an allegation or referral warrants a follow-up, the Housing Authority will conduct the investigation. The steps taken will depend upon the nature of the

allegation and may include, but are not limited to, the items listed below. In all cases, the Housing Authority will secure the written authorization from the program participant for the release of information.

- Employment Income Verification (EIV).

- Credit Bureau Inquiries (CBI). In cases involving previously unreported income sources, a CBI inquiry may be made to determine if there is financial activity that conflicts with the reported income of the family.

- Employers and Ex-Employers. Employers or ex-employers may be contacted to verify wages which may have been previously undisclosed or misreported.

- Other Agencies. Investigators, case workers or representatives of other benefit agencies may be contacted.

- Public Records. If relevant, the Housing Authority will review public records kept in any jurisdictional courthouse. Examples of public records which may be checked are: real estate, marriage, and divorce, uniform commercial code financing statements, voter registration, judgments, court or police records, state wage records, utility records and postal records.

- Interviews with Head of Household or Family Members. The Housing Authority will discuss the allegation (or details thereof) with the head of household or family member by scheduling an appointment at the Housing Authority's central office. A high standard of courtesy and professionalism will be maintained by the Housing Authority staff person who conducts such interviews. Unprofessional conduct will not be tolerated. If possible, an additional staff person will attend such interviews.

G. PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS OBTAINED BY THE HOUSING AUTHORITY

Documents and other evidence obtained by the Housing Authority during the course of an investigation will be considered "work product" and will either be kept in the participant's file, or in a separate work file. Such cases under review will not be discussed among Housing Authority staff unless they are involved in the process, or have information which may assist in the investigation.

H. CONCLUSION OF THE HOUSING AUTHORITY'S INVESTIGATIVE REVIEW

At the conclusion of the investigative review, the reviewer will report the findings to the Director of Rental Assistance or his/her designee. It will be established if a violation has occurred, not occurred, or is inconclusive.

The following will be taken into consideration:

- The type of violation (procedural noncompliance, fraud).
- Whether the violation was intentional or unintentional.

- What amount of money (if any) is owed by the family.
- If the family is eligible for continued occupancy.

Once a program violation has been documented, the Housing Authority will propose the most appropriate remedy based upon the type and severity of the violation.

Procedural Noncompliance

This category applies when the family "fails to" observe a procedure or requirement of the Housing Authority, but does not misrepresent a material fact, and there is no retroactive assistance payments owed by the family. Examples of noncompliance violations are:

- Failure to appear at a pre-scheduled appointment
- Failure to return verification in time period specified by the Housing Authority

Warning Notice to the Family. In such cases, a notice will be sent to the family which contains the following:

- A description of the noncompliance and the procedure, policy or obligation which was violated

- The date by which the violation must be corrected, or the procedure complied with

- The action which will be taken by the Housing Authority if the procedure or obligation is not complied with by the date specified by the Housing Authority

- The consequences of repeated (similar) violations

Procedural Noncompliance - Overpaid Assistance

When the family owes money to the Housing Authority for failure to report changes in income or assets, the Housing Authority will issue a Notice of Proposed Termination letter. This notice will contain the following:

- A description of the violation.
- The right to disagree and to request an informal hearing within 10 days.
- Instructions for the request of such hearing

The hearing officer will meet with them to discuss and explain the family obligation or program rule which was violated. The hearing officer will complete a Hearing Summary, mail one copy to the family and retain a copy in the family's file.

Participant Fails to Comply with Housing Authority's Notice. If the participant fails to comply with the Housing Authority's notice, and a family obligation has been violated, the Housing Authority will follow through with termination of assistance.

Intentional Misrepresentations

When a participant falsifies, misstates, omits or otherwise misrepresents a material fact, which results (or would have resulted) in an overpayment of housing assistance by the Housing Authority, the Housing Authority will evaluate whether or not:

- The participant had knowledge that his/her actions were wrong, and
- The participant willfully violated the family obligations or the law.

Knowledge that the action or inaction was wrong. This will be evaluated by determining if the participant was made aware of program requirements and prohibitions. The participant's signature on various certifications, Housing Choice Voucher, and personal declaration(s) are adequate to establish knowledge of wrong-doing.

The participant willfully violated the law. Any of the following circumstances will be considered adequate to demonstrate willful intent:

- An admission by the participant to Housing Authority staff or others of the misrepresentation, illegal action or omission.

- That the act was done repeatedly.

- If a false name or Social Security number was used.

- That the participant omitted material facts which were known to him/her (e.g., employment of self or other household member).

- That the participant falsified, forged or altered documents.

- That the participant uttered and certified to statements at an interim (re)determination which were later independently verified to be false.

Dispositions of Cases Involving Misrepresentations

In all cases of misrepresentations involving efforts to recover monies owed, the Housing Authority may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

Criminal Prosecution: If the Housing Authority has established criminal intent, and the case meets the criteria for prosecution, the Housing Authority may refer the case to the local State or District Attorney, notify HUD's OIG, and terminate rental assistance.

Administrative Remedies: The Housing Authority may terminate assistance and demand payment of restitution in full.

A secondary purpose of the informal hearing is to assist the Housing Authority in determining the course of action most appropriate for the case. Prior to the final determination of the proposed

action, the Housing Authority will consider:

- The duration of the violation and number of false statements
- The family's ability to understand the rules
- The family's willingness to cooperate, and to accept responsibility for their actions
- The amount of money involved
- The family's past history
- Whether or not criminal intent has been established
- The number of false statements

I. CODE OF CONDUCT

The Housing Authority of the County of San Joaquin has established Standards of Conduct for its employees and members of its Board of Commissioners. This Code of Ethics and Standards of Conduct was approved by the Board of Commissioners on February 16, 2006. These Standards of Conduct are designed to assure the utmost in public trust and confidence in the policies and practices of the Authority. Because of its status as an independent public entity, the Authority recognizes its responsibility to conduct all business in a manner above reproach or censure. The Code of Ethics and Standards of Conduct will describe in detail the standards by which members of the Board of Commissioners and Housing Authority employees are to be held accountable.

No direct or indirect personal inducement of Housing Authority employees is allowed. This includes the giving of gifts, money, tickets or any item or service having value.

Ethical Standards for Employees

No employee of the Housing Authority shall have any employment, or engage in any business or commercial transaction, or engage in any professional activity, or incur any obligation in which directly or indirectly he or she would have an interest that would impair his or her independence of judgment or action in the performance of his or her official duties or that would be in conflict with the performance of his or her official duties.

No employee shall have or enter into any contract with any person who has or enters into a contract with the Housing Authority unless:

a. The contract between the person and the Housing Authority is awarded pursuant to competitive bidding procedures and/or purchasing policies as outlined in regulations promulgated by the U.S. Department of Housing and Urban Development (HUD), state law, or the Housing Authority of the County of San Joaquin Procurement Policy; or

b. The contract between the person and the Housing Authority is one in which the Housing Authority employee has no interest, has no duties or responsibilities, or if the contract with the person is one which the Authority employee entered into prior to becoming an employee.

There shall be no preferential treatment given by an employee of the Housing Authority acting in performance of his or her official duties to any person, agency or organization. Employees,

Agents and Commissioners will be required to disclose whether he/she has any relationship or interest with vendors of the Housing Authority.
No Housing Authority employee shall solicit any gift or consideration of any kind, nor shall any Housing Authority employee accept or receive a gift having value in excess of $25.00 regardless of the form of the gift, from any person who has an interest in any matter proposed or pending before the Housing Authority.

No Housing Authority employee shall disclose without proper authorization non-public information or records concerning any aspects of the operation of the Housing Authority, nor shall he or she use such information to the advantage or benefit of himself, herself, or any other person. This shall include records maintained on enrollees of the Housing Authority, for whom a properly executed release of information form shall be obtained and kept in the client file. The release of any information relative to enrollees of the Housing Authority shall be done pursuant to government regulations allowing the release of information among government agencies or agencies receiving government subsidy, shall be done following prescribed methods of requesting and transmitting such information, and shall be done with full knowledge of the enrollee except in those cases where through action of law the enrollee's knowledge is not required.

No Housing Authority employee shall have an interest in a contract between any person and the Housing Authority, except that this provision shall not apply if the contract was entered into prior to the employee's hire by the Housing Authority.

J. THE ENTERPRISE INCOME VERIFICATION (EIV) USER'S RESPONSIBILITIES

The EIV user's responsibilities include the following:

- Mandatory security awareness training at least annually
- Complete and sign Rules of Behavior and User Agreement
- Avoid leaving EIV information on the computer screen unattended
- EIV data generated from the printer must be retrieved immediately and shall not be left lying unattended
- Each user is required to have his/her own User ID and password
- Maintain the security of user accounts by not disclosing own password
- Inform the Security Officer when EIV access is no longer needed
- Report to the Director of Rental Assistance or the Security Officer and/or the HUD Security officer immediately regarding any suspected violation or breach of system security

Record Keeping and Control

The following HUD forms shall be used to ensure the security of EIV data:

- PHA's EIV Access Authorization Form
- Rules of Behavior and User Agreement
- Security Awareness Training Attendance Sheet

K. THE CONSEQUENCES OF RULE VIOLATIONS

There shall be established an Ethics Review Committee of the Authority of the County of San Joaquin.

The purpose of the Committee shall be to review and render decisions on any matters involving ethical conduct, or breach of ethical conduct, by employees, vendors, or commissioners.

The Committee is empowered by the Board of Commissioners to:

a. Call witnesses and receive depositions in the performance of its duties.

b. Call for provision of appropriate records, files or tapes relative to the performance of its duties.

c. Review any records maintained by the Authority, except those records that are considered confidential or personal. However, confidential records may be examined upon execution of a proper release by the subject person.

In performing its duties, the Committee may:

a. Issue rules and regulations consistent with and to clarify the Code of Ethics and Standards of Conduct.

b. Review any questions concerning alleged or suspected infractions of the Code of Ethics and Standards of Conduct and make recommendations to the Board of Commissioners or Chief Executive Officer for further or final actions.

c. Require financial disclosure or disclosure of any other pertinent information by employees, vendors, or commissioners.

d. Oversee compliance by the Authority with the Code of Ethics and Standards of Conduct and any other applicable regulations involving ethics.

The Committee shall be composed of three (3) members and one (1) alternate:
one (1) Board of Commissioners member;
one (1) Authority employee; and
one (1) neutral third party

The alternate member of the panel shall be a party versed in legal/ethical issues, e.g., an attorney not currently serving as counsel to the Authority or an academic authority on ethical issues.

The members of the Committee shall be appointed in the following manner:

a. The representative of the Board of Commissioners and the neutral third party shall be selected by vote of the Board of Commissioners.

b. The Authority employee representative and alternate shall be selected by the Chief Executive Officer.

Each member of the Committee will serve a three (3) year term. The terms may be renewed once. In no case will a person serve more than two (2) consecutive three (3) year terms.

There shall be a chair of the Committee, elected by the members of the Committee. The chair shall serve for one (1) year and may not serve more than two (2) consecutive terms. The Chief Executive Officer of the Authority shall serve as a non-voting Secretary of the Committee.

Voting by the Committee shall be by simple majority, with the Chair voting as any other member.

The alternate member of the Committee may attend all meetings of the Committee. In case of a conflict of interest by a committee member, the alternate member will assume the role as a voting member of the Committee. The alternate may at any and all time's voice opinions regarding the deliberations of the Committee.

The Committee shall, upon receiving a written request from either the Board of Commissioners or any individual associated with the Authority, respond in writing within sixty (60) days after receipt of the request, unless the Committee determines that additional time is required. If additional time is required, it shall inform the requestor of the approximate time it will be able to render a response.

The Committee shall make reports and recommendations for action to the Board of Commissioners. If the Board finds a recommended action is properly within the purview of the Chief Executive Officer or his or her designee, it shall delegate the matter without further Board action.

The legal counsel of the Authority may be involved in the deliberations of the Committee, but he or she has no vote and cannot serve as the alternate committee member.

Chapter 18

OWNER OR FAMILY DEBTS TO THE HOUSING AUTHORITY

[24 CFR 982.552]

INTRODUCTION

This chapter describes the Housing Authority's policies for the recovery of monies which have been overpaid for families, and to owners. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is the Housing Authority's policy to meet the informational needs of owners and families, and to communicate the program rules in order to avoid owner and family debts. Before a debt is assessed against a family or owner, the file must contain documentation to support the Housing Authority'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 Housing Authority, the Housing Authority will make every effort to collect it. The Housing Authority will use a variety of collection tools to recover debts including, but not limited to:

- Requests for lump sum payments
- Civil suits
- Payment agreements
- Abatements
- Reductions in HAP to owner
- Collection agencies
- Credit bureaus
- Income tax set-off programs
- Referral to Inspector General’s Office

A. PAYMENT AGREEMENT FOR FAMILIES [24 CFR 982.552 (c) (v-vii)]

A payment agreement as used in this Administrative Plan is a document entered into between the Housing Authority and a person who owes a debt to the Housing Authority. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of payment, any special provisions of the agreement, and the remedies available to the Housing Authority upon default of the agreement.

The Housing Authority will prescribe the terms of the payment agreement, including determining whether to enter into a payment agreement with the family based on the circumstances surrounding the debt to the Housing Authority.

There are some circumstances in which the Housing Authority will not enter into a payment agreement. They are:

- If the family already has a payment agreement in place.
- If the Housing Authority determines that the family committed program fraud.

The maximum length of time the Housing Authority will enter into a payment agreement with a family is twelve (12) to twenty-four (24) months, depending on the family's circumstances.

The maximum amount for which the Housing Authority will enter into a payment agreement with a family is $5,000. The minimum monthly amount of monthly payment for any payment agreement is $10. The Housing Authority will review the total repayment amount and the family's ability to pay to determine the length of time allowed for repayment.

If the family wishes to relocate within San Joaquin County, the tenant must have a history of keeping consistently current with their payments before they will be approved to move. Otherwise, they must pay off the remaining balance before they will be approved to move (for non-fraud issues). In the case of fraud, the tenant must have the balance paid off before moving.

If the family wishes to relocate outside San Joaquin County, they must first pay off any debt owed to the Housing Authority.

Late Payments

A payment will be considered to be in arrears if the payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day.

If the family's payment agreement is in arrears, and the family has not contacted or made arrangements with the Housing Authority, the Housing Authority will:

- Require the family to pay the balance in full.
- Pursue civil collection of the balance due.
- Terminate the housing assistance.

If the family requests a move to another unit and has a payment agreement in place for the payment of an owner claim, and the payment agreement is not in arrears, the family will be permitted to

move, as long as the balance remains current.

If the family requests a move to another unit and is in arrears on a payment agreement for the payment of an owner claim, the family will be required to pay the balance in full, or be terminated from the program.

Guidelines for Payment Agreements [24 CFR 982.552(b)(8)]

The payment agreement will be executed between the HA and the head of household, spouse, co-head and all adult household members.

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 Director of Rental Assistance or his/her designee.

The family will not be approved to move until the debt is paid in full, unless the move is the result of one of the following causes and the payment agreement is current:

- Family size exceeds the HQS maximum occupancy standards
- The HAP contract is terminated due to owner non-compliance or opt-out
- A natural disaster.

B. DEBTS DUE TO MISREPRESENTATIONS/NON-REPORTING OF INFORMATION [24 CFR 982.163]

HUD's definition of program fraud and abuse is a single act or pattern of actions that constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and that results in payment of Housing Choice Voucher program funds in violation of Housing Choice Voucher program requirements.

The Housing Authority may terminate the family for program fraud, or it may allow the family to enter into a repayment agreement.

Program Fraud

Owners and families who owe money to the Housing Authority due to program fraud will be required to pay in accordance with the payment procedures for program fraud below.

If an owner or family owes an amount which equals or exceeds $5,000 as a result of program fraud, the case will be referred to the Inspector General. Where appropriate, the Housing Authority will refer the case for criminal prosecution.

Payment Procedures for Program Fraud

Families who commit program fraud or untimely reporting of increases in income will be subject to the following:

- Sign a repayment agreement as outlined in the “Guidelines for Payment Agreements” in this chapter
- The amount of the monthly payment will be determined in accordance with the family's

current income but the payment will not be less than $20 a month.

C. GUIDELINES FOR PAYMENT AGREEMENTS [24 CFR 982.552 (c) (v-vii)]

Payment agreements will be executed between the Housing Authority and the head of household and co-head or head of household and spouse.

- The payment agreement must be executed by the Director of Rental Assistance or his/her designee.
- Payments may only be made by money order or cashier's check.
- The payment agreement will be in default when a payment is delinquent by the 10th of the month. A payment agreement will be considered to be in default when it is in arrears for 30 days. The family's assistance may be terminated unless the Housing Authority receives the balance of the payment agreement in full within thirty (30) days of the termination notice.
- Monthly payments may be decreased in cases of family hardship and if requested with reasonable notice from the family, verification of the hardship, and the approval of the designated staff.

A move may be denied until the debt is paid in full unless the move is the result of the following causes, and the payment agreement is current:

- Family size exceeds the HQS maximum occupancy standards
- The HAP contract is terminated due to owner non-compliance or opt-out
- A natural disaster

Additional Monies Owed

If the family already has a payment agreement in place and incurs an additional debt to the Housing Authority, the Housing Authority may enter into more than one payment agreement with the family, depending on their payment history.

If the family has a Payment Agreement in place and incurs an additional debt to the HA:

-The HA will not enter into more than one Payment Agreement at a time with the same family.

D. OWNER DEBTS TO THE HOUSING AUTHORITY [24 CFR 982.453(b)]

If the Housing Authority determines that the owner has retained Housing Assistance Payments the owner is not entitled to, the Housing Authority may reclaim the amounts from future Housing Assistance Payments owed the owner for any units under contract.

If future Housing Assistance Payments are insufficient to reclaim the amounts owed, the Housing Authority may:

- Require the owner to pay the amount in full within thirty to forty-five (30-45) days.

- Enter into a payment agreement with the owner for the amount owed.
- Pursue collections through a collection agency.
- Restrict the owner from future participation.

E. WRITING OFF DEBTS

Debts will be written off if:

- The debtor's whereabouts are unknown and the debt is more than three (3) years old.
- A determination is made that the debtor is judgment proof.
- The debtor is deceased.
- The debtor is confined to an institution indefinitely or for more than five (5) years.
- The amount is less than $5,000 and the debtor cannot be located.

Chapter 19

COMPLAINTS AND APPEALS

INTRODUCTION

The informal hearing requirements defined in HUD regulation are applicable to participating families who disagree with an action, decision, or inaction of the Housing Authority. This chapter describes the policies, procedures and standards to be used when families disagree with a Housing Authority decision. The procedures and requirements are explained for preference denial meetings, informal reviews and hearings. It is the policy of the Housing Authority to ensure that all families have the benefit of all protections due to them under the law.

A. COMPLAINTS TO THE HOUSING AUTHORITY

The Housing Authority will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. The Housing Authority may require that complaints other than HQS violations be put in writing. HQS complaints may be reported by telephone.

Complaints from Families and Owners

Complaints received from families or owners due to the action or inaction of the Housing Authority will be referred to the Leasing Specialist. If a complaint is not resolved, it will be referred to the Compliance Supervisor. If still not resolved, it will be referred to the Director of Rental Assistance.

Complaints from Staff

If a staff person reports an owner or family either violating or not complying with program rules, the complaint will be referred to the Director of Rental Assistance.

Complaints from the General Public

Complaints or referrals from persons in the community in regard to the Housing Authority, a family or an owner will be referred to the Leasing Specialist. If a complaint is not resolved, it will be referred to the Compliance Supervisor. If still not resolved, it will be referred to the Director of Rental Assistance.

The Housing Authority hearing procedures will be provided to families in the briefing packet.

B. PREFERENCE DENIALS

When the Housing Authority denies a preference to an applicant, the family will be notified in writing of the specific reason for the denial and offered the opportunity for a meeting with Housing Authority staff to discuss the reasons for the denial and to dispute the Housing Authority's decision.

The person who conducts the meeting will be the Application’s Compliance Supervisor or his/her designee.

C. INFORMAL REVIEW PROCEDURES FOR APPLICANTS [24 CFR 982.54(d)(12), 982.554]

Reviews are provided for applicants who are denied assistance before the effective date of the HAP Contract. The exception is that when an applicant is denied assistance for citizenship or eligible immigrant status, the applicant is entitled to an informal hearing.

When the Housing Authority determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

- The reason(s) they are ineligible.
- The procedure for requesting a review if the applicant does not agree with the decision.
- The time limit for requesting a review.

When denying admission for criminal activity as shown by a criminal record, the Housing Authority will provide the subject of the record and the applicant with a copy of the criminal record upon which the decision to deny was based.

The Housing Authority must provide applicants with the opportunity for an informal review of decisions denying:

- Qualification for preference.
- Listing on the Housing Authority's waiting list.
- Issuance of a voucher.
- Participation in the program.
- Assistance under portability procedures.

Informal reviews are ***not required*** for established policies and procedures and Housing Authority determinations such as:

- Discretionary administrative determinations by the Housing Authority.
- General policy issues or class grievances.
- A determination of the family unit size under the Housing Authority subsidy standards.
- Refusal to extend or suspend a voucher.
- A Housing Authority determination not to grant approval of the tenancy.
- 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 Informal Review

A request for an informal review must be received in writing by the close of the business day, no later than ten (10) business days from the date of the Housing Authority's notification of denial of assistance. The informal review will be scheduled within ten (10) business days from the date the request is received.

The informal review may not be conducted by the person who made or approved the decision under review, nor a subordinate of such person.

The review may be conducted by:

- A staff person who is at the management level or above
- An independent contractor qualified by the Housing Authority
- An individual from outside the HA

The applicant will be given the option of presenting oral or written objections to the decision. Both the Housing Authority and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.

The review may be conducted by mail and/or telephone if acceptable to both parties. A notice of the review findings will be provided in writing to the applicant within fourteen (14) business days after the review. It shall include the decision of the review officer, and an explanation of the reasons for the decision.

All requests for a review, supporting documentation, and a copy of the final decision will be retained in the family's file.

D. INFORMAL HEARING PROCEDURES [24 CFR 982.555(a-f), 982.54(d)(13)]

When the Housing Authority makes a decision regarding the eligibility and/or the amount of assistance, applicants and participants must be notified in writing. The Housing Authority will give the family prompt notice of such determinations which will include:

- The proposed action or decision of the Housing Authority
- The date the proposed action or decision will take place
- The family's right to an explanation of the basis for the Housing Authority's decision
- The procedure for requesting a hearing if the family disputes the action or decision
- The time limit for requesting the hearing
- To whom the hearing request should be addressed
- A copy of the Housing Authority's hearing procedures

When terminating assistance for criminal activity as shown by a criminal record, the Housing Authority will provide the subject of the record and the tenant/participant with a copy of the criminal record upon which the decision to terminate was based.

The Housing Authority must provide participants with the opportunity for an informal hearing for decisions related to any of the following Housing Authority determinations:

- Determination of the family's annual or adjusted income and the computation of the housing assistance payment

- Calculation of utility allowance

- Family unit size determination under Housing Authority subsidy standards

- Non-citizen eligibility

- Determination to terminate a family’s FSS Contract, withhold supportive services, or

propose forfeiture of the family's escrow account

The Housing Authority must always provide the opportunity for an informal hearing before termination of assistance.

Informal hearings are *not required* for established policies and procedures and Housing Authority determinations such as:

- Discretionary administrative determinations by the Housing Authority
- General policy issues or class grievances
- Establishment of the Housing Authority schedule of utility allowances for families in the program
- A Housing Authority determination not to approve an extension or suspension of a voucher term
- A Housing Authority determination not to approve a unit or lease
- A Housing Authority determination that an assisted unit is not in compliance with HQS (Housing Authority must provide hearing for family breach of HQS because that is a family obligation determination)
- A Housing Authority determination that the unit is not in accordance with HQS because of the family size
- A Housing Authority determination to exercise or not exercise any right or remedy against the owner under a HAP contract

Notification of Hearing

It is the Housing Authority'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 Housing Authority will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations.

When the Housing Authority receives a request for an informal hearing, a hearing shall be scheduled within fourteen (14) days. The notification of hearing will contain:

- The date and time of the hearing
- The location where the hearing will be held
- The family's right to bring evidence, witnesses, legal or other representation at the family's expense
- The right to view any documents or evidence in the possession of the Housing Authority

upon which the Housing Authority based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing. Requests for such documents or evidence must be received no later than five (5) business days before the hearing date

- A notice to the family that the Housing Authority will request a copy of any documents or evidence the family will use at the hearing. Requests for such documents or evidence must be received no later than five (5) business days before the hearing date

The Housing Authority's Hearing Procedures

After a hearing date is agreed to, the family may request to reschedule only upon showing "good cause," which is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

If a family does not appear at a scheduled hearing and has not rescheduled the hearing in advance, the family must contact the Housing Authority within twenty-four (24) hours, excluding weekends and holidays. The Housing Authority 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 the Housing Authority's determination
- Examine the documents in the file which are the basis for the Housing Authority'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 Housing Authority 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 Housing Authority will make the copies for the family and assess a charge of $.25 per copy. In no case will the family be allowed to remove the file from the Housing Authority's office.

In addition to other rights contained in this chapter, the Housing Authority 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 their 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 Housing Authority who is neither the person who made or approved the decision, nor a subordinate of that person. The Housing Authority appoints hearing officers who are:

- A HA supervisor level or above.
- Managers from other HAs.
- Professional mediators or arbitrators.
- Housing Authority Management
- An independent contractor qualified by the Housing Authority

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 Housing Authority shall take effect and another hearing will not be granted.

The hearing officer will determine whether the action, inaction or decision of the Housing Authority 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 Housing Authority and the family within ten (10) business days and shall include:

- A clear summary of the decision and reasons for the decision
- If the decision involves money owed, the amount owed
- The date the decision goes into effect

The Housing Authority is not bound by hearing decisions:

- Which concern matters in which the Housing Authority is not required to provide an opportunity for a hearing

- Which conflict with or contradict HUD regulations or requirements

- Which conflict with or contradict Federal, State or local laws

- Which exceed the authority of the person conducting the hearing

The Housing Authority shall send a letter to the participant if it determines the Housing Authority is not bound by the hearing officer's determination within fourteen (14) business days. The letter shall include the Housing Authority'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 U.S. Citizenship and Immigration Services (USCIS) appeal.

Assistance to a family may not be terminated or denied while the Housing Authority hearing is pending but assistance to an applicant may be delayed pending the Housing Authority hearing.

U.S. Citizenship and Immigration Services Determination of Ineligibility

If a family member claims to be an eligible immigrant and the U.S. Citizenship and Immigration Services (USCIS) and a manual search do not verify the claim, the Housing Authority notifies the applicant or participant within ten (10) days of their right to appeal to the USCIS within thirty (30) days or to request an informal hearing with the Housing Authority either in lieu of or subsequent to the USCIS appeal.

If the family appeals to the USCIS, they must give the Housing Authority a copy of the appeal and proof of mailing or the Housing Authority may proceed to deny or terminate. The time period to request an appeal may be extended by the Housing Authority for good cause.

The request for a Housing Authority hearing must be made within fourteen (14) days of receipt of the notice offering the hearing or, if an appeal was made to the USCIS, within fourteen (14) days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible and there are no other eligible family members, the Housing Authority 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 Housing Authority will offer to pro-rate 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 prorated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of Tenant Rent and Total Tenant Payment

- Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same 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 placement on the waiting list, or the Housing Authority is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review process.

Chapter 20

SPECIAL HOUSING TYPES

[24 CFR 982.601]

INTRODUCTION

The Housing Authority may consider the use of special housing types in its program depending on the local need, funding availability and that the applicant/participant can demonstrate this would be the only way the family could obtain assistance.

The Housing Authority will not set aside any program funding for special housing types, or for a special housing type unless the Housing Authority receives special funding for such programs. A family may choose whether to rent housing that qualifies as a special housing type or to rent other eligible housing in accordance with requirements of the program.

Verification of Need for Reasonable Accommodation

The use of special housing types would be made available if the applicant/participant can demonstrate that it is needed as a reasonable accommodation for a person with a disability. Acceptable documentation as verification of the need for reasonable accommodation would be a letter from one or more knowledgeable professionals to the Housing Authority describing how the special housing type requested provides the accommodation of which the person is in need. The request and documentation will be reviewed by designated staff and a written response stating approval or disapproval will be sent to the applicant/participant within fourteen (14) days of receipt of the request.

A copy of the Housing Authority's response with supporting documentation will be maintained in the applicant/participant's file. The requested housing type must be approvable by all other HUD standards and HQS requirements in accordance with 24 CFR 982.

A. SINGLE ROOM OCCUPANCY [24 CFR 982.602, 982-603]

The Housing Authority will use a separate lease and Housing Assistance Payment contract for each assisted person residing in a Single Room Occupancy (SRO) unit. At this time the Housing Authority is not assisting any SRO units.

B. SHARED HOUSING [24 CFR 982.615]

Occupancy

An assisted family may reside in shared housing. In shared housing, an assisted family may share a unit with another resident or residents of a unit. The unit may be a house or an apartment.

The Housing Authority may approve a live-in aide to reside with a family in order to care for a person with a disability. The Housing Authority must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Other persons who are assisted or not assisted under the tenant-based program may reside in a shared housing unit. The owner of a shared housing unit may reside in the unit.

A resident owner may enter into a HAP contract with the Housing Authority. However, housing assistance may not be paid on behalf of an owner. The Housing Authority will not approve assistance for a person or family that is related by blood or marriage to a resident owner.

There will be a separate housing assistance payment contract and lease for each assisted family residing in a shared housing unit.

Rent and HAP Contract

For shared housing, the term “pro-rata portion” means the ratio derived by dividing the number of bedrooms in the private space available for occupancy by a family by the total number of bedrooms in the unit. For example, for a family entitled to occupy three bedrooms in a five bedroom unit, the ratio would be 3/5.

The rent to owner for the family may not exceed the pro-rata portion of the reasonable rent for the shared housing dwelling unit. The reasonable rent must be in accordance with the guidelines set in the “Owner Rents, Rent Reasonableness, and Payment Standards” chapter.

Maximum Subsidy

For a family that resides in a shared housing unit, the payment standard is the lower of the payment standard amount on the Housing Authority payment standard schedule for the family unit size or the pro-rata portion of the payment standard amount on the Housing Authority payment standard for the shared housing unit size.

If the Housing Authority approves a live-in aide, the live-in aide will be counted in determining the family unit size.

Utility Allowance

The utility allowance for an assisted family living in shared housing is the pro-rata portion of the utility allowance for the shared housing unit.

Housing Quality Standards

The Housing Authority will ensure that all shared housing units approved for the program are in compliance with all of the Housing Quality Standards for shared housing as regulated in 24 CFR 982.618.

C. MANUFACTURED HOMES [24 CFR 982.620]

The Housing Authority will permit a family to lease a manufactured home and space with assistance under the program. The Housing Authority will provide assistance for a family that owns the manufactured home and leases only the space.

Housing Quality Standards [24 CFR 982.621]

A manufactured home must meet all the HQS requirements outlined in Chapter 10, "Housing Quality Standards and Inspections" and regulated by 24 CFR 982.401. In addition the manufactured home also must meet the following requirements:

- A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage

- A manufactured home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist wind overturning and sliding

Manufactured Home Space Rental [24 CFR 982.622]

Rent to owner for a manufactured home space will include payment for maintenance services that the owner must provide to the tenant under the lease for the space.

Rent to owner does not include the cost of utilities and trash collection for the manufactured home. However, the owner may charge the family a separate fee for the cost of utilities or trash collection provided by the owner.

Reasonable Rent

During the assisted tenancy, the rent to owner for the manufactured home space may not exceed a reasonable rent as determined by the Housing Authority.

The Housing Authority will not approve a lease for a manufactured home space until the Housing Authority has determined that the initial rent to owner for the space is a reasonable rent.

At least annually during the assisted tenancy, the Housing Authority will re-determine that the rent is reasonable.

The Housing Authority will determine whether the rent to owner for a manufactured home space is a reasonable rent in comparison to rents for other comparable manufactured home spaces. The Housing Authority will consider the size and location of the space and any services and maintenance provided by the owner in accordance with the lease.

By accepting each monthly housing assistance payment from the Housing Authority, the owner of the manufactured home space certifies that the rent to owner for the space is not more than rent charged by the owner for unassisted rentals of comparable spaces in the same manufactured home

park or elsewhere. If requested by the Housing Authority, the owner must provide the Housing Authority information on rents for other manufactured home space.

Housing Assistance Payments for Manufactured Home Space [24 CFR 982.623]

HAP for the Voucher Tenancy

There is a separate FMR for a family renting a manufactured home space. The payment standard is used to calculate the monthly housing assistance payment for a family. The FMR for rental of a manufactured home space is generally 40% of the published FMR for a two-bedroom unit.

Subsidy Calculation for the Voucher Program

During the term of a voucher tenancy, the amount of the monthly housing assistance payment for a family will equal the lesser of the payment standard minus the total tenant payment, or the rent paid for rental of the real property on which the manufactured home owned by the family is located (the space rent) minus the total tenant payment.

The space rent is the sum of the following as determined by the Housing Authority:

- Rent to owner for the manufactured home space
- Owner maintenance and management charges for the space
- The utility allowance for tenant paid utilities

Utility Allowance Schedule for Manufactured Home Space Rental [24 CFR 982.624]

The Housing Authority will establish utility allowances for manufactured home space rentals. During the initial lease term only, the allowances will include a reasonable amount for utility hook-up charges payable by the family, if the family actually incurs the expenses because of a move.

Allowances for utility hook-up charges do not apply to a family that leases a manufactured home space in place.

Utility allowances for manufactured home space will not be applied to cover the costs of digging a well or installation of a septic system.

Chapter 21

HOUSING CHOICE VOUCHER HOMEOWNERSHIP OPTION PROGRAM OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN JOAQUIN

INTRODUCTION

The Housing Choice Voucher Homeownership Option Program permits eligible participants in the Housing Choice Voucher program, including participants with portable vouchers, the option of purchasing a home with their voucher assistance rather than renting.

Eligible families will be current Housing Choice Voucher participants. Public Housing residents are also eligible as long as applicable transfer requirements between the Public Housing program and Housing Choice Voucher program are met and vouchers are available. The Homeownership Option Program can only be offered to those eligible for the voucher program. In addition, families can have no outstanding debt to the Housing Authority or other Public Housing Authority, and must have successfully completed a pre-assistance homeownership and housing counseling program.

A. ELIGIBLE TYPES OF HOMES [24 CFR 982.628]

The family shall have the flexibility to choose the type of housing most suitable for its particular circumstances. The Homeownership Option Program may be used to purchase any home within San Joaquin County, or any political subdivision thereof, including new or existing single-family, condominium, planned use development, cooperative, loft/work units or manufactured homes.

B. PORTABILITY [24 CFR 982.636]

The Housing Authority will also allow portability of homeownership assistance to another jurisdiction, provided the receiving jurisdiction is administering a voucher homeownership program and is accepting new families. Public Housing residents may also be eligible as long as applicable transfer requirements between Public Housing and the Housing Choice Voucher Program are met and vouchers are available.

C. FAMILY ELIGIBILITY REQUIREMENTS [24 CFR 982.627]

Participation in the Housing Choice Voucher Homeownership Program is voluntary. Each homeownership participant must meet the general requirement for admission to the Housing Choice Voucher Program as set forth in this Administrative Plan.

The Housing Choice Voucher Program family must also be eligible to participate in the Housing Authority Homeownership Program as follows:

1. Be a first-time home buyer

2. Meet minimum income and employment duration requirements

3. Have fully repaid any outstanding debt owed to the Housing Authority

4. Not defaulted on a mortgage securing debt to purchase a home under the homeownership option

5. Not have any member who has a present ownership interest in a residence at the commencement of homeownership assistance

FIRST TIME HOMEOWNER

Each Housing Choice Voucher family must be a first-time homeowner, meaning that no member of the household has had an ownership interest in any residence during the three years preceding commencement of homeownership.

A single parent or displaced homemaker who, while married, owned a home with a spouse (or resided in a home owned by a spouse) is considered a “first-time homeowner” for the purpose of the Housing Choice Voucher Homeownership Program. A member of a cooperative family of which a family member is a person with disabilities, and use of the homeownership option is needed as a reasonable accommodation so that the program is readily accessible to and usable by such person, in accordance with part 8 of this title.

MINIMUM INCOME REQUIREMENT

At the time the family begins receiving homeownership assistance, the head of household, souse, and/or other adult household members who will own the home, must have gross annual income of at least equal to the federal minimum hourly wage multiplied by 2,000 hours.

For the purposes of the Housing Choice Voucher Homeownership Program only, the Housing Authority will disregard any "welfare assistance" income in determining whether the family meets the minimum income requirement. Welfare assistance includes assistance from Temporary Assistance for Needy Families (TANF); Supplemental Security Income (SSI) that is subject to an income eligibility test; food stamps; general assistance; or other welfare assistance specified by HUD. The disregard of welfare assistance income under this section affects the determination of minimum monthly income in determining initial qualification for the homeownership program.

DISABLED FAMILY

In the case of a disabled family (as defined in Section 5.403 (b) of this title), the monthly Federal Supplemental Security Income (SSI) benefit for an individual living alone (or paying his or her share of food and housing costs) is multiplied by twelve.

The determination of income eligibility for admission to the Housing Choice Voucher Program, calculation of the family's total tenant payment, or calculation of the amount of homeownership assistance payments is not affected by this income disregard.

EMPLOYMENT HISTORY

Each family must demonstrate that one or more adult members of the family who will own the home at commencement of homeownership assistance is employed full-time an average of not less than 30 hours per week and has been so continuously employed for one year prior to execution of the commencement of homeownership assistance. One 30 day break in service during the 12 month period shall be allowed.

REPAYMENT OF ANY HOUSING AUTHORITY DEBTS

Participants in the Housing Choice Voucher Program shall be ineligible for participation in the homeownership program in the event any debt or portion of debt remains owed to the Housing Authority or any other Public Housing Agency.

PRIOR MORTGAGE DEFAULTS

If the head of household, spouse, or other adult household member who will execute the contract of sale, mortgage, or other loan documents has previously defaulted on a mortgage obtained through the Housing Choice Voucher Homeownership Program, the family will be ineligible to participate in the homeownership program. Default shall be declared when an adult household member does not fulfill his/her mortgage obligation(s) in a timely manner and vacates the premises without making suitable arrangements with the lender(s) and the Housing Authority.

ELDERLY AND DISABLED HOUSEHOLDS

Elderly and disabled families are exempt from continuous employment requirements. Also, the Housing Authority will consider all forms of income in determining where they meet minimum income requirements for participation in the Housing Choice Voucher Homeownership Program.

D. FAMILY PARTICIPATION REQUIREMENTS

Once a family is determined to be eligible to participate in the program, it must comply with the following additional requirements:

1. Complete a homeownership counseling program and pre-assistance homeownership approved by the Housing Authority prior to commencement of homeownership assistance.

2. Locate a home it proposes to purchase within a specified time frame

3. Submit a sales agreement containing specific components to the Housing Authority for approval

4. Allow the Housing Authority to inspect the proposed home ownership dwelling to assure that the dwelling meets appropriate housing quality standards

5. Obtain an independent inspection covering major building systems

6. Obtain Housing Authority approval of the proposed mortgage

7. Enter into a written agreement with the Housing Authority to comply with all of its obligations under the Housing Choice Voucher Program, including the Homeownership Option.

8. Use a real estate professional

HOMEOWNERSHIP COUNSELING PROGRAM [24 CFR 986.630]

A family's participation in the homeownership program is conditioned on the family attending and successfully completing a homeownership and housing counseling program approved by the Housing Authority prior to commencement of homeownership assistance.

The homeownership and counseling program will cover home maintenance; budgeting and money management; credit counseling; negotiating purchase price; securing mortgage financing while avoiding predatory lenders; finding a home; fair housing issues; and the advantages of purchasing and locating homes in areas that do not have a high concentration of low-income families.

The Housing Authority may require families to participate in a Housing Authority approved post purchase counseling program on an ongoing basis.

LOCATING AND PURCHASING A HOME

A Homeownership Program Voucher will be issued when the family has met all eligibility requirements, including completing the approved homeownership counseling program and pre-approval of a mortgage loan from a lender. From the time the homeownership voucher is issued, the family will have six months to locate a home to purchase. A home shall be considered if the family submits a proposed sales agreement with the requisite components to the Housing Authority. If a suitable home to purchase is not located within six months, the voucher will expire. If the family had entered into a contract to purchase but the renovation or construction is not completed within the six month period, the voucher will be extended by the length of time necessary to compensate for any such construction delay that is beyond the control of the participant.

The family may convert their homeownership voucher to a rental voucher at any time during the original six month period provided the family had a rental voucher previously. If the family was a Public Housing resident, the family will not receive a rental voucher but may choose to remain a resident of Public Housing.

Homeownership voucher holders and Public Housing residents whose assistance expires must wait a year before reapplying for the homeownership program.

TYPE OF HOME [24 CFR 982.628]

The family approved for the housing choice voucher homeownership assistance may purchase any of the following types of homes anywhere within San Joaquin County or any incorporated area therein. A new or existing single family or condominium home, including a home in a planned use development, a cooperative, a loft or live/work unit, or a manufactured home to be situated on a privately owned lot or on a leased pad in a mobile home park. The home must already exist or be under construction at the time the family commits to purchasing the unit.

The family may also purchase a home in a jurisdiction located outside the boundaries of San Joaquin County, provided the Housing Authority in the receiving jurisdiction operates a Homeownership Option Program for which the homeownership applicant qualifies or authorizes the Housing Authority to administer the homeownership assistance in their jurisdiction, also provided that the receiving Housing Authority is accepting applications. In the former case, a family's participation in the Housing Choice Voucher Program will be subject to the Homeownership Option Program and policies of the receiving jurisdiction.

PURCHASING A HOME

The family shall have up to six months to purchase a home. Once a home is located and a sales agreement approved by the Housing Authority is signed by the family, the family shall have up to three (3) months, or such other time as is approved by the Housing Authority's Chief Executive Officer or set forth in the Housing Authority approved sales agreement to purchase the home unless there is unforeseen construction delay that is not the responsibility of the family.

SALES AGREEMENT

Prior to execution of the offer to purchase or sales agreement, the family must provide the financing terms to the Housing Authority for approval. The sales agreement must provide for inspection by the Housing Authority and the required independent inspection, and that the purchaser is not obligated to purchase unless such inspections are satisfactory to the Housing Authority. The contract must provide for at least a one year home warranty. The contract must also provide that the purchaser is not obligated to purchase if the mortgage finance terms are not approved by the Housing Authority. It must also contain a seller certification that the seller is not disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 982.631.

REQUIRED INSPECTIONS [24 CFR 982.631]

To assure that the home complies with the Housing Quality Standards (HQS) of the Housing Choice Voucher Program, homeownership assistance payments may not commence until the Housing Authority first inspects the home. The Housing Authority inspection will be the initial response to receipt of a sales agreement.

An independent inspection of existing homes covering major building systems also must be completed by a professional selected by and paid for by the family and approved by the Housing Authority. The independent inspection report must be provided for the Housing Authority. The Housing Authority may disapprove the unit due to information contained in the report for failure to meet HQS.

FINANCING REQUIREMENTS

The proposed financing terms must be submitted to and approved by the Housing Authority prior to close of escrow. Balloon payments, adjustable rate mortgages and loans with predatory practices will not be approved. Requests to obtain financing for a Home Equity loan will not be approved by the Housing Authority. The Housing Authority will only approve a request to refinance for the following reasons:

1. To allow the homeowner to take advantage of a lower interest rate.

2. To allow the homeowner to make necessary major repairs. The amount of cash paid out to make the repairs shall not exceed 2% of the initial loan amount. The Housing Authority will determine what major repairs are.

E. COMPLIANCE WITH FAMILY OBLIGATIONS

A family must agree in writing to comply with all family obligations under the Housing Choice Voucher Program and the Housing Authority homeownership policies. The obligations include:

1. Any information the family supplies must be true and correct.

2. The family must disclose and verify social security numbers and employer identification numbers, sign and submit consent forms for obtaining information and supply any other information that the Housing Authority and HUD determines to be necessary.

3. Submit Housing Authority required reports on the family's progress in finding and purchasing a home.

4. Attend and satisfactorily complete any Housing Authority required homeownership and housing counseling.

5. Select and pay for a pre-purchase inspection by an independent professional inspector.

6. Enter into a contract of sale with the seller of the unit and promptly provide a copy of the contract of sale to the Housing Authority.

7. Obtain and maintain flood insurance for home in special flood hazard areas.

8. Comply with the terms of any mortgage securing debt incurred to purchase the home

9. Promptly notify the Housing Authority in writing when (1) the family moves away from the home for an extended period of time in accordance with Housing Authority policies, and (2)

before the family moves out.

10. Only use the assisted home for residence by the Housing Authority approved family members, live-in aide or foster child.

11. Promptly notify the Housing Authority in writing of the birth, adoption, or court awarded custody of a child, and request Housing Authority written approval to add any other family member as an occupant of the home. Promptly notify the Housing Authority in writing if any family member no longer lives in the home.

12. Supply any information as required by the Housing Authority or HUD concerning any (1) mortgage or other debt and information on any satisfaction or payment of the mortgage debt, (2) any sale or other transfer of any interest in the home, or (3) the family's homeownership expenses.

13. Promptly notify the Housing Authority in writing if the family defaults on a mortgage securing any debt incurred to purchase the home.

14. Not commit fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program.

15. Not engage in drug-related criminal activity or violent criminal activity.

16. Not lease, let, transfer or convey the home except to grant a mortgage on the home for debt incurred to finance the purchase of the home.

17. Not receive homeownership voucher program assistance while receiving another housing subsidy for the same home or a different unit under any Federal, State or local housing assistance program.

18. Comply with any additional Housing Authority requirements for family search and purchase of a home and continuation of homeownership assistance for the family.

F. AMOUNT OF ASSISTANCE [24 CFR 982.635]

The amount of the monthly assistance payment will be based on three factors:

1. The voucher payment standard for which the family is eligible
2. The monthly homeownership expense
3. The family's household income

The Housing Authority will pay the lower of either the payment standard minus the Total Tenant Payment (TTP) or the family's monthly homeownership expenses minus the TTP. The Housing Choice Voucher family will pay the difference.

DETERMINING THE PAYMENT STANDARD

The voucher payment standard is the fixed amount the Housing Authority annually establishes as the "fair market" rent for a unit of a particular size located within the Housing Authority

jurisdiction. In the homeownership program, the initial payment standard will be the lower of either (1) the payment standard for which the family is eligible based on family size, or (2) the payment standard which is applicable to the size of the home the family decides to purchase.

The payment standard for subsequent years will be based on the higher of (1) the payment standard in effect at the commencement of the homeownership assistance, or (2) the payment standard in effect at the most recent regular reexamination of the family's income and size. The initial payment standard, for purposes of comparison, shall not be adjusted even if there is a subsequent decrease in family size. The Housing Authority will request HUD approval of a higher payment standard where warranted as a reasonable accommodation for a family that includes a person with disabilities.

DETERMINING MONTHLY HOMEOWNERSHIP EXPENSE

Monthly homeownership expense includes all of the following: Principal and interest on the initial mortgage and any mortgage insurance premium (MIP) incurred to finance the purchase and any refinancing of such debt; real estate taxes and public assessments; homeowner's insurance; maintenance expenses per Housing Authority allowance (replacement reserves); utility allowance per Housing Authority's schedule of utility allowances; principal and interest on mortgage debt incurred to finance major repairs. Replacements or improvements for the home including changes needed to make the home accessible; and homeowner association dues, fees or regular charges as assessed, if any.

Homeownership expenses for a cooperative member may only include Housing Authority approved amounts for the cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home; principal and interest on the initial debt incurred to finance purchases of cooperative membership shares and refinancing of such debt; home insurance; the allowances for maintenance expenses, major repairs and replacements and utilities; and principal and interest on debt incurred to finance major repairs, replacements or improvements, including changes needed to make the home accessible.

DETERMINING THE HOUSING AUTHORITY PORTION

The TTP is that portion of the homeownership expense that the family must pay. The TTP is generally 30% of the family's adjusted income, plus any gap between the payment standard and the actual housing cost. All family income (including public assistance) will be counted to determine the family's adjusted monthly income for purposes of determining the amount of assistance.

PAYMENT TO THE FAMILY OR LENDER

The Housing Authority must pay homeownership assistance payments either directly to the family or at the discretion of the Housing Authority, to the lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the PHA must pay the excess directly to the family.

G. GROUNDS FOR TERMINATION OF HOMEOWNERSHIP ASSISTANCE

A family's homeownership assistance may be terminated if the family fails to comply with:

1. Their family obligations under the Housing Choice Voucher Program
2. Housing Authority homeownership policies
3. If the family defaults on the mortgage

If required, the family must attend and complete ongoing homeownership and housing counseling classes. The family must comply with the terms of any mortgage incurred to purchase and/or refinance the home. The family must provide the Housing Authority with written notice of any sale or transfer of any interest in the home; any plan to move out of the home prior to the move; the family's household income and homeownership expenses on an annual basis; any notice of mortgage default received by the family; any other notices which may be required pursuant to the Housing Authority homeownership policies. Except as otherwise provided in this section, the family may not convey or transfer a home to any entity or person other than a member of the assisted family while receiving homeownership assistance.

Homeownership assistance will only be provided while the family resides in the home. If the family moves out of the home, the Housing Authority will not continue homeownership assistance commencing with the month after the family moves out. Neither the family nor the lender is obligated to reimburse the Housing Authority for homeownership assistance paid for the month the family moves out.

A participant in the Housing Choice Voucher Homeownership Program shall be entitled to the same termination notice and informal hearing procedures as set forth in this Administrative Plan.

DEFAULT AND CONTINUED PARTICIPATION IN THE HOUSING CHOICE VOUCHER PROGRAM

If the family defaults on any mortgage, the Housing Authority may permit the family to move with continued Housing Choice Voucher rental assistance, if the family demonstrates that it has:

1. Conveyed title to the home to HUD or its designee, as required by the lender, the Housing Authority or HUD
2. Moved from the home within the period established or approved by the lender, the Housing Authority or HUD

ADMINISTRATIVE FEE

For each month that homeownership assistance is paid by the Housing Authority on behalf of the family, the Housing Authority shall be paid the ongoing administrative fee described in 24 CFR 982.152(b).

H. PROGRAM CHANGES

The Executive Director of the Housing Authority shall have the direction to waive or modify any provision of the Homeownership Option Program or policies not governed by statute or regulation for good cause or to comply with changes in HUD regulations or directives.

Mortgage defaults: The Housing Authority may permit the family to move with continued homeownership assistance if the default is due to catastrophic medical reasons or to the impact of a federally declared disaster.

Chapter 22

PROJECT-BASED VOUCHER PROGRAM
FINAL RULE

[24 CFR Part 983]

INTRODUCTION

This chapter describes the Project-Based Program Final Rule. Only projects with a letter of commitment/selection on or after November 14, 2005 are covered by the "Project Based Voucher Program: Final Rule" (also know as the "new" rule which was effective November 14, 2005).

Any project with a commitment/selection letter and an Agreement to enter into a Housing Assistance Payment (AHAP) contract that was executed on or after January 16, 2001, but before November 14, 2005, are covered by the "Revisions to the Housing Authority Project-Based Assistance Program: Initial Guidance" (also known as the "old" rule).

Overview

HUD's Project-Based Voucher (PBV) program allows the Housing Authority (HA) to project base up to 20% of its Housing Choice Voucher (HCV) tenant-based funding. At least 80% of the Housing Authority's HCV funding must remain tenant-based.

Subsequent reductions in budget authority do not require any reduction in the number of PBV units under the AHAP or Housing Assistance Payment (HAP) contract. HUD does not provide additional Housing Assistance payments or Administrative Fees for the PBV program.

Units may be selected in a new construction project, a rehabilitation project, and/or an existing project. The number of units that can be selected is generally limited to 25% of the units in a building. Exceptions to the 25% general rule are available for units in single family homes (defined as four units or less), and units in a multi-family building that are available for qualifying families. Qualifying families are elderly or disabled families and families receiving supportive services.

The Housing Authority can execute an initial HAP contract for up to 10 years, with the option to renew the HAP contract in up to five year increments. Rents under the PBV program are generally limited to the Fair Market Rent or other HUD approved exception rents.

Like tenant-based rents, PBV rents must also be rent reasonable. HUD has promulgated special exceptions for projects that receive other forms of subsidy or tax credits.

After 12 months, families have the option to move from PBV assisted housing to tenant-based housing if funding is available. A separate transfer list has been established to facilitate a fair and equitable method of allocating available tenant-based vouchers to eligible project-based residents.

A. Owner Proposal Selection Procedures

Request for Proposal (RFP). An advertisement announcing a Request for Proposals will be published once a week for three (3) weeks in the following newspapers, The Stockton Record, The Manteca Bulletin, The Tracy Press, and The Lodi Sentinel. The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered for the project-based program, the submission deadline, and will note how to obtain the full Request for Proposal that contains comprehensive information on the application and selection process. Any advertisement for the PBV will contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity requirements. Interested owners will have at least 30 calendar days from the date of the last publication to respond.

Other Competitive Proposals. Selection of a proposal that was previously selected within the last three years pursuant to another program's competitive process (i.e. HOME, tax credits, etc.) and in which the possible receipt of PBV assistance was not a consideration. Such proposals will be evaluated in accordance with criteria established in the Housing Authority's Annual Plan and the jurisdiction's Consolidated Plan.

B. Criteria for PBV Award

Deconcentrates Poverty. The site and/or location are consistent with the goal of deconcentrating poverty, expanding housing and economic opportunities, and facilitating compliance with Fair Housing laws. Generally, this standard is met as long as no more than 20% of the households in the census tract in which the project is located are at or below the established poverty level for the County.

Housing Quality Standards (HQS) Site and Neighborhood Inspection. The site must meet HQS site standards. The site and neighborhood must be reasonably free from disturbing noises, reverberations, and other dangers to the health, safety and general welfare of the occupants. Other dangers shall include scientifically verified unacceptable levels of contamination of air or water. It shall be presumed if the project is surrounded by other occupied homes and/or ongoing businesses that said dangers do not exceed the threshold to pass HQS site standards, unless information is received to the contrary. The Housing Authority is responsible for inspecting the proposed project's site and neighborhood to determine consistency with the HQS site standards.

Promote the Housing Authority Goals. Projects must contribute to meeting the goals outlined in the Housing Authority's Annual Plan and/or the Consolidated Plan for the jurisdiction in which the project to be assisted is located. These goals will be clearly identified in the Request for Proposal and will also be applied to "Other Competitive Proposals".

Units Eligible for PBV Award. Multi-family rental housing units are generally eligible for PBV's. Duplex units and larger may be awarded PBV's so long as their use does not fall under the categories listed below under "Condition's that Prohibit PBV Award". Rental units located in a project that is being developed with Hope VI funds (awarded in fiscal year 2001 or later) or HUD Capital funds which are themselves not public housing units, may receive PBV assistance so long as the ratio of non-Hope VI or Capital funds and other public housing funds used in the development (i.e. a 30 unit project may have 20 PBV units and 10 public housing units so long as the amount of public housing funds, including Hope VI and Capital funds, is less than 33.33% of the total amount of funds used in the development of the 30 rental units). PBV assistance in Hope VI/Mixed Finance transactions that are "mixed-income" developments (i.e. that do not consist solely of all public housing units) is permitted subject to certain restrictions. In addition, PBV assistance is permitted for a unit that has been subsidized with HUD Section 236 interest reduction payments.

Conditions that Prohibit PBV Award. PBV assistance may not be provided to nursing homes, transitional housing, cooperative housing, student housing, owner-occupied housing, a high-rise elevator project that may be occupied by families with children, or for any unit currently existing that has a family who is not eligible for assistance under the PBV. In addition, the Housing Authority may not pay PBV assistance to any unit that is a public housing unit, a unit that is subsidized with another form of housing choice voucher assistance such as HUD's tenant-based voucher assistance, a unit subsidized with another government rental subsidy, such as HUD's Section 236 rental assistance payments or rental assistance under the federal HOME Investment Partnerships Program, or units subsidized by HUD under its Section 202 (housing for seniors) or Housing Choice Voucher 11 (housing for persons with disabilities) programs.

Projects Owned by the Housing Authority. Selection of PBV units that are owned by the Housing Authority, or in which the Housing Authority has an identity of interest, must be

approved by HUD using criteria that mirror those in the applicable or most recent Request for Proposal, Annual Plan and/or Consolidated Plan of the jurisdiction in which the proposed project is to be located.

C. Project Selection and Requirements

Notice Procedures. Notice of owner selection must be in writing and can only be made after the items above have been determined. The Public Notice of the project selected for PBV assistance must be made within 14 calendar days. The Public Notice shall consist of a single notice in the local newspaper of general circulation under Legal Notices and on the official Housing Authority website. Selection of a Housing Authority owned project can be made only after HUD determines that the selection was made in conformance of the procedures specified in this Administrative Plan. The Housing Authority will make available for public review all documentation used in making the selection of proposals.

Requirements for PBV Assisted Construction Project. Construction projects include new construction (projects that do not exist on the date of project selection) and rehabilitation (existing projects that do not substantially meet HQS on the date of selection). New construction and rehabilitation projects must have an Agreement to enter a Housing Assistance Payment (AHAP) contract before construction starts on the project.

Pre-AHAP Requirements. Before the Housing Authority can execute an AHAP contract for a new construction or rehabilitation project, the following requirements must be met:

- Environmental review must be completed
- Request for Release of Funds must have been granted
- Determination of proposed rents and utility allowances has been made
- Subsidy layering review completed

AHAP Requirements are as follows:

- Construction cannot commence prior to the execution of an AHAP (in a form required by HUD Headquarters)
- The AHAP must contain description of the project, including identification of the site, location of contract units and the following:
    - Number and size of units (square feet, bedrooms and baths)
    - Services, maintenance or equipment supplied by owner
    - Utilities provided by owner
    - Indication of whether requirements of the Fair Housing Act and 504 (access for disabled) will apply to contract units
- Estimated initial rent to owner
- Description of work to be performed under the AHAP including additional Housing Authority quality and design requirements that exceed the HQS requirements
- Labor standards requirements apply to the development of nine or more contract units. Note that other funding in the project may trigger a more restrictive threshold for the project

- Section 3, employment of low-income persons on or associated with the project and other Equal Opportunity requirements
- Debarred project principles cannot be awarded participation in the PBV program or other federal programs and activities
- The owner must disclose any possible conflict of interest
- The project must be completed within specified deadlines contained in the AHAP

Pre-HAP Requirements. Prior to execution of the HAP, the Housing Authority must determine that the owner has submitted all required evidence of completion and assure that the work has been completed in accordance with the AHAP including:

- Certification by the owner that the project has been completed in accordance with HQS and all other requirements in the AHAP
- An owner certification that the labor standard requirements and the equal opportunity requirements have been complied with
- Any additional documentation that may be required by the Housing Authority

D. Requirements to Execute a HAP Contract for Existing Projects

Assure that the Environmental Review has been done and a Request for Release of Funds has been granted as well as the following:

- The determination of rents and the utility allowance has been made
- A subsidy layering review has been completed
- Assure that the project actually meets the HQS requirements

E. HAP Requirements for all Construction and Existing Projects

Must be in a form required by HUD Headquarters and it must contain description of the housing including:

- Identification of the site
- Location of contract units
- Number and size of units (square feet, bedrooms and baths)
- Services, maintenance, or equipment supplied by owner
- Utilities provided by owner
- Indication of whether requirements of the Fair Housing Act and 504 will apply to contract units

It must include the initial rent to owner and contract term. The term of the contract is subject to availability of sufficient appropriated funding as determined by HUD or the Housing Authority.

F. HAP Contract Amendments

Limited unit substitutions allowed. A unit meeting the PBV requirements, including meeting HQS, can substitute a different unit of the same bedroom size in the same building by amendment. The reasonable rent for the substitute unit must be determined prior to the effective date of substitution.

Limited additional units allowed. Within three years of HAP execution, units may be added to the HAP contract by amendment provided that:

- The 25% unit limitation in a building is not exceeded
- The authorized budget authority of 20% for PBV assistance is not exceeded
- The units must meet PBV requirements.

HAP anniversary date. For units added by amendment to the HAP or staged completion of a project, the anniversary date for the HAP is the date the contract was initially executed. The expiration date of the HAP is based on the date that the HAP was initially executed.

Staged units. The difference between units added by amendment to the HAP contract and a staged HAP is that the units in a staged HAP were identified in the HAP while those added by amendment were not.

G. Rent Determinations and Changes

The amount of the initial rent that the owner may collect from its tenants is established at the beginning of the HAP contract term. During the term of the HAP contract, the rent to the owner is redetermined at:

- The owner's request for a rent increase

- Any time there is a 5% or greater decrease in the published HUD Fair Market Rent for the area in which the project-based unit is located. Under the final PBV regulations, the general rule is that the rent an owner may charge for a unit receiving PBV assistance shall not exceed the lower of (1) the applicable Fair Market Rent for the unit, based on the bedroom size, (2) the reasonable rent as determined by the Housing Authority, or (3) the rent requested by the owner.

If the unit receiving PBV assistance is also a Low Income Housing Tax Credit (LIHTC) unit, the project is not located in a qualified Census Tract, the unit is located in a building that has LIHTC units of the same bedroom size as the PBV units but those comparable LIHTC units do not have any form of rental assistance other than tax credits, and if the tax credit rent exceeds the applicable HUD Fair Market Rent, then the rent to owner is not to exceed the lower of (1) the tax credit rent minus any utility allowance as established under the rules of the LIHTC, (2) the reasonable rent as determined by the Housing Authority, or (3) the rent requested by the owner.

The owner of such a LIHTC unit would be limited to receiving:

- Rent from the tenant

- PBV assistance for that unit up to only the maximum tax credit rent

This will also apply to existing HAP contracts at the time of any adjustment in the rents that may be charged under those PBV/LIHTC HAP contracts.

Finally, rent for PBV assisted units may not exceed any other rent limitations that may be imposed (for example under the LIHTC program for tax credit units or units that were constructed using funds from the federal HOME Investment Partnerships Program).

H. PBV Rents Based on Fair Market Rents

In determining rents, the Housing Authority is to use the most recently published HUD Fair Market Rent in effect and the utility allowance schedule in effect as to the execution of the HAP contract for the Housing Authority's geographical area, or the amounts for each in effect at any time during the 30 day period immediately prior to the beginning date of the HAP contract. The Housing Authority must use the same applicable utility allowance schedule for both its tenant-based and project-based voucher programs.

I. Owner Rent Increases Requests

If the owner desires to increase the rents charged to the PBV assisted units, the request for an increase in the rents must be made by the owner in writing to the Housing Authority at least 60 days, but no more than 90 days, prior to the annual anniversary of the HAP contract. The Housing Authority will then determine if the owner is entitled to a rent increase by recomputing the maximum rent that could be charged by an owner under the tests described above.

The Housing Authority may determine on its own that there should be rent decrease if there has been a decrease of 5% or greater in the HUD Fair Market Rent for the project area. Such a rent decrease will apply even if the owner did not request the rent determination (or in fact asked for a rent increase). The new adjusted rent that may be charged by the owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

In addition to redeterminations based on changes in HUD's Fair Market Rents or requests by the owner, the Housing Authority is required to redetermine the reasonable rent that may be charged by the project owner whenever the HAP contract is amended to substitute different contract units in the same building which is permitted at any time during the term of the HAP contract, as would be the case when the owner decides to allow the PBV units in that building to "float" and therefore, not designate specific rental units as the PBV units. The option to "float" units is the owner's to declare at initial occupancy. Once selected, the choice is irrevocable. Later exceptions may be granted in extreme circumstances and at the sole discretion of the Housing Authority.

In determining the reasonable rent, the Housing Authority must conduct a comparability analysis (either by its own staff or by another qualified person or entity) and consider at least three comparable units in the private, unassisted market; however, those unassisted units may be units in the same project as the PBV assisted units.

The monthly HAP payment by the Housing Authority to the owner for a PBV contract unit that is leased to a qualifying tenant is the rent that the owner is permitted to charge, minus the rent that the tenant is required to pay to the owner under HUD regulations (which is the tenant rent minus the utility allowance); under Section 8 (o)(3) of the United States Housing Act of 1937, the tenant's rent contribution is generally limited to forty percent (40%) of the tenant's annual income. If the amount of the utility allowance exceeds the total tenant payment, the Housing Authority shall pay the amount of such excess utility allowance to the tenant as a reimbursement for tenant paid utilities and the tenant rent to the owner shall then be zero.

J. Vacancy Loss Provisions and Contract Amendment

If a family moves out of its rental unit, the owner may keep the PBV assistance payment for the month in which the family moves out unless the vacancy was the owner's fault. The Housing Authority will pay for vacant PBV units for an additional two full months after the tenant vacates the unit.

In addition, the Housing Authority may, but is not required to amend the HAP contract to reduce the number of PBV contract units for those PBV units that have been vacant for a period of 120 days or more since the owner provided the Housing Authority a notice of vacancy for such unit(s). Consideration will be taken into account whether to reduce the number of contract units or not include market conditions, demonstrated efforts to re-rent the unit to qualified applicants, the amount of additional time that may be needed to lease the unit, and any other criteria that would impact the likelihood of being able to rent the unit within another 30 days. However, if the unit remains vacant for 120 days, cancellation of the contract for that unit shall be mandatory.

K. Lease Expiration

Upon the expiration of the lease for a PBV assisted unit, which must be for a minimum initial term of one year (and must also contain a HUD required tenancy addendum), the owner may renew the lease, refuse to renew the lease for "good cause", as defined under 24 CFR Part 982.310, or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, the Housing Authority is obligated to provide the family with tenant-based voucher assistance, and that the PBV unit will be removed from the HAP contract.

L. Termination of HAP Contract

An owner is allowed to terminate the HAP contract if the amount of rent to the owner for any PBV contract unit, as adjusted under the project-based voucher rules described above (which are set forth at 24 CFR Parts 983.301, 983.302 and 983.303) is reduced below the amount of the initial rent to the owner established by the HAP contract. In such a case, the families that had received the benefit of the project-based voucher assistance will be entitled to tenant-based voucher assistance.

Once a family has moved into an apartment that receives the benefit of PBV assistance under a HAP contract, the family, if it moves out voluntarily from that project-based assisted unit after at least one year of residing there, is eligible for assistance under the Housing Authority's tenant-based voucher program or another comparable program for rental assistance provided by the Housing Authority. However, families that leave the PBV assisted unit before having resided

there one year or are evicted at any time for cause are not automatically entitled to assistance under the Housing Authority's tenant-based voucher program.

Upon funding availability and at the Housing Authority's discretion, families residing in project-based units who need to move in the first year because of an increase in family size or because they reside in a special needs units but no special needs exist, may be offered a tenant-based voucher if comparable project-based housing is not available within 60 days.

M. Organization and Characteristics of the Wait List for Project-based Vouchers

Status Changes Independently. The project-based voucher wait list may be opened and closed separately from its community-wide tenant-based wait list. The same public opening and closing procedures shall be used for both lists (see Chapter 4).

Special Needs Units and Housing Types. Sufficient information shall be gathered from each family to determine their eligibility for special needs units, i.e. disability (sensory, wheelchair, senior unit, etc.), and special codes developed to allow efficient sorting and identification of such families when special needs units are available.

Effect of Housing Refusal. Families refusing an offer of housing shall not have their name removed from the wait list. This does not affect their standing for other areas for which they have applied or on the community-wide tenant-based wait list. Once housed in PBV housing, the applicant's name is removed from the PBV wait list. There is no effect on the community-wide tenant-based wait list.

Purging the PBV Wait List. The project-based wait list will be purged annually. Failure to respond to a purge letter is cause for removal of their listing from the project-based wait list.

Consistency with Tenant-based List. All other mechanics of wait list management will be consistent with the tenant-based wait list (see Chapter 4)

N. Project-Based Voucher (PBV) Program Limit Old Rule

The "PBV" Program cannot exceed twenty percent (20%) of the total number of budgeted units under the Housing Authority's Housing Choice Voucher Program "HCVP". It is the policy of the Housing Authority to comply fully with all Federal, State, and local nondiscrimination laws and with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment.

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

To further its commitment to fully comply with applicable Civil Rights laws, the Housing Authority will provide Federal/State/local information to voucher holders regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act. Such information will be made available during the family briefing session,

and all applicable Fair Housing Information and discrimination complaint forms will be made a part of the voucher holder's briefing packet and available upon request at the front desk.

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

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

The Housing Authority's offices are accessible to persons with disabilities. Accessibility for the hearing impaired is provided by California Relay Service or TTD at (209) 466-5735.

Definitions

Existing Housing. For purposes of the "PBV" Program, an existing unit is a unit which, at the time of written notice of selection of the project for "PBV" assistance, requires less than $1,000 in rehabilitation including its prorated share of work to be done to common areas and systems to meet Housing Quality Standards ("HQS").

De-concentration Requirement. All new assistance under the "PBV" Program must be for units located in census tracts with poverty rates of less than twenty percent (20%).

Twenty-Five (25%) Percent Maximum. No more than twenty-five percent (25%) of the units in any "PBV" project may receive assistance except as noted below.

- Single family dwellings (four or fewer units)
- Dwellings specifically designated for elderly
- Dwellings specifically designated for disabled families as defined by HUD in 24 CFR 5.403 (b).
- Families receiving supportive services as defined by HUD

Funding Objectives and Requirements

The goals of the policy and project based program focus will be on accomplishing the following objectives for households at or below thirty percent (30%) of the Area Median Income (AMI):

- Increase the number of affordable housing opportunities
- Increase the affordability of existing affordable housing opportunities

Units to be selected for project based funding subsidies will have to meet the following criteria:

a) Serve households at or below thirty percent (30%) of the AMI at time of admission to the project.

b) Serve "special needs populations". Special needs population includes any population that shares a need or set of needs that represents a barrier to success in the Housing Choice Voucher Program. However, an owner cannot discriminate on the basis of a specific disability.

c) Meet the Department of Housing and Urban Development's Housing Quality Standards.

d) Be available for occupancy when application for subsidy is made.

All housing providers applying to participate in this program must be eligible to participate in "HUD" programs.

New Construction Requirements

The owner must submit an architect's certification that the working drawings, specifications and proposed construction comply with "HUD" minimum property standards, local codes and ordinances, and zoning requirements.

The site must not be located in an area of minority concentration, and must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area, unless the project is necessary to meet overriding housing needs that cannot be met in that housing market area. All new construction projects must meet "HUD" Field Office site and neighborhood review requirements.

Family Outreach

The Housing Authority will publicize and disseminate information to make known the availability of housing assistance and related services for very low-income families. When the waiting list is open, the Housing Authority will publicize the availability and nature of housing assistance for very low-income families in a newspaper of general circulation.

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

Advertisement Policy for Soliciting Owners

An advertisement will be placed in *The Record*, *The Manteca Bulletin*, *The Tracy Press* and *The Lodi Sentinel*. These are the commonly circulated newspapers in the County of San Joaquin. The advertisement will run once a week for a period of three (3) consecutive weeks and indicate the number of vouchers to be project based and the type of units that will be considered for project basing. Interested owners will have at least 30 days from the date of the last publication to apply.

An advertisement for existing building units that will be held to the 25% limitation will be placed separately from those for new construction, rehabilitation and existing units that will exceed the 25% unit limitation.

All advertisements to project based vouchers will contain a statement requiring all respondents that participation requires compliance with Fair Housing and Equal Opportunity Requirements. New construction and rehabilitation projects will also be subject to the Federal Labor standards provisions.

Only applications received in response to a Housing Authority approved request for proposal ("RFP") will be considered for project basing. If an "RFP" solicits applications for new or rehabilitation construction only, applications for existing units will not be accepted or vice versa.

A pre-approved advertising and competitive bidding process approved by "HUD" will be used to solicit project-based vouchers.

Minimum Information to be Submitted with all Proposals

All formal proposals should be limited to a total of ten (10) pages. The Housing Authority reserves the right to request additional information, if necessary to complete the selection process.

Proposals may combine requests for vouchers for multiple sites/developments under one application or may submit different sites/developments. All sites/developments included in an application will be evaluated as a separate project. All proposals must provide the following information for each site/development that will be used to determine the amount of rental assistance for the site/development and to evaluate the proposal:

1. Project location (including street address or addresses) and ownership.

2. Building(s) description(s) and number of housing units requiring project-based assistance, including square footage, bedroom count and bathroom count.

3. Estimated date of availability of units.

4. List of area amenities and services, including playgrounds, public schools, public transportation and access to grocery stores.

5. Operating pro-forma statement and current year operating budget including estimated subsidy.

6. Proposed rent per unit, including indication of which utilities, services and equipment are

included in the rent and which ones are excluded.

7. Description of experience in managing and operating similar housing developments. Indicate any recent auditing findings regarding your management of similar properties. List all projects your organization currently manages that have project-based assistance or some other income restricted units.

8. Description of the population that will be served with respect to household composition and special needs. Indicate the percentage of units that will serve households with children (or households requiring two or more bedrooms) and the number of bedrooms per housing unit.

9. Indicate the percentage of units that will serve households with special needs and explain why this population needs represents a barrier to success. "Special needs population" includes any population that shares a need or a set of needs that represents a barrier to success in the Housing Choice Voucher Program.

10. Description of the support services to be provided to be the population that will be served and how these services will be funded currently and into the foreseeable future. Describe how you would serve this population if funding for services is reduced or withdrawn.

11. A signed certification of the owner's intention to comply with Title VI of the Civil Rights Act of 1966, Title VIII of the Civil Rights Act of 1968, E.O. 11063, E.O. 11246, Section 3 of the Housing and Urban Development Act of 1968 and all applicable Federal requirements listed in 24 CFR 983.11. This is including, but not limited to, the payment of not less than the prevailing wages in the locality pursuant to the Davis-Bacon Act to all laborers and mechanics employed in the construction or rehabilitation of the project. Existing housing projects are not subject to this provision.

12. The identity of the owner, developer, builder, architect, management agent (and other participants), the names of officers and principal members, shareholders, investors and other parties having a substantial interest; the previous participation of each in HUD Programs on the prescribed HUD Form No. 2530 and a disclosure of any possible conflict of interest by any of these parties that would be a violation of the Agreement or the Contract; and information on the qualifications and experience of the principle participants

The following information will be requested for applications that are conditionally approved:

- Evidence of site control, and for new construction identification and description of the proposed site, site plan, and the neighborhood.

- Evidence of compliance with local permits and zoning requirements.

- Documentation that the rents being proposed are reasonable and are comparable to rents being charged for similar housing, with similar amenities in the same area as the proposed project.

Vacancy Payments

The Housing Authority will make vacancy payments of up to 60 days to those landlords who have experienced a vacancy. The vacancy cannot be a result of landlord action or inaction, and the landlord must make "every reasonable action" to minimize the extent of the vacancy.

The Housing Authority reserves the right to adjust the number of units or terminate the project-based contract, if the units are not fully utilized by an eligible family within 120 days of the vacancy, commencing on the first day of the month when the vacancy occurs.

Termination of the Housing Assistance Payments Contract

The Housing Authority may set the initial term of the HAP contract for a maximum five (5) year period and may extend it for subsequent periods ranging from one (1) year to five (5) years as considered appropriate by the Authority to achieve long-term affordability or for the expansion of housing opportunities.

The Housing Authority will stipulate the term of the initial Housing Assistance Payments ("HAP") contracts or renewals. All contracts, extensions and renewals are contingent on the future availability of appropriations and availability of funding under the Housing Authority's Annual Contributions Contract with "HUD".

Evaluation and Scoring Criteria

The following criteria will be used to evaluate each site/development proposed. To qualify for the "PBV" funding, proposals for each site/development must achieve a minimum of 60 points for existing units and 70 points for New Construction (including rehabilitation projects).

		# of Points
1.	**Qualifications and Experience** (Maximum Score 10)	
	a) Owner/Manager's demonstrated expertise in managing and implementing similar projects.	10
	b) Owner/Manager's demonstrated expertise in managing and implementing dissimilar projects.	5
2.	**Commitment to Providing Long-Term Affordable Housing** (Maximum Score 10)	
	a) Owner agrees to keep all project-based units in the project affordable for the term of the "HAP" contract.	10
3.	**Location of Housing and Need for Affordable Housing** (Maximum Score 10)	
	a) Applicants must demonstrate a need for the particular type of housing proposed as compared to other types of housing in the community. Housing that addresses the greatest need within a community or the state as a whole, will score higher under this criteria as compared to housing that proposes to meet a lesser need. Applicants should use such documents as the San Joaquin County Consolidated Plan and 2000 Census to support their assessment of unmet housing need	10
4.	**Availability of Units to serve Special Needs population** (Maximum Score 10)	

Proposals will be evaluated on whether the building serves a "special needs" population.

The special needs population includes any population that shares a need or a set of needs which represents a barrier to success in the Housing Choice Voucher Program.

a) 100% of the units are available for special needs

population (but not to the exclusion of other groups) 10

b) If 25% or more of the units in the building are available for special needs population (but not to the exclusion of other groups) 5

5. <u>Household Composition and Bedroom Count</u>
(Maximum Score 10)

a) Units to be project-based include one, two, three and four bedrooms 10

b) Units to be project-based include one, two and three bedrooms 5

6. <u>Contract Rent</u>
(Maximum Score 5)

a) Below Payment Standard 5

b) Maximum Payment Standard 0

7. <u>Readiness for Immediate Move-in</u>
(Maximum Score 15)

a) Within 30 days 15

b) Within 31 - 60 days 10

c) Within 61 - 90 days 5

d) 91 days or greater 0

8. <u>Service-Enriched Housing Opportunities</u>
(Maximum Score 10)

Supportive services will be a necessary piece to meet the needs of the population to be served.

a) Appropriateness of the support services for the residents 5

b) Evidence of sustainable funding for the support services 5

<u>BONUS POINTS</u>
(Maximum 20 points)

a) Proposed project location is in a census tract with fewer than 150 existing rental assistance Housing Choice Vouchers currently under lease (available at Housing Authority office). 10

b) Proposed project contains more adaptable or accessible features than that required by Section 504 of the Rehabilitation Act of 1973, on accessibility of dwelling units. 10

Housing Choice Voucher Project Based Program Guidelines

Inclusionary Clause

Notwithstanding the contents of this PBV Administrative Plan, for all areas not specifically addressed by this plan, the Housing Authority's Administrative Plan shall govern as a supplement to Part 983 of 24 CFR.

Consistency with the Housing Authority Plan

The "PBV" Program shall be consistent with the goals and objectives of the Housing Authority's Annual (Agency) Plan. Each plan shall have a statement of the number of "PBV" units, general locations, and how project-based units will be consistent with the Agency Plan.

Privacy Rights

Applicants and participants, including all adults in the household, are required to sign the HUD 9886 Authorization for Release of Information form. This document incorporates the Federal Privacy Act Statement and describes the conditions under which "HUD" and the Housing Authority will obtain family information.

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

Any and all information which would lead one to determine the nature and/or severity of a person's disability must be kept in a separate folder and marked "confidential" or returned to the family member after its use. The personal information in this folder must not be released except on an "as needed" basis in cases where an accommodation is under consideration. All requests for access and granting of accommodations based on this information must be approved by the Leasing Manager or his/her designee.

The Housing Authority's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files will be stored in a secure location, which is only accessible by authorized staff. Staff will not discuss family information contained in files unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Reasonable Accommodations Policy

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

A participant with a disability must first ask for a specific change to a policy or practice as an accommodation of their disability before the Housing Authority will treat a person differently

than anyone else. All policies and practices will be designed to provide assurances that persons with disabilities will be given reasonable accommodations, upon request, so that they may fully access and utilize the "PBV" program and related services. The availability of requesting an accommodation will be made known by including notices on Housing Authority forms and letters. This policy is intended to afford persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those who do not have disabilities and is applicable to all situations including when a family initiates contact with the Housing Authority, when the Housing Authority initiates contact with a family including when a family applies, and when the Housing Authority schedules or reschedules appointments of any kind.

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

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

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

Rehabilitated former drug users and alcoholics are covered under the ADA. However, a current drug user is not covered. In accordance with 5.403, individuals are not considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence. Individuals whose drug or alcohol addiction is a material factor to their disability are excluded from the definition. Individuals are considered disabled if disabling mental and physical limitations would persist if drug or alcohol abuse discontinued.

Once the person's status as a qualified person with a disability is confirmed, the Housing Authority will require that a professional third party competent to make the assessment provides written verification that the person needs the specific accommodation due to their disability and the change is required for them to have equal access to the housing program.

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

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

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

The Housing Authority will provide a written decision to the person requesting the accommodation within fourteen (14) calendar days. If a person is denied the accommodation or

feels that the alternative suggestions are inadequate, they may request an informal hearing to review the Housing Authority's decision.

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

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

Verification of Disability

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

Outreach

Outreach efforts will include notification of the Housing Authority's 504 Advisory Board as well as all other media and agencies listed in the Administrative Plan regarding public notices (see section on opening and closing the waiting list in "Applying for Admission" chapter.)

Applying for Admission

All persons who wish to apply for the "PBV" program must submit a pre-application in a written format, as indicated in our public notice. Applications will be made available in an accessible format upon request from a person with a disability.

To provide specific accommodation to persons with disabilities, upon request, the information may be mailed to the applicant and, if requested, it will be mailed in an accessible format.

The full application is completed at the eligibility appointment in the applicant's own handwriting, unless assistance is needed, or a request for accommodation is requested by a person with a disability. Applicants will then be interviewed by the Housing Authority staff to review the information on the full application form. Verification of disability as it relates to 504, Fair Housing, or ADA reasonable accommodation will be requested at this time.

The full application will also include questions asking all applications whether reasonable accommodations are necessary.

The Eligibility Process

The eligibility criteria for families under the "PBV" Program are identical to those used in the Housing Choice Voucher Program. The units which are occupied by ineligible tenants cannot be placed under a "HAP" Contract. The Housing Authority will inspect each unit proposed for the "PBV" Program and identify any tenants that reside in said units.

A variety of problems may be encountered in determining family eligibility, including families who are not income eligible and otherwise eligible families whose units are too large or too small for their family composition. Mitigation to these situations will be subject to "PBV" Final Rule Guidance.

Eligibility for Admission

There are five eligibility requirements for admission to the "PBV" Program*:*

- Must qualify as a family.
- Must have an income within the income limits.
- Must meet citizenship/eligible immigrant criteria.
- Must provide documentation to verify Social Security Numbers for all household members, and sign consent authorization documents.
- In addition to the eligibility criteria, families must also meet the Housing Authority's screening criteria in order to be admitted to the "PBV" Program.

For the purposes of determining eligibility for the "PBV" Program, Chapter 2 of the Administrative Plan shall apply.

Preferences

The Housing Authority will offer a public notice when changing its preference system and the notice will be publicized using the same guidelines as those for opening and closing the waiting list. The Housing Authority uses the following local preference system:

- Displaced by Government Action (5 points): Families who were receiving Housing Choice Voucher assistance will take precedence over other waiting list place holders. New applicants to the Housing Choice Voucher Program must be a family displaced by a natural disaster, including disasters recognized by the Federal government, which extensively damaged or destroyed their dwelling or is:

  - Dilapidated as cited by city/county officials of a local code enforcement office and does not provide safe, adequate shelter, has one or more critical defects or a combination of defects requiring considerable repair or endangers the health, safety, and well-being of the family.

  - Has been declared unfit for habitation by a government agency.

- Veteran preference (4 points): Current members of the military, veterans, or surviving spouses of veterans may qualify for this preference. Applicants must provide proof of honorable discharge. If discharge is less than honorable, applicant must provide proof of eligibility to receive veteran's benefits.

- Residency preference (2 points): Families who live, work, or have been hired to work within San Joaquin County and/or residents moving to San Joaquin County who currently participate in an approved Cal Work's Program at the time of submission of the pre-application.

  Applicants who are working or who have been notified that they are hired to work in a residency preference area must be treated as residents of the residency preference area. The Housing Authority may treat graduates of or active participants in, education and training programs in a residency preference area as residents of the residency preference area if the education or training program is designed to prepare individuals for the job market.

- Disability preference (1 point): This preference is extended to disabled persons or families with a disabled member as defined in this Administrative Plan. Proof of disability will be required at time of selection.

  The Housing Authority will use the following to select among applicants on the waiting list with the same preference status:

  - Date and time of receipt of a completed application.

Removal from Waiting List and Purging

The waiting list will be purged approximately every two (2) years by a mailing to all applicants to ensure that the waiting list is current and accurate. The mailing will ask for confirmation of continued interest.

Any mailings to the applicant which require a response will state that failure to respond within 10 days will result in the applicant's name being dropped from the waiting list. An extension of 30 days to respond will be granted, if requested and needed as a reasonable accommodation for a person with a disability.

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

If a letter is returned by the Post Office without a forwarding address, the applicant will be removed without further notice and the envelope and letter will be maintained in the file. If a letter is returned with a forwarding address, the Housing Authority will make no more than two (2) attempts to forward the appointment letter to the new forwarding address before cancelling the application.

If an applicant is removed from the waiting list for failure to respond, they will not be entitled to reinstatement unless the Application's Compliance Supervisor determines there were circumstances beyond the person's control.

The Housing Authority allows a grace period of 30 days after completion of the purge. Applicants who respond during this grace period will be reinstated.

Informal Review

If the Housing Authority determines that an applicant does not meet the criteria for receiving assistance, they will promptly provide the applicant with written notice of the determination. The notice must contain a brief statement of the reason(s) for the decision, and state that the applicant may request an informal review of the decision within 10 business days of the denial. The Housing Authority will describe how to obtain the informal review. The informal review process is described in Chapter 19 of this Administrative Plan.

Tenant Selection

Income targeting requires that no less than 75% of the families admitted annually must have incomes that are less than 30% of the area median for the overall voucher program including the Project Based Voucher Program. All new admissions to the program will be selected from the waiting list.

The Housing Authority will establish a "PBV" waiting list.

- All families on the regular waiting list can be placed on this list at their request when it is open.
- All applicants for tenant-based assistance can be placed on this list without penalty to any other application for assistance they may have been pending.
- An applicant cannot be removed from the waiting list because the owner does not select them or because the family does not accept the unit; they maintain their position on the waiting list as though no offer was made.
- The Housing Authority may place applicants referred by owners onto the "PBV" waiting list when it is open.
- The preferences for admission to the "PBV" are similar to those used for the tenant based Housing Choice Voucher Program.

Units Designated for Elderly or Disabled Families

Developments specifically designed for elderly or disabled families may enter into contract under the Project Based Voucher Program. An elderly family is defined as a family whose head, spouse, co-head, or sole member is a person who is 62 years of age or older. A disabled family is a family whose head, spouse, co-head, or sole member is a person with a disability [24 CFR 5.403].

Preference will be given in tenant selection for units in the project based development designated for senior or disabled families. In selecting elderly or disabled families to fill these units, the Housing Authority must also apply any preferences established in this Administrative Plan. The Housing Authority may not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

If there are not enough elderly families to occupy the units in a designated senior Project Based Voucher development, the Housing Authority may allow near-elderly families to occupy the units. A near-elderly family is a family whose head, spouse, or co-head is at least 50 years old but is less than 62 years of age. When there are insufficient elderly families on the waiting list who wish to reside in Project Based Voucher Program development designated as a senior complex, near-elderly families will be selected.

Housing Authority/ Owner Responsibility/ Obligation of the Family

This section outlines the responsibilities and obligations of the Housing Authority, the

Owners/Landlords, and the participating families.

Housing Authority Responsibilities

A. The Housing Authority will comply with the consolidated ACC, "HUD" regulations and other requirements, and this Administrative Plan.

B. In administering the program, the Housing Authority must:

1. Publish and disseminate information about the availability and nature of housing assistance under the program

2. Explain the program to owners and families

3. Encourage owners to make units available for leasing in the program, including owners of suitable units located outside areas of poverty or racial concentration

4. Affirmatively further fair housing goals and comply with equal opportunity requirements

5. Make efforts to help disabled persons secure satisfactory housing

6. Receive applications from families, determine eligibility, maintain the waiting list, select applicants, certify each selected family, and provide housing information to families selected

7. Determine who can live in the assisted unit at admission and during the family's participation in the program

8. Obtain and verify evidence of citizenship and eligible immigration status in accordance with 24 CFR part 5

9. Inspect the unit before the assisted occupancy begins and annually inspect at least twenty-five (25%) of the project based units or as deemed appropriate by 24 CFR Part 983

10. Determine the amount of the housing assistance payment for a family

11. Determine the maximum rent to the owner and whether the rent is reasonable

12. Make timely housing assistance payments to an owner in accordance with the "HAP" contract

13. Examine family income, size, composition at admission, and annually during the family's participation in the program. The examination includes verification of income, assets, allowable deductions and other family information

14. Establish and adjust the utility allowance schedule

15. Administer and enforce the housing assistance payments contract with an owner,

including taking appropriate action if the owner defaults (i.e. "HQS" violation)

16. Determine whether to terminate assistance to a participant family for violation of family obligations

17. Conduct informal reviews of certain decisions concerning applicants for participation in the program

18. Conduct informal hearings on certain decisions concerning participant families

19. Provide sound financial management of the program

Owner Responsibilities

A. The owner is responsible for performing all of the owner's obligations under the Agreement (new construction and rehabilitation only), "HAP" contract and the lease.

B. The owner is responsible for:

- Performing all management and rental functions for the assisted unit, including selecting a tenant from the Housing Choice Voucher PBV waiting list to lease the unit, and deciding if the family is suitable for tenancy of the unit.
- Renting eligible units solely to eligible "PBV" families.
- Maintaining the unit in accordance with "HQS", including performance of ordinary and extraordinary maintenance.
- Complying with equal opportunity requirements.
- Preparing and furnishing information required under the HAP contract.
- Collecting from the family:
  - Any security deposit required under the lease.
  - The tenant contribution (the part of rent to owner not covered by the housing assistance payment).
  - Any charges for unit damage caused by the family.

C. Enforcing tenant obligations under the lease.

D. Paying for utilities and services (unless paid by the family under the lease).

E. For provisions on modifications to a dwelling unit occupied or to be occupied by a person with disabilities see 24 CFR 100.203.

Obligations of the Family

This section states the obligations of a participant family under the program.

A. Supplying required information:

- The family must supply any information that the Housing Authority or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status. Information includes any requested certification, release or other documentation.

- The family must supply any information requested by the Housing Authority 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 and must sign and submit consent forms for obtaining information.

- Any information supplied by the family must be true and complete.

B. HQS breach caused by the family: The family is responsible for any HQS breach caused by the family or its guests.

C. Allowing the Housing Authority to inspect the unit: The family must allow the Housing Authority to inspect the unit at reasonable times and after at least 24 hours notice.

D. Violation of lease: The family may not commit any serious or repeated violation of the lease.

E. Family Notice of Move or Lease Termination: The family must provide the owner at least 30 day's notice in writing, with a copy to the Housing Authority before the family moves out.

F. Owner Eviction Notice: The family must promptly give the Housing Authority a copy of any owner eviction notice it receives.

G. Use and Occupancy of the Unit:

- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

- Prior to approval of the composition of the assisted family residing in the unit, the owner must first authorize the addition of any household member. The Housing Authority will send the owner the appropriate form for the owner to sign. The Housing Authority must approve the composition of the assisted family residing in the unit. The family must promptly inform the Housing Authority of the birth, adoption or court-awarded custody of a child. The family must request approval from the Housing Authority to add any other family member as an occupant of the unit. No other person may reside in the unit (except for a foster child/foster adult or live-in aide). If the Housing Authority has given approval, a foster child/foster adult or a live-in aide may reside in the unit.

- The family must promptly notify the Housing Authority any family member no

longer resides in the unit.

- 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 for residence by members of the family. Any business use of the unit must comply with zoning requirements and the affected household member must obtain all appropriate licenses.

- The family must not sublease the unit.

- The family must not assign the lease or transfer the unit.

H. Absence from the Unit: The family must supply any information or certification requested by the Housing Authority to verify that the family is living in the unit, or relating to family absence from the unit, including any requested information or certification on the purposes of family absences. The family must cooperate with the Housing Authority for this purpose. The family must promptly notify the Housing Authority of its absence from the unit.

Absence means that no member of the family is residing in the unit. The family may be absent from the unit for up to 30 days. The family must request permission from the Housing Authority for absences exceeding 30 days. The Housing Authority will make a determination within five (5) business days of the request. An authorized absence may not exceed 180 days. Any family absent for more than 30 days without authorization will be terminated from the "PBV" program.

Authorized absences may include, but are not limited to:

- Prolonged hospitalization

- Absences beyond the control of the family (i.e., death in the family, other family member illness)

- Other absences that are deemed necessary by the Housing Authority

I. Interest in the Unit: The family may not own or have any interest in the unit.

J. Fraud and Other Program Violations: The members of the family must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program.

K. Crime by Family Members: The members of the family may not engage in drug-related criminal activity or other violent criminal activity.

L. Other Housing Assistance: An assisted family or members of the family, may not receive Housing Choice Voucher "PBV" 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.

Briefing Types and Required Attendance

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

The purpose of the briefing is to explain to families how the program works and the documents in the voucher holder's packet so that they are fully informed about the program. This will enable them to utilize the program to their advantage.

Determining Family Unit (Voucher) Size

The Housing Authority does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the voucher. The Housing Authority'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 old or older.

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

One bedroom will generally be assigned for each two family members. The Housing Authority will consider factors such as family characteristics including sex, age, or relationship. Consideration will also be given for medical reasons and the presence of a live-in aide.

Generally, the Housing Authority assigns one bedroom to two people within the following guidelines:

- Foster children will be included in determining unit size only if they will be in the unit for more than 12 months.
- Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendant's family.
- Space may be provided for a child who is away at school but who lives with the family during school recesses.
- Space will not be provided for a family member, other than a spouse, who will be absent most of the time, such as a member who is away in the military.
- Adults of different generations will have separate bedrooms.
- Single person families shall be allocated a zero or a one bedroom voucher.

Guidelines for Determining Bedroom Size

Bedroom Size	Persons in Household	
	Minimum Number	Maximum Number

0 Bedroom	1	2
1 Bedroom	1	4
2 Bedrooms	2	6
3 Bedrooms	3	8
4 Bedrooms	4	10
5 Bedrooms	6	12
6 Bedrooms	8	14

Rent

The Housing Authority contract with the owner sets the rent amount for each unit with project-based assistance. The amount of the rent may not exceed the lower of the applicable maximum level, as explained below, or the reasonable rent in the light of the rents charged for comparable unassisted units in the area.

To allow an owner to charge more than the payment standard because the rent is reasonable would result in limiting the families whom would be eligible to live in the unit. Conceivably, a family interested in the unit would be ineligible if the family's portion of the rent exceeded 40%. The idea of project basing units is to assure affordable housing for families and allowing the owner to have rents higher than the payment standard defeats the assurance of affordable housing.

If the unit under consideration is financed with Low Income Housing Tax Credits ("LIHTC"); the rents will be subject to a special exception. If a "LIHTC" development is located outside a qualified census tract, the rent may be as high as the rent charged for comparable units in the development with tax credit subsidies but without additional rental assistance. That is, if the rent for a "LIHTC" project is higher than the maximum voucher payment standard, the rent allowed for project basing the units may be above the payment standard and up to the amount charged in the other "LIHTC" financed units.

A rent increase during the term of the contract has to be approved by the Housing Authority. The family share of the rent for the project-based vouchers remains at 30% of the adjusted income for rent (subject to the same exceptions in the tenant-based voucher program).

Annual Recertification/Reexamination

Families are required to be recertified at least annually. Income limits are not used as a test for continued eligibility at recertification.

Reexamination Notice to the Family
The Housing Authority will maintain a reexamination tracking system and the household will be notified by mail of the date and time for their interview. If requested as an accommodation by a person with a disability, the Housing Authority will provide the notice in an accessible format. The Housing Authority 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.

The Housing Authority's procedure for conducting annual recertifications will be:

- An eligibility package will be mailed to the resident at least 60 days prior to the recertification month. This package will include all required eligibility forms for the family to review, sign and return within a specific time frame. In addition, the package will provide a list of necessary third party verification(s) needed for continued assistance. If the package is not returned, is incomplete, or the family requests assistance, a follow-up letter, a telephone interview or an office interview will be scheduled.

- Under extreme circumstances, with the approval of the Leasing Manager, on-site interviews will be considered.

- The package may contain the date for HQS inspection.

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

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

Collection of Information
The Housing Authority has established appropriate recertification procedures necessary to ensure that the income data provided by families is complete and accurate.

The family will be responsible to complete the recertification form.

The Leasing Specialist will review the returned eligibility package provided by the family and enter the information into the database from the recertification package. In addition, all third party verifications will be reviewed and verified. The family is required to complete a "Personal Declaration Form".

Requirements
All adult household members will be required to complete the recertification package.

Failure to Respond to Notification to Recertify
If the family fails to return the recertification package or fails to provide required information, a follow-up letter or a documented telephone call will be conducted.

After two attempts in contacting the family and all efforts have been exhausted, the eligibility worker will send the family a notice of termination and offer them an informal hearing.

Exceptions to these policies may be made by the Leasing Manager if the family is able to document an emergency situation that prevented them from providing verification or if requested as a reasonable accommodation for a person with a disability.

Documents Required From the Family
In the notification letter to the family, the Housing Authority will include instructions for the family to provide the following:

1. Documentation of income or no income for all family members
2. Documentation of all assets
3. Documentation of any deductions/allowances
4. Documentation to support claims
5. Personal Declaration Form completed by head of household
6. Birth certificate, picture I.D. and social security cards
7. Three (3) current months rent receipts

Verification of Information
The Housing Authority will follow the verification procedures and guidelines described in this plan. Verifications for reexaminations must be less than 120 days old.

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

If less than thirty days are remaining before the scheduled effective date of the annual recertification, the tenant rent increase will be effective on the first of the month following the thirty-day notice.

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there will be a retroactive increase in rent to the scheduled effective date of the annual recertification.

Tenant Rent Decreases
If tenant rent decreases, it will be effective on the anniversary date. If the family causes a delay so that the processing of the reexamination is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the reexamination processing.

Reporting Interim Changes

Program participants must report all changes in household composition within 30 days of the change. This includes additions due to birth, adoption and court-awarded custody. The family must obtain approval from the landlord and the Housing Authority prior to all other additions to the household.

If any new family member is added, family income must include any income of the new family member. The Housing Authority will conduct a reexamination to determine such additional income and will make the appropriate adjustments in the housing assistance payment and family unit size.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular recertification after moving into the unit.

Interim Reexamination Policy

The Housing Authority will not conduct interim reexaminations when families have an increase in monthly adjusted income of $200 or less, other than when a new member is added to the household, provided the information was provided within 30 days of the change. Participants in the Family Self Sufficiency program are exempt from this rule as increases in income will generate a change in their escrow balance.

Families will be required to report all increases in income/assets within 30 days of the increase.

Decreases in Income

Participants may report a decrease in income and other changes, which would reduce the amount of tenant rent, such as an increase in allowances or deductions. The Housing Authority must calculate the change if a decrease in income is reported.

Decreases in the tenant portion of the rent will be made effective the first day of the month following the month in which the change was reported, if the change was reported in writing on or before the fifteenth (15th) day of the month. If reported after the fifteenth (15th) day of the month, the effective date of the tenant portion of rent will be effective on the first day of the second month after the change was reported.

Housing Authority Errors

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

Housing Quality Standards (HQS) Requirement

Participating project-based units must meet or exceed Housing Quality Standards prior to entering into a HAP contract.

The participating unit must require $999 or less in rehabilitation costs to meet HQS in order to be eligible for participation in the project based existing program.

Once a project-based unit is under a HAP contract, the Housing Authority will inspect 25% of the units within a site/development to determine annual HQS compliance. Any time that significant "fails" are identified, the Housing Authority will inspect all units within that project annually.

Family Choice to Move with Continued Assistance

A family who resides in a project-based unit for at least twelve (12) months may move with continued assistance with a tenant based Housing Choice Voucher or its equivalent. This only applies to project based vouchers that are under lease after January 16, 2001.

If the family wishes to move, but no voucher is available at that time, the family will be given the next available voucher, ahead of other families on the waiting list. Targeted vouchers (i.e., Family Unification Program) cannot be used for this purpose.

Families that reside in a unit with “PBV” assistance for at least twelve (12) months can exercise the portability feature within the guidelines for administration of the tenant based Housing Choice Voucher Administrative Plan.

Chapter 23

FAMILY SELF-SUFFICIENCY

[24 CFR 984.103,984.304,984.305]

INTRODUCTION

THe purpose of the Family Self-Sufficiency (FSS) program is to promote the development of local strategies to coordinate the use of the Housing Choice Voucher and Public Housing programs with public and private resources to enable families to achieve economic independence and self-sufficiency.

A. HISTORICAL PROGRAM REQUIREMENTS [24 CFR 984.105]

Beginning in Fiscal Year (FY) 1993, all Housing Authorities receiving new increments of Section 8 certificates and vouchers or funds for new public housing rental units had to implement an FSS program unless granted an exception by HUD. For the Public Housing and Housing Choice Voucher programs, the minimum FSS program size that must be established and operated is cumulative and is based on the number of new units funded in FY 1993 and subsequent years plus the number of any FY 1991 and 1992 FSS Incentive Award Units.

B. ACTION PLAN [24CFR 984.201]

The HA has a HUD-approved Action Plan that complies with the requirements of this plan. The Action Plan describes the policies and procedures of the PHA for operation of a local FSS program. The Action Plan was developed by the PHA in consultation with the Executive Director and the Program Coordinating Committee for the FSS program. Following HUD's initial approval of the Action Plan, no further approval of the Action Plan is required unless the PHA proposes to make policy changes or increase the size of the mandatory FSS programs.

PROGRAM COORDINATING COMMITTEE[24 CFR 984.202]

The HA must establish a Program Coordinating Committee (PCC) whose functions are to assist the HA in securing commitments of public and private resources for the operation of the FSS program within the HA's jurisdiction, including assisting with the Action Plan. Memberships for the PCC are defined in the Action Plan.

C. FAMILY SELECTION PROCEDURES [24 CFR 984.203]

Any family receiving housing assistance through the Public Housing or the Housing Choice Voucher Program may volunteer for FSS without consideration of race, color, religion, sex, disability, familial status or national origin. A family may participate in the FSS program only once.

E. SUPPORTIVE SERVICES [24 CFR 984.204]

The HA may, subject to the approval of HUD, make available common areas in public housing to provide supportive services under the FSS program

F. CONTRACT OF PARTICIPATION [24 CFR 984.303]

Families selected to participate in the FSS program must enter into a contract of participation with the HA. The contract must be signed by the head of the family. The contract includes the terms and conditions of the FSS program, including the responsibilities of the family and the HA. The contract term is five years; but the family may request an extension for up to two years. This request must be in writing and should include a description of the need for the extension. The extension may be granted by the HA provided there is good cause.

The contract is accompanied by the Individual Training and Services Plan (ITSP), which outlines specific interim and final goals and deadlines established by the family and approved by the HA which measures the family's progress toward fulfilling its obligations under the contract of participation. The HA must establish a specific goal for families receiving welfare assistance to become free of such assistance and remain free at least one year before the expiration of the term

of the contract. The head of the family is required to seek and maintain suitable employment during the term of the contract. The family and the HA may mutually agree to modify the contract with respect to the individual training and services plan, the contract term, and designation of the head of the family.

The contract is considered complete and the family is considered a successful graduate from the program if the family has fulfilled all obligations on or before the expiration of the contract term, or 30 percent of the monthly adjusted income of the FSS family equals or exceeds the existing housing fair market rent for the size of the unit for which the family qualifies.

The contract will be automatically terminated if the family's Housing Choice Voucher or public housing assistance is terminated. The contract may be terminated if the family and HA consent to do so, the family fails to meet their obligations under the contract, the family withdraws from the FSS program, such other act as is deemed inconsistent with the purpose of the FSS program, or operation of the law.

G. ESCROW ACCOUNT

The HA will deposit FSS account funds for participating families, in a single account, according to increases in earned income resulting in an increase in the family's share of rent. The HA must make a report, at least annually, to the family on the status of the account. The HA will perform an escrow calculation on the HUD Escrow Calculation worksheet at each annual reexamination or interim examination to determine if the family is entitled to an escrow deposit.

The HA will not make any additional payments to the FSS escrow account when the family has completed the contract or when the contract is terminated.

H. ESCROW DISBURSEMENT

When the family successfully completes their contract, the head of the family shall be paid the amount in the FSS account. The family must submit a certification to the HA that no member of the FSS family is a recipient of welfare assistance. The HA will conduct a 3rd party verification to confirm that the family is free of welfare assistance.

If the HA determines that the family has fulfilled certain interim goals and needs some additional funds for purposes of completion of higher education, job training, improve credit, or to meet start up expenses involved in creation of a small business, the HA may permit the family to use some of the funds from the escrow account. The family must provide receipts to the HA to confirm payment.

The escrow account will be forfeited if the contract is terminated or the contract is completed but the family is receiving welfare assistance at the time the contract expires.

I. PORTABILITY REQUIREMENTS

An FSS family must lease an assisted unit for a minimum period of 12 months after the effective date of the contract in the jurisdiction that is selected by the family for the FSS program. After the first 12 months, the family may move outside the initial HA jurisdiction.

A relocating family may continue in the FSS program of the initial HA if the family demonstrates they are able to fulfill the contract requirements. If the receiving HA accepts the FSS family into

their jurisdiction, the receiving HA will enter into a new contract with the family for the term on the remaining contract with the initial HA.

If the FSS family remains in the FSS program of the initial HA or enrolled in the FSS program of the receiving HA, the FSS account will be maintained by the initial HA. If the family is absorbed by the receiving HA, the initial HA will transfer the family's FSS account to the receiving HA.

J. REQUIREMENT TO ATTEND

All ITSP members will be required to attend the scheduled annual and interim appointments. If the ITSP member is unable to attend the appointment, they may request to reschedule the appointment.

If the ITSP member does not appear for the scheduled appointment, and has not rescheduled or made prior arrangements with the Housing Authority**,** the Housing Authority will reschedule a second appointment.

If the ITSP member fails to appear for the second appointment, and has not rescheduled or made prior arrangements, the Housing Authority will send the ITSP member a notice of termination from participating in the FSS program. The head of the family may continue participating in the FSS program unless they are the ITSP member who failed to appear from the above mentioned appointments.

Exceptions to these policies may be made by the Director of Rental Assistance or his/her designee, if the family is able to document an emergency situation that prevented them from canceling or attending the appointment or if requested as a reasonable accommodation for a person with a disability.

K. APPEAL PROCESS

If an applicant is denied admission into the FSS Program, if an FSS family is terminated based on his/her failure to meet the contract obligations, or if the family is denied a contract extension, he/she can appeal the decision in writing within ten (10) business days to request an appeal hearing. An appeal hearing will be scheduled within ten (10) business days after the receipt of the written request.

An employee of the Housing Authority directly or indirectly ~~not~~ involved in the administration of the FSS Program or other public official will conduct the hearing. The person conducting the hearing will not be directly involved in the day to day operation of the Housing Authority's FSS Program. The FSS Coordinator will be available for questions during the appeal hearing. At the hearing, the family will have the opportunity to question the basis for the FSS Coordinator's determination. The family will be notified in writing of the decision of the appeal within ten (10) business days of the appeal hearing.

K. REINSTATEMENT POLICY

Persons who wish to leave the FSS Program may do so at any time. Reinstatement of that person will not be permitted unless an unexpected hardship has occurred. Exceptions will be reviewed by the Director of Rental Assistance or a Supervisor.

Persons who are terminated for non-compliance will not be permitted to come back onto the FSS program.

GLOSSARY

ACRONYMS USED IN SUBSIDIZED HOUSING

AAF Annual Adjustment Factor. A factor published by HUD in the Federal Register which is used to compute annual rent adjustment.

ACC Annual Contributions Contract

BR Bedroom

CFR Code of Federal Regulations. Commonly referred to as "the regulations." The CFR is the compilation of Federal rules which are first published in the Federal Register and define and implement a statute.

CPI Consumer Price Index. The CPI is published monthly by the Department of Labor as an inflation indicator.

ELI Extremely Low Income

EIV Enterprise Income Verification System

FDIC Federal Deposit Insurance Corporation

FHA Federal Housing Administration

FICA Federal Insurance Contributions Act - Social Security taxes

FmHA Farmers Home Administration

FMR Fair Market Rent

FY Fiscal Year

FYE Fiscal Year End

GAO Government Accounting Office

GFC Gross Family Contribution. This term has been replaced by the term Total Tenant Payment (TTP).

GR Gross Rent

HAP Housing Assistance Payment

HCDA Housing and Community Development Act

HACSJ	Housing Authority of the County of San Joaquin
HOP	Homeownership Option Program
HQS	Housing Quality Standards
HUD	The Department of Housing and Urban Development or its designee.
HURRA	Housing and Urban/Rural Recovery Act of 1983; resulted in most of the 1984 HUD regulation changes to definition of income, allowances, rent calculations
OIG	Office of the Inspector General
IPA	Independent Public Accountant
IRA	Individual Retirement Account
MSA	Metropolitan Statistical Area established by the U.S. Census Bureau
PBA	Project Based Assistance
PHA	Public Housing Agency
PMSA	A Primary Metropolitan Statistical Area established by the U.S. Census Bureau
PS	Payment Standard
QC	Quality Control
RFLA	Request for Lease Approval
RFP	Request for Proposals
RRP	Rental Rehabilitation Program
SRO	Single Room Occupancy
TR	Tenant Rent
TTP	Total Tenant Payment
UA	Utility Allowance
URP	Utility Reimbursement Payment
VAWA	Violence Against Women Act

GLOSSARY OF TERMS IN SUBSIDIZED HOUSING

1937 ACT
The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.)

ADMINISTRATIVE PLAN
The HUD required written policy of the Housing Authority governing its administration of the Housing Choice Voucher tenant-based programs. The Administrative Plan and any revisions must be approved by the Housing Authority's board and a copy submitted to HUD as a supporting document to the Housing Authority Agency Plan.

ABSORPTION
In portability, the point at which a receiving Housing Authority stops billing the initial Housing Authority for assistance on behalf of a portability family. The receiving Housing Authority uses funds available under the receiving Housing Authority's consolidated ACC.

ACC RESERVE ACCOUNT (FORMERLY "PROJECT RESERVE")
Account established by HUD from amounts by which the maximum payment to the Housing Authority under the consolidated ACC (during a Housing Authority fiscal year) exceeds the amount actually approved and paid. This account is used as the source of additional payments for the program.

ADA
Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)

ADJUSTED INCOME
Annual income, less allowable HUD deductions.

ADMINISTRATIVE FEE
Fee paid by HUD to the Housing Authority for administration of the program.

ADMINISTRATIVE FEE RESERVE (Formerly "Operating reserve")
Account established by Housing Authority from excess administrative fee income. The administrative fee reserve must be used for housing purposes.

ADMISSION
The effective date of the first HAP contract for a family (first day of initial lease term). This is the point when the family becomes a participant in the program.

ADULT
Any person age 18 or over.

ANNUAL BUDGET AUTHORITY
The maximum annual payment by HUD to a Housing Authority for a funding increment.

ANNUAL CONTRIBUTIONS CONTRACT (ACC)
A written contract between HUD and a Housing Authority. Under the contract, HUD agrees to provide funding for operation of the program, and the Housing Authority agrees to comply with HUD requirements for the program.

ANNUAL INCOME
The anticipated total annual income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

APPLICANT (or applicant family)
A family that has applied for admission to a program, but is not yet a participant in the program.

"AS-PAID" STATES
States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

ASSETS
(See Net Family Assets.)

ASSISTED TENANT
A tenant who pays less than the market rent as defined in the regulations. Includes tenants receiving rent supplements, Rental Assistance Payments, or HCVP assistance and all other 236 and 221 (d)(3) BMIR tenants, except those paying the 236 market rent or 120% of the BMIR rent, respectively.

BUDGET AUTHORITY
An amount authorized and appropriated by Congress for payment to Housing Authority's under the program. For each funding increment in a Housing Authority program, budget authority is the maximum amount that may be paid by HUD to the Housing Authority over the ACC term of the funding increment.

CHILD CARE EXPENSES
Amounts paid by the family for the care of minors under 13 years of age where such care is necessary to enable a family member to be employed or for a household member to further his/her education.

CO-HEAD
An individual in the household who is equally responsible for the lease with the head of household. A family never has a co-head and a spouse and a co-head is never a dependent.

COMMON SPACE
In shared housing: space available for use by the assisted family and other occupants of the unit.

CONSOLIDATED ANNUAL CONTRIBUTIONS CONTRACT
(Consolidated ACC) See 24 CFR 982.151.

CONTIGUOUS MSA
In portability, an MSA that shares a common boundary with the MSA in which the jurisdiction of the initial Housing Authority is located.

CONTINUOUSLY ASSISTED
An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the certificate or voucher program.

CONTRACT
(See Housing Assistance Payments Contract.)

COVERED FAMILIES
Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

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

DISABILITY ASSISTANCE EXPENSE
Anticipated costs for care attendants and auxiliary apparatus for disabled family members which enable a family member (including the disabled family member) to work..

DISABLED PERSON
A person who is any of the following:

A person who has a disability as defined in section 223 of the Social Security Act. (42 U.S.C.423).

A person who has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently; and is of such a nature that ability to live independently could be improved by more suitable housing conditions.

A person who has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7)).

DISABLED FAMILY
A family where the head or spouse meet any of the above criteria for disabled person.

DISPLACED PERSON/FAMILY
A person or family displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized under Federal disaster relief laws.

DOMICILE
The legal residence of the household head or spouse as determined in accordance with State and local law.

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

DRUG TRAFFICKING
The illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute or use, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

ELDERLY HOUSEHOLD
A family whose head or spouse or whose sole member is at least 62 years of age; may include two or more elderly persons living together or one or more such persons living with another person who is determined to be essential to his/her care and well being.

ELDERLY PERSON
A person who is at least 62 years old.

ELIGIBILITY INCOME
On May 10, 1984, regulations deleted eligibility income because "annual income" is now used for eligibility determination to compare to income limits.

ELIGIBLE FAMILY
A family is defined by the Housing Authority in this Administrative Plan, which is approved by HUD.

EMANCIPATED MINOR
A person under the age of 18 who qualify as an adult under state law.

EXCEPTION RENT
In the pre-merger certificate program, an initial rent (contract rent plus any utility allowance) in excess of the published FMR (see Area Exception rent).

EXCESS MEDICAL EXPENSES
Any medical expenses incurred by elderly or disabled families only in excess of three percent (3%) of annual income which are not reimbursable from any other source.

EXTREMELY LOW-INCOME FAMILY
A family whose annual income does not exceed 30% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.

FAIR MARKET RENT (FMR)
The rent including the cost of utilities (except telephone) that would be required to be paid in the housing market area to obtain privately owned existing decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. Fair market rents for existing housing are established by HUD for housing units of varying sizes (number of bedrooms) and are published in the *Federal Register.*

FAMILY
Family includes but is not limited to: an elderly family or single person as defined in 24 CFR

5.403(b), the remaining member of a tenant family, and a displaced person.

FAMILY OF VETERAN OR SERVICE PERSON
A family is a "family of veteran or service person" when: the veteran or service person (a) is either the head of household or is related to the head of the household; or (b) is deceased and was related to the head of the household, and was a family member at the time of death. The veteran or service person, unless deceased, is living with the family or is only temporarily absent unless they were (a) formerly the head of the household and is permanently absent because of hospitalization, separation, or desertion, or is divorced; provided, the family contains one or more persons for whose support they are legally responsible and the spouse has not remarried; or (b) not the head of the household but is permanently hospitalized; provided, that they are a family member at the time of hospitalization and there remain in the family at least two related persons.

FAMILY SELF-SUFFICIENCY PROGRAM (FSS PROGRAM)
The program established by the Housing Authority to promote self-sufficiency of assisted families, including the provision of supportive services.

FAMILY SHARE
The amount calculated by subtracting the housing assistance payment from the gross rent.

FAMILY UNIT SIZE
The size of the voucher issued to the family based on the Housing Authority's subsidy standards.

FMR/EXCEPTION RENT LIMIT
The fair market rent published by HUD headquarters. In the voucher program the Housing Authority may adopt a payment standard up to one hundred ten percent (110%) of the FMR.

FOSTER CHILD CARE PAYMENT
Payment to eligible households by State, local, or private agencies appointed by the State, to administer payments for the care of foster children.

FULL-TIME STUDENT
A person who is attending school or vocational training on a full-time basis.

FUNDING INCREMENT
Each commitment of budget authority by HUD to a Housing Authority under the consolidated annual contributions contract for the Housing Authority programs.

GROSS FAMILY CONTRIBUTION
Changed to "Total Tenant Payment".

GROSS RENT
The sum of the rent to owner and the utility allowance. If there is no utility allowance, rent to owner equals gross rent.

HAP CONTRACT
(See **"**Housing Assistance Payments Contract")

HEAD OF HOUSEHOLD
The head of household is the person who assumes legal and financial responsibility for the

household and is listed on the application as head.

HOUSING AGENCY
A state, country, municipality or other governmental entity or public body authorized to administer the program. The term “Housing Authority” includes an Indian Housing Authority (IHA).

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974
Act in which the U.S. Housing Act of 1937 (sometimes referred to as the Act) was recodified, and which added the Section 8 Programs.

HOUSING ASSISTANCE PAYMENT
The monthly assistance payment by a Housing Authority. The total assistance payment consists of: a payment to the owner for rent to owner under the family's lease. An additional payment to the family if the total assistance payment exceeds the rent to owner. The additional payment is called a “utility reimbursement” payment.

HOUSING ASSISTANCE PAYMENTS CONTRACT
(HAP contract). A written contract between a Housing Authority and an owner in the form prescribed by HUD headquarters, in which the Housing Authority agrees to make housing assistance payments to the owner on behalf of an eligible family.

HOUSING AUTHORITY ADMINISTRATIVE AND AGENCY PLAN
The annual Administrative Plan and the 5-year Agency Plan as adopted by the Housing Authority and approved by HUD in accordance with part 903 of this chapter.

HOUSING QUALITY STANDARDS (HQS)
The HUD minimum quality standards for housing assisted under the tenant-based programs.

HUD REQUIREMENTS
HUD requirements are issued by HUD headquarters as regulations, Federal Register notices or other binding program directives for all tenant-based housing.

IMPUTED ASSET
Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

IMPUTED INCOME
HUD passbook rate times the total cash value of assets. This calculation is used when assets exceed $5,000.

INITIAL HOUSING AUTHORITY
In portability, the term refers to both: A Housing Authority that originally selected a family that later decides to move out of the jurisdiction of the selecting Housing Authority; and a Housing Authority that absorbed a family that later decides to move out of the jurisdiction of the absorbing Housing Authority.

INITIAL PAYMENT STANDARD
The payment standard at the beginning of the HAP contract term.

INITIAL RENT TO OWNER
The rent to owner at the beginning of the HAP contract term.

INCOME
Income from all sources of each member of the household as determined in accordance with criteria established by HUD.

INCOME FOR ELIGIBILITY
Gross annual income.

INDIAN
Any person recognized as an Indian or Alaska Native by an Indian Tribe, the federal government, or any State.

INDIAN HOUSING AUTHORITY (IHA)
A housing agency established either: by exercise of the power of self-government of an Indian Tribe, independent of State law, or by operation of State law providing specifically for housing authorities for Indians.

INTEREST REDUCTION SUBSIDIES
The monthly payments or discounts made by HUD to reduce the debt service payments and, hence, rents required on Section 236 and 221 (d)(3) BMIR projects. Includes monthly interest reduction payments made to mortgagees of Section 236 projects and front-end loan discounts paid on BMIR projects.

JURISDICTION
The area in which the Housing Authority has authority under State and local law to administer the program.

LANDLORD
This term means either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

LEASE
A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the Housing Authority.

LEASE ADDENDUM
See Tenancy Addendum

LIVE-IN AIDE
A person who resides with an elderly person or disabled person and who is determined to be essential to the care and well-being of the person and is not obligated for the support of the person. They would not be living in the unit except to provide necessary supportive services.

LOCAL PREFERENCE
A preference used by the Housing Authority to select among applicant families without regard to their federal preference status.

LOW-INCOME FAMILY
A family whose annual income does not exceed eighty percent (80%) of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. For admission to the - voucher program, HUD may establish income limits higher or lower than 80 % of the median income for the area on the basis of its finding that such variations are necessary because of the prevailing levels of construction costs or unusually high or low family incomes.

MANUFACTURED HOME
A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type (see 24 CFR 982.620 and 982.621).

MANUFACTURED HOME SPACE
In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624

MARKET RENT
The rent HUD authorizes the owner of FHA insured/subsidized multi-family housing to collect from families ineligible for assistance. For unsubsidized units in an FHA insured multi-family project in which a portion of the total units receive project-based rental assistance, under the Rental Supplement or Section 202/Section 8 Programs, the Market Rate Rent is that rent approved by HUD and is the Contract Rent. For BMIR units, Market Rent varies by whether the project is a rental or cooperative.

MEDICAL EXPENSES
Those total medical expenses, including medical insurance premiums that are anticipated during the period for which annual income is computed, and that are not covered by insurance. A deduction for elderly households only. These allowances are given when calculating adjusted income for medical expenses in excess of three percent (3%) of annual income.

MINOR
A member of the family household (excluding foster children) other than the family head or spouse who is under 18 years of age.

MIXED FAMILY
A family with citizens and eligible immigration status and without citizens and eligible immigration status as defined in 24 CFR 5.504(b)(3).

MONTHLY ADJUSTED INCOME
1/12 of the Annual Income after Allowances or Adjusted Income.

MONTHLY INCOME
1/12 of the Annual Income.

NATIONAL
A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

NEGATIVE RENT

Now called Utility Reimbursement. A negative tenant rent results in a Utility Reimbursement Payment (URP).

NET FAMILY ASSETS
Value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles is excluded from the definition.

NET FAMILY CONTRIBUTION
Former name for tenant rent.

NON-CITIZEN
A person who is not a citizen or a national of the United States.

OCCUPANCY STANDARDS [Now referred to as Subsidy Standards]
Standards established by a Housing Authority to determine the appropriate number of bedrooms for families of different sizes and compositions.

OWNER
Any persons or entity having the legal right to lease or sublease a unit to a participant.

PARTICIPANT
A family that has been admitted to the Housing Authority's voucher program. The family becomes a participant on the effective date of the first HAP contract executed by the Housing Authority for the family (first day of initial lease term).

PAYMENT STANDARD
The maximum subsidy payment for a family (before deducting the family contribution). The Housing Authority sets a payment standard in the range from 90 to 110 percent of the current FMR/exception rent limit.

PERSONS WITH DISABILITIES
Individuals with any condition or characteristic that renders a person an individual with a handicap as defined in 24 CFR 8.2.

PORTABILITY
Renting a dwelling unit with Housing Choice Voucher tenant-based assistance outside the jurisdiction of the initial Housing Authority.

PREMISES
The building or complex in which the dwelling unit is located, including common areas and grounds.

PRIVATE SPACE
In shared housing , the portion of a contract unit that is for the exclusive use of an assisted family.

PROGRAM
The Housing Choice Voucher tenant-based assistance program under 24 CFR Part 982.

PROGRAM RECEIPTS

HUD payments to the Housing Authority under the consolidated ACC, and any other amounts received by the Housing Authority in connection with the program.

PUBLIC ASSISTANCE
Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, State, or local governments.

PUBLIC HOUSING AGENCY (PHA)
Any state, county, municipality or other governmental entity or public body which is authorized to administer the program (or an agency or instrumentality of such an entity), or any of the following:

- A consortia of housing agencies, each of which meets the qualifications in paragraph (1) of this definition, that HUD determines has the capacity and capability to efficiently administer the program (in which case, HUD may enter into a consolidated ACC with any legal entity authorized to act as the legal representative of the consortia members)

- Any other public or private non-profit entity that was administering a Housing Choice Voucher tenant-based assistance program pursuant to a contract with the contract administrator of such program (HUD or a Housing Authority) on October 21, 1998

- For any area outside the jurisdiction of a Housing Authority that is administering a tenant-based program, or where HUD determines that such Housing Authority is not administering the program effectively, a private non-profit entity or a governmental entity or public body that would otherwise lack jurisdiction to administer the program in such area

REASONABLE RENT
A rent to owner that is not more than rent charged for comparable units in the private unassisted market, and not more than the rent charged for comparable unassisted units in the premises.

RECEIVING HOUSING AUTHORITY
In portability, a Housing Authority that receives a family selected for participation in the tenant-based program of another Housing Authority. The receiving Housing Authority issues a voucher and provides program assistance to the family.

RECERTIFICATION
Also referred to as reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported. There are annual and interim re-certifications.

REMAINING MEMBER OF TENANT FAMILY
Person left in assisted housing after other family members have left and become unassisted.

RENT TO OWNER
The total monthly rent payable to the owner under the lease for the unit. Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

RESIDENCY PREFERENCE
A Housing Authority preference for admission of families that reside anywhere in a specified

area, including families with a member who works or has been hired to work in the area ("residency preference area").

RESIDENCY PREFERENCE AREA
The specified area where families must reside to qualify for a residency preference.

RESPONSIBLE ENTITY
For the public housing and Housing Choice Voucher assistance, project-based voucher assistance and moderate rehabilitation program, the responsible entity means the Housing Authority administering the program under an ACC with HUD. For all other Housing Choice Voucher programs, the responsible entity means the Housing Choice Voucher owner.

SECRETARY
The Secretary of Housing and Urban Development.

SECURITY DEPOSIT
A dollar amount which can be applied to unpaid rent, damages or other amounts to the owner under the lease.

SERVICE PERSON
A person in the active military or naval service (including the active reserve) of the United States.

SINGLE PERSON
A person living alone or intending to live alone.

SPECIAL ADMISSION
Admission of an applicant that is not on the Housing Authority waiting list or without considering the applicant's waiting list position.

SPECIAL HOUSING TYPES
See Subpart M of 24 CFR 982, which states the special regulatory requirements for SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

SPORADIC INCOME
Income that is temporary, occasional, and nonrecurring including gifts are excluded from annual income.

SPOUSE
The husband or wife of the head of the household.

SUBSIDIZED PROJECT
A multi-family housing project (with the exception of a project owned by a cooperative housing mortgage corporation or association) which receives the benefit of subsidy in the form of:

- Below-market interest rates pursuant to Section 221(d)(3) and (5) or interest reduction payments pursuant to Section 236 of the National Housing Act; or

- Rent supplement payments under Section 101 of the Housing and Urban Development Act of 1965; or

- Direct loans pursuant to Section 202 of the Housing Act of 1959; or

- Payments under the Section 23 Housing Assistance Payments Program pursuant to Section 23 of the United States Housing Act of 1937 prior to amendment by the Housing and Community Development Act of 1974;

- Payments under the Housing Choice Voucher Housing Assistance Payments Program pursuant to Section 8 of the United States Housing Act after amendment by the Housing and Community Development Act unless the project is owned by a Public Housing Agency;

- A Public Housing Project.

SUBSIDY STANDARDS.
Standards established by a Housing Authority to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

SUBSTANDARD UNIT
Substandard housing is defined by HUD for use as a federal preference.

SUSPENSION/TOLLING
Stopping the clock on the term of a family's voucher, for such period as determined by the Housing Authority, from the time when the family submits a request for Housing Authority approval to lease a unit, until the time when the Housing Authority approves or denies the request. If the Housing Authority decides to allow extensions or suspensions of the voucher term, the Housing Authority Administrative Plan must describe how the Housing Authority determines whether to grant extensions or suspensions, and how the Housing Authority determines the length of any extension or suspension.

TENANCY ADDENDUM
In the lease between the tenant and the owner, the lease language required by HUD.

TENANT
The person or persons (other than a live-in aide) who execute the lease as lessee of the dwelling unit.

TENANT RENT
The amount payable monthly by the family as rent to the unit owner (Housing Choice Voucher owner or Housing Authority in public housing).

TOTAL TENANT PAYMENT (TTP)
The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

UNIT
Residential space for the private use of a family.

UNUSUAL EXPENSES
Prior to the change in the 1982 regulations, this was the term applied to the amounts paid by the

family for the care of minors under 13 years of age or for the care of disabled or handicapped family household members, but only where such care was necessary to enable a family member to be gainfully employed.

UTILITIES
Utilities mean water, electricity, gas, other heating, and refrigeration, cooking fuels, trash collection and sewage services. Telephone service is not included as a utility.

UTILITY ALLOWANCE
If the cost of utilities (except telephone) including range and refrigerator, and other housing services for an assisted unit is not included in the Contract Rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a Housing Authority or HUD of a reasonable consumption of such utilities and other services for the unit by an energy conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthy living environment.

UTILITY REIMBURSEMENT PAYMENT
The amount the utility allowance exceeds the total tenant payment for the family occupying the unit.

VACANCY LOSS PAYMENTS
(For contracts effective prior to 10/2/95) When a family vacates its unit in violation of its lease, the owner is eligible for eighty percent (80%) of the Contract Rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the Housing Authority as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

VERY LOW INCOME FAMILY
A lower-income family whose annual income does not exceed fifty percent (50%) of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than fifty percent (50%) of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the Voucher Program.

VETERAN
A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released there from under conditions other than dishonorable.

VIOLENT CRIMINAL ACTIVITY
Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

VOUCHER HOLDER
A family holding a voucher with an unexpired term (search time).

VOUCHER PROGRAM
The Housing Choice Voucher program.

WAITING LIST ADMISSION

An admission from the Housing Authority waiting list.

WAITING LIST
A list of families organized according to HUD regulations and Housing Authority policy that are waiting for subsidy to become available.

WELFARE ASSISTANCE
Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families.

WELFARE RENT
This concept is used ONLY for pre-merger Certificate tenants who receive welfare assistance on an "AS-PAID" basis. It is not used for the Housing Voucher Program.

If the agency does NOT apply a ratable reduction, this is the maximum a public assistance agency COULD give a family for shelter and utilities, NOT the amount the family is receiving at the time the certification or recertification is being processed.

If the agency applies a ratable reduction, welfare rent is a percentage of the maximum the agency could allow.

GLOSSARY OF TERMS USED IN THE NON-CITIZENS RULE

CHILD
A member of the family other than the family head or spouse who is under 18 years of age.

CITIZEN
A citizen or national of the United States.

EVIDENCE
Evidence of citizenship or eligible immigration status means the documents which must be submitted to evidence citizenship or eligible immigration status.

HOUSING AUTHORITY
A Public Housing Agency or an Indian Housing Authority or both.

HEAD OF HOUSEHOLD
The adult member of the family who is the head of the household for purpose of determining income eligibility and rent.

HUD
Department of Housing and Urban Development.

USCIS
U.S. Citizenship and Immigration Services.

MIXED FAMILY
A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status.

NATIONAL
A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

NON-CITIZEN
A person who is not a citizen or a national of the United States.

PUBLIC HOUSING AUTHORITY
A housing authority that operates Public Housing.

RESPONSIBLE ENTITY
The person or entity responsible for administering the restrictions on providing assistance to non-citizens with ineligible immigration status (the Housing Authority).

SECTION 214
Section 214 restricts HUD from making financial assistance available for non-citizens unless they meet one of the categories of eligible immigration status specified in Section 214.

SPOUSE
Spouse refers to the marriage partner, either a husband or wife, who is someone you need to divorce in order to dissolve the relationship. It includes the partner in a common-law marriage. It does not cover boyfriends, girlfriends, significant others, or "co-heads." "Co-head" is a term recognized by some HUD programs, but not by public and Indian housing programs.

TABLE OF CONTENTS

Chapter 1
OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION 1-1

PART I: THE HOUSING AUTHORITY

I.A. OVERVIEW 1-2
I.B. ORGANIZATION AND STRUCTURE OF THE HOUSING AUTHORITY 1-2
I.C. HOUSING AUTHORITY MISSION 1-2
I.D. THE HOUSING AUTHORITY'S COMMITMENT TO ETHICS AND SERVICE 1-2

PART II: THE PUBLIC HOUSING PROGRAM

II.A. OVERVIEW AND HISTORY OF THE PROGRAM 1-4
II.B. PUBLIC HOUSING PROGRAM BASICS 1-4
II.C. PUBLIC HOUSING PARTNERSHIPS 1-5
II.D. APPLICABLE REGULATIONS 1-8

PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES

III.A. OVERVIEW AND PURPOSE OF THE POLICY 1-10
III.B. CONTENTS OF THE POLICY 1-10
III.C. UPDATING AND REVISING THE POLICY 1-11

Chapter 2
FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION 2-1

PART I: NONDISCRIMINATION

I.A. OVERVIEW 2-2
I.B. NONDISCRIMINATION 2-2

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

II.A. OVERVIEW 2-5
II.B. DEFINITION OF REASONABLE ACCOMMODATION 2-5
II.C. REQUEST FOR AN ACCOMMODATION 2-6
II.D. VERIFICATION OF DISABILITY 2-7
II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION 2-8
II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS 2-9
II.G. PHYSICAL ACCESSIBILITY 2-9
II.H. DENIAL OR TERMINATION OF ASSISTANCE 2-10

PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

III.A. OVERVIEW 2-11
III.B. ORAL INTERPRETATION 2-11
III.C. WRITTEN TRANSLATION 2-12
III.D. IMPLEMENTATION PLAN 2-12

EXHIBITS

2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS 2-13

Chapter 3
ELIGIBILITY

INTRODUCTION 3-1

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

I.A. OVERVIEW 3-2
I.B. FAMILY AND HOUSEHOLD 3-2
I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY 3-2
I.D. HEAD OF HOUSEHOLD 3-3
I.E. SPOUSE, COHEAD, AND OTHER ADULT 3-3
I.F. DEPENDENT 3-4
I.G. FULL-TIME STUDENT 3-4
I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY 3-4
I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY 3-5
I.J. GUESTS 3-5
I.K. FOSTER CHILDREN AND FOSTER ADULTS 3-6
I.L. ABSENT FAMILY MEMBERS 3-6
I.M. LIVE-IN AIDE 3-8

PART II: BASIC ELIGIBILITY CRITERIA

II.A. INCOME ELIGIBILITY AND TARGETING 3-10
II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS 3-11
II.C. SOCIAL SECURITY NUMBERS 3-13
II.D. FAMILY CONSENT TO RELEASE OF INFORMATION 3-13

PART III: DENIAL OF ADMISSION

III.A. OVERVIEW 3-14
III.B. REQUIRED DENIAL OF ADMISSION 3-14
III.C. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION 3-15
III.D. SCREENING 3-17
III.E. CRITERIA FOR DECIDING TO DENY ADMISSION 3-21
III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING 3-23
III.G. NOTICE OF ELIGIBILITY OR DENIAL 3-26

EXHIBITS

3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES 3-28

Chapter 4
APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION 4-1

PART I: THE APPLICATION PROCESS

I.A. OVERVIEW 4-2
I.B. APPLYING FOR ASSISTANCE 4-2
I.C. ACCESSIBILITY OF THE APPLICATION PROCESS 4-2
I.D. PLACEMENT ON THE WAITING LIST 4-3

PART II: MANAGING THE WAITING LIST

II.A. OVERVIEW 4-5
II.B. ORGANIZATION OF THE WAITING LIST 4-5
II.C. OPENING AND CLOSING THE WAITING LIST 4-6
II.D. FAMILY OUTREACH 4-7
II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES 4-8
II.F. UPDATING THE WAITING LIST 4-8

PART III: TENANT SELECTION

III.A. OVERVIEW 4-10
III.B. SELECTION METHOD 4-10
III.C. NOTIFICATION OF SELECTION 4-15
III.D. THE APPLICATION INTERVIEW 4-16
III.E. FINAL ELIGIBILITY DETERMINATION 4-17

Chapter 5
OCCUPANCY STANDARDS AND UNIT OFFERS

INTRODUCTION 5-1

PART I: OCCUPANCY STANDARDS

I.A. OVERVIEW 5-2
I.B. DETERMINING UNIT SIZE 5-2
I.C. EXCEPTIONS TO OCCUPANCY STANDARDS 5-3

PART II: UNIT OFFERS

II.A. OVERVIEW 5-5
II.B. NUMBER OF OFFERS 5-5
II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL 5-6
II.D. REFUSALS OF UNIT OFFERS 5-6
II.E. ACCESSIBLE UNITS 5-7
II.F. DESIGNATED HOUSING 5-8

Chapter 6
INCOME AND RENT DETERMINATIONS

INTRODUCTION 6-1

PART I: ANNUAL INCOME

I.A. OVERVIEW 6-2
I.B. HOUSEHOLD COMPOSITION AND INCOME 6-2
I.C. ANTICIPATING ANNUAL INCOME 6-5
I.D. EARNED INCOME 6-7
I.E. EARNED INCOME DISALLOWANCE 6-9
I.F. BUSINESS INCOME 6-11
I.G. ASSETS 6-13
I.H. PERIODIC PAYMENTS 6-19
I.I. PAYMENTS IN LIEU OF EARNINGS 6-20
I.J. WELFARE ASSISTANCE 6-21
I.K. PERIODIC AND DETERMINABLE ALLOWANCES 6-22
I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME 6-23

PART II: ADJUSTED INCOME

II.A. INTRODUCTION 6-26
II.B. DEPENDENT DEDUCTION 6-27
II.C. ELDERLY OR DISABLED FAMILY DEDUCTION 6-27
II.D. MEDICAL EXPENSES DEDUCTION 6-27
II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION 6-28
II.F. CHILD CARE EXPENSE DEDUCTION 6-30
II.G. PERMISSIVE DEDUCTIONS 6-33

PART III: CALCULATING RENT

III.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS 6-34
III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT 6-35
III.C. UTILITY ALLOWANCES 6-38
III.D. PRORATED RENT FOR MIXED FAMILIES 6-39
III.E. FLAT RENTS AND FAMILY CHOICE IN RENTS 6-40

EXHIBITS

6-1: ANNUAL INCOME INCLUSIONS 6-43
6-2: ANNUAL INCOME EXCLUSIONS 6-45
6-3: TREATMENT OF FAMILY ASSETS 6-48
6-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES 6-49
6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION 6-51

Chapter 7
VERIFICATION

INTRODUCTION 7-1

PART I: GENERAL VERIFICATION REQUIREMENTS

I.A. FAMILY CONSENT TO RELEASE OF INFORMATION 7-2
I.B. OVERVIEW OF VERIFICATION REQUIREMENTS 7-2
I.C. UP-FRONT INCOME VERIFICATION (UIV) 7-3
I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION 7-4
I.E. REVIEW OF DOCUMENTS 7-6
I.F. SELF-CERTIFICATION 7-6

PART II: VERIFYING FAMILY INFORMATION

II.A. VERIFICATION OF LEGAL IDENTITY 7-7
II.B. SOCIAL SECURITY NUMBERS 7-7
II.C. DOCUMENTATION OF AGE 7-8
II.D. FAMILY RELATIONSHIPS 7-9
II.E. VERIFICATION OF STUDENT STATUS 7-10
II.F. DOCUMENTATION OF DISABILITY 7-10
II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS 7-11
II.H. VERIFICATION OF PREFERENCE STATUS 7-12

PART III: VERIFYING INCOME AND ASSETS

III.A. EARNED INCOME 7-14
III.B. BUSINESS AND SELF EMPLOYMENT INCOME 7-14
III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS 7-15
III.D. ALIMONY OR CHILD SUPPORT 7-15
III.E. ASSETS AND INCOME FROM ASSETS 7-16
III.F. NET INCOME FROM RENTAL PROPERTY 7-16
III.G. RETIREMENT ACCOUNTS 7-17
III.H. INCOME FROM EXCLUDED SOURCES 7-17
III.I. ZERO ANNUAL INCOME STATUS 7-18

PART IV: VERIFYING MANDATORY DEDUCTIONS

IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS 7-19
IV.B. MEDICAL EXPENSE DEDUCTION 7-19
IV.C. DISABILITY ASSISTANCE EXPENSES 7-20
IV.D. CHILD CARE EXPENSES 7-22

EXHIBITS

7-1: Excerpt from HUD Verification Guidance Notice 7-25
7-2: Summary of Documentation Requirements for Non-citizens 7-29

Chapter 8
LEASING AND INSPECTIONS

INTRODUCTION 8-1

PART I: LEASING

I.A. OVERVIEW 8-2
I.B. LEASE ORIENTATION 8-2
I.C. EXECUTION OF LEASE 8-3
I.D. MODIFICATIONS TO THE LEASE 8-3
I.E. SECURITY DEPOSITS 8-4
I.F. PAYMENTS UNDER THE LEASE 8-5

PART II: INSPECTIONS

II.A. OVERVIEW 8-9
II.B. TYPES OF INSPECTIONS 8-9
II.C. NOTICE AND SCHEDULING OF INSPECTIONS 8-10
II.D. INSPECTION RESULTS 8-11

Chapter 9
REEXAMINATIONS

INTRODUCTION 9-1

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS

I.A. OVERVIEW 9-2
I.B. SCHEDULING ANNUAL REEXAMINATIONS 9-2
I.C. CONDUCTING ANNUAL REEXAMINATIONS 9-3
I.D. EFFECTIVE DATES 9-4

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS

II.A. OVERVIEW 9-6
II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION 9-6
II.C. REEXAMINATION OF FAMILY COMPOSITION ("ANNUAL UPDATE") 9-6

PART III: INTERIM REEXAMINATIONS

III.A. OVERVIEW 9-9
III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION 9-9
III.C. CHANGES AFFECTING INCOME OR EXPENSES 9-11
III.D. PROCESSING THE INTERIM REEXAMINATION 9-13

PART IV: RECALCULATING TENANT RENT

IV.A. OVERVIEW 9-14
IV.B. CHANGES IN UTILITY ALLOWANCES 9-14
IV.C. NOTIFICATION OF NEW TENANT RENT 9-14
IV.D. DISCREPANCIES 9-14

Chapter 10
PETS

INTRODUCTION 10-1

PART I: ASSISTANCE ANIMALS

I.A. OVERVIEW 10-2
I.B. APPROVAL OF ASSISTANCE ANIMALS 10-2
I.C. CARE AND HANDLING 10-3

PART II: PET POLICIES FOR ALL DEVELOPMENTS

II.A. OVERVIEW 10-4
II.B. MANAGEMENT APPROVAL OF PETS 10-4
II.C. STANDARDS FOR PETS 10-5
II.D. PET RULES 10-7

PART III: PET DEPOSITS AND FEES IN ELDERLY/DISABLED DEVELOPMENTS

III.A. OVERVIEW 10-11
III.B. PET DEPOSITS 10-11
III.C. OTHER CHARGES 10-12

PART IV: PET DEPOSITS AND FEES IN GENERAL OCCUPANCY DEVELOPMENTS

IV.A. OVERVIEW 10-13
IV.B. PET DEPOSITS 10-13
IV.C. NON-REFUNDABLE NOMINAL PET FEE 10-13
IV.D. OTHER CHARGES 10-14

Chapter 11
COMMUNITY SERVICE

INTRODUCTION 11-1

PART I: COMMUNITY SERVICE REQUIREMENT

I.A. OVERVIEW 11-2
I.B. REQUIREMENTS 11-2
I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE 11-5
I.D. DOCUMENTATION AND VERIFICATION 11-7
I.E. NONCOMPLIANCE 11-8

PART II: IMPLEMENTATION OF COMMUNITY SERVICE

II.A. OVERVIEW 11-11

EXHIBITS

11-1: COMMUNITY SERVICE AND SELF-SUFFICIENCY POLICY 11-12
11-2: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(l) and Section 1416(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE 11-16
11-3: HOUSING AUTHORITY DETERMINATION OF EXEMPTION FOR COMMUNITY SERVICE 11-17

Chapter 12
TRANSFER POLICY

INTRODUCTION 12-1

PART I: EMERGENCY TRANSFERS

I.A. OVERVIEW 12-2
I.B. EMERGENCY TRANSFERS 12-2
I.C. EMERGENCY TRANSFER PROCEDURES 12-2

PART II: HOUSING AUTHORITY REQUIRED TRANSFERS

II.A. OVERVIEW 12-3
II.B. TYPES OF HOUSING AUTHORITY REQUIRED TRANSFERS 12-3
II.C. ADVERSE ACTION 12-5

PART III: TRANSFERS REQUESTED BY TENANTS

III.A. OVERVIEW 12-6
III.B. TYPES OF RESIDENT REQUESTED TRANSFERS 12-6
III.C. ELIGIBILITY FOR TRANSFER 12-7
III.D. SECURITY DEPOSITS 12-7
III.E. COST OF TRANSFER 12-7
III.F. HANDLING OF REQUESTS 12-8

PART IV: TRANSFER PROCESSING

IV.A. OVERVIEW 12-9
IV.B. TRANSFER LIST 12-9
IV.C. TRANSFER OFFER POLICY 12-9
IV.D. GOOD CAUSE FOR UNIT REFUSAL 12-10
IV.E. DECONCENTRATION 12-10
IV.F. REEXAMINATION POLICIES FOR TRANSFERS 12-11

Chapter 13
LEASE TERMINATIONS

INTRODUCTION 13-1

PART I: TERMINATION BY TENANT

I.A. TENANT CHOOSES TO TERMINATE THE LEASE 13-3

PART II: TERMINATION BY HOUSING AUTHORITY – MANDATORY

II.A. OVERVIEW 13-4
II.B. FAILURE TO PROVIDE CONSENT 13-4
II.C. FAILURE TO DOCUMENT CITIZENSHIP 13-4
II.D. FAILURE TO PROVIDE SOCIAL SECURITY DOCUMENTATION 13-4
II.E. FAILURE TO ACCEPT THE HOUSING AUTHORITY'S OFFER OF A LEASE REVISION 13-4
II.F. METHAMPHETAMINE CONVICTION 13-5
II.G. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS 13-5

PART III: TERMINATION BY HOUSING AUTHORITY – OTHER AUTHORIZED REASONS

III.A. OVERVIEW 13-6
III.B. MANDATORY LEASE PROVISIONS 13-6
III.C. OTHER AUTHORIZED REASONS FOR TERMINATION 13-11
III.D. ALTERNATIVES TO TERMINATION OF TENANCY 13-13
III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY 13-14

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

IV.A. OVERVIEW 13-17
IV.B. CONDUCTING CRIMINAL RECORDS CHECKS 13-17
IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY 13-17
IV.D. LEASE TERMINATION NOTICE 13-18
IV.E. EVICTION 13-20
IV.F. NOTIFICATION TO POST OFFICE 13-20
IV.G. RECORD KEEPING 13-20

Chapter 14
GRIEVANCES AND APPEALS

INTRODUCTION 14-1

PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

I.A. OVERVIEW 14-2
I.B. INFORMAL HEARING PROCESS 14-2

PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS 14-5

PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

III.A. REQUIREMENTS 14-9
III.B. DEFINITIONS 14-9
III.C. APPLICABILITY 14-10
III.D. INFORMAL SETTLEMENT OF GRIEVANCE 14-11
III.E. PROCEDURES TO OBTAIN A HEARING 14-12
III.F. SELECTION OF HEARING OFFICER/PANEL 14-13
III.G. PROCEDURES GOVERNING THE HEARING 14-13
III.H. DECISION OF THE HEARING OFFICER/PANEL 14-16

Chapter 15
PROGRAM INTEGRITY

INTRODUCTION 15-1

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

I.A. PREVENTING ERRORS AND PROGRAM ABUSE 15-2
I.B. DETECTING ERRORS AND PROGRAM ABUSE 15-3
I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE..... 15-4

PART II: CORRECTIVE MEASURES AND PENALTIES

II.A. UNDER- OR OVERPAYMENT..... 15-6
II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE..... 15-6
II.C. HOUSING AUTHORITY-CAUSED ERRORS OR PROGRAM ABUSE..... 15-8
II.D. CRIMINAL PROSECUTION 15-9
II.E. FRAUD AND PROGRAM ABUSE RECOVERIES..... 15-9

Chapter 16
PROGRAM ADMINISTRATION

INTRODUCTION 16-1

PART I: SETTING UTILITY ALLOWANCES

I.A. OVERVIEW 16-2
I.B UTILITY ALLOWANCES 16-2
I.C. SURCHARGES FOR HOUSING AUTHORITY-FURNISHED UTILITIES 16-3
I.D. NOTICE REQUIREMENTS 16-4
I.E. REASONABLE ACCOMMODATION 16-4

PART II: ESTABLISHING FLAT RENTS AND PUBLIC HOUSING MAXIMUM RENTS

II.A. OVERVIEW 16-5
II.B. FLAT RENTS 16-5
II.C. PUBLIC HOUSING MAXIMUM RENTS 16-6

PART III: FAMILY DEBTS TO THE HOUSING AUTHORITY

III.A. OVERVIEW 16-8
III.B. REPAYMENT POLICY 16-8

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

IV.A. OVERVIEW 16-10
IV.B. PHAS INDICATORS 16-10
IV.C. PHAS SCORING 16-11

PART V: RECORD KEEPING

V.A. OVERVIEW 16-13
V.B. RECORD RETENTION 16-13
V.C. RECORDS MANAGEMENT 16-13

PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

VI.A. REPORTING REQUIREMENTS 16-16

Chapter 17
HOMEOWNERSHIP PROGRAM

17.0 INTRODUCTION……..……..……..……17-1
17.1 PROGRAM SUMMARY……..17-1
17.3 GENERAL PROVISIONS……....17-3
17.4 FAMILY PARTICIPATION REQUIREMENTS…….17-5
17.5 TERMINATION OF SECTION 32 HOMEOWNERSHIP OPTION PROGRAM……..17-9
17.6 CONTINUED PARTICIPATION IN PUBLIC HOUSING PROGRAM……...17-10
17.7 WAIVER OR MODIFICATION OF HOMEOWNERSHIP PROGRAM……..17-11
17.8 STATEMENT TO AFFIRMATIVELY FURTHER FAIR HOUSING IN THE PUBLIC HOUSING FAMILY SELF-SUFFICIENCY PROGRAM

Appendices

Appendix I Acronyms ……...…….I-1

Appendix II Resident Dwelling Lease ……..……II-1

Appendix III House Rules……III-1

Chapter 1
OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

The Housing Authority of the County of San Joaquin (Housing Authority) receives its operating subsidy for the public housing program from the Department of Housing and Urban Development. The Housing Authority is not a federal department or agency. A public housing agency is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. The Housing Authority enters into an Annual Contributions Contract with HUD to administer the public housing program. The Housing Authority must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about the Housing Authority and its programs with Housing Authority on the public housing program. It also contains information about the purpose, intent and use of the plan and guide.

There are three parts to this chapter:

> Part I: The Public Housing Agency (Housing Authority). This part includes a description of the Housing Authority, its jurisdiction, its programs, and its mission and intent.
>
> Part II: The Public Housing Program. This part contains information about public housing operation, roles and responsibilities, and partnerships.
>
> Part III: The Admissions and Continued Occupancy (ACOP). This part discusses the purpose and organization of the plan and its revision requirements.

PART I: THE HOUSING AUTHORITY

1-I.A. OVERVIEW

This part describes the Housing Authority's creation and authorization, the general structure of the organization, and the relationship between the Housing Authority Board and staff.

1-I.B. ORGANIZATION AND STRUCTURE OF THE HOUSING AUTHORITY

Public housing is funded by the federal government and administered by the **Housing Authority of the County of San Joaquin** for the jurisdiction of **San Joaquin County.**

The Housing Authority is governed by a board of officials that are generally called "Commissioners." Although some Housing Authority may use a different title for their officials, this document will hitherto refer to the "Board of Commissioners" or the "Board" when discussing the board of governing officials.

Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation. The Board of Commissioners establishes policies under which the Housing Authority conducts business, and ensures that those policies are followed by Housing Authority staff. The Board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability and success. Chris Harvey [Chris.Harvey@goodwillnne.org]
Formal actions of the Housing Authority are taken through written resolutions, adopted by the board and entered into the official records of the Housing Authority.

The principal staff member of the Housing Authority is the Executive Director (ED), who is selected and hired by the Board. The Executive Director oversees the day to day operations of the Housing Authority and is directly responsible for carrying out the policies established by the commissioners. The Executive Director's duties include hiring, training, and supervising the Housing Authority's staff, as well as budgeting and financial planning for the agency. Additionally, the ED is charged with ensuring compliance with federal and state laws, and program mandates.

1-I.C. HOUSING AUTHORITY MISSION

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides the basis for strategy development, identification of critical success factors, resource allocation decisions, as well as ensuring client and stakeholder satisfaction.

> <u>Housing Authority Mission</u>
> The Housing Authority of the County of San Joaquin is dedicated to providing and advocating for affordable, attractive, safe living environments and opportunities to become self-sufficient for persons hard to house. .

1-I.D. THE HOUSING AUTHORITY'S COMMITMENT TO ETHICS AND SERVICE

As a public service agency, the Housing Authority is committed to providing excellent service to all public housing applicants, residents, and the public. In order to provide superior service, the Housing Authority resolves to:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.

- Provide decent, safe, and sanitary housing in good repair – in compliance with program uniform physical condition standards – for very low- and low-income families.

- Achieve a healthy mix of incomes in its public housing developments by attracting and retaining higher income families and by working toward deconcentration of poverty goals.

- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.

- Promote fair housing and the opportunity for very low- and low-income families of all races, ethnicities, national origins, religions, ethnic backgrounds, and with all types of disabilities, to participate in the public housing program and its services.

- Create positive public awareness and expand the level of family and community support in accomplishing the Housing Authority's mission.

- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.

- Administer an efficient, high-performing agency through continuous improvement of the Housing Authority's support systems and commitment to our employees and their development.

The Housing Authority will make every effort to keep residents informed of program rules and regulations, and to advise participants of how the program rules affect them.

PART II: THE PUBLIC HOUSING PROGRAM

1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM

The intent of this section is to provide the public and staff an overview of the history and operation of public housing.

The United States Housing Act of 1937 (the "Act") is responsible for the birth of federal housing program initiatives, known as public housing. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing for low-income residents. There have been many changes to the program since its inception in 1937.

The Housing Act of 1965 established the availability of federal assistance, administered through local public agencies, to provide rehabilitation grants for home repairs and rehabilitation. This act also created the federal Department of Housing and Urban Development (HUD).
The Housing Act of 1969 created an operating subsidy for the public housing program for the first time. Until that time, public housing was a self-sustaining program.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act or Housing Act of 1998 – was signed into law. Its purpose was to provide more private sector management guidelines to the public housing program and provide residents with greater choices. It also allowed Housing Authority more remedies to replace or revitalize severely distressed public housing developments. Highlights of the Reform Act include: the establishment of flat rents; the requirement for Housing Authority to develop five-year and annual plans; income targeting, a requirement that 40% of all new admissions in public housing during any given fiscal year be reserved for extremely low-income families; and resident self-sufficiency incentives.

1-II.B. PUBLIC HOUSING PROGRAM BASICS

HUD writes and publishes regulations in order to implement public housing laws enacted by Congress. HUD contracts with the Housing Authority to administer programs in accordance with HUD regulations and provides an operating subsidy to the Housing Authority. The Housing Authority must create written policies that are consistent with HUD regulations. Among these policies is the Housing Authority's Admissions and Continued Occupancy Policy (ACOP). The ACOP must be approved by the board of commissioners of the Housing Authority.

The job of the Housing Authority pursuant to HUD regulations is to provide decent, safe, and sanitary housing, in good repair, to low-income families at an affordable rent. The Housing Authority screens applicants for public housing and, if they are found eligible and accepted, the Housing Authority offers the applicant a unit. If the applicant accepts the offer, the Housing Authority will enter into a contract with the applicant known as the lease. At this point, the applicant becomes a tenant of the public housing program.

In the context of the public housing program, a tenant is defined as the adult person(s) (other than a live-in aide who (1) executed the lease with the Housing Authority as lessee of the dwelling unit, or, if no such person now resides in the unit, (2) who resides in the unit, and who

is the remaining head of household of the tenant family residing in the dwelling unit. [24 CFR 966.53]. The Public Housing Occupancy Guidebook refers to tenants as "residents." The terms "tenant" and "resident" are used interchangeably in this policy. Additionally, this policy uses the term "family" or "families" for residents or applicants, depending on context.

Since the Housing Authority owns the public housing development, the Housing Authority is the landlord. The Housing Authority must comply with all of the legal and management responsibilities of a landlord in addition to administering the program in accordance with HUD regulations and Housing Authority policy.

1-II.C. PUBLIC HOUSING PARTNERSHIPS

Relationships between the important parties are defined by federal regulations and by contract. To administer the public housing program, the Housing Authority enters into a contractual relationship with HUD through the ACC. The Housing Authority also enters into a contractual relationship with the tenant through the public housing lease. These contracts outline the roles and responsibilities of each party.

Federal regulations further identify the important roles of the parties involved. For the program to work and be successful, all parties involved – HUD, the Housing Authority, and the tenant – must play their important parts.

What does HUD do?

Federal law is the source of HUD responsibilities. HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement housing legislation passed by Congress
- Allocate operating subsidies to Housing Authority
- Allocate capital funding to Housing Authority
- Provide technical assistance to Housing Authority on interpreting and applying program requirements
- Monitor Housing Authority compliance with program requirements and Housing Authority performance in program administration.

What does the Housing Authority do?

The Housing Authority's responsibilities originate in federal regulations and the ACC. The Housing Authority owns and manages public housing developments, administers the program under contract with HUD and has the following major responsibilities:

- Establish local policies
- Review applications from interested applicant families to determine whether applicants are eligible for the program
- Maintain waiting list and select families for admission
- Maintain housing units by making any necessary repairs in a timely manner
- Screen families who apply for tenancy, to determine if they will be good renters
- Offer units to families (minimize vacancies without overcrowding)
- Maintain properties to the standard of decent, safe, sanitary, and in good repair (including assuring compliance with uniform physical conditions standards)
- Make sure the Housing Authority has adequate financial resources to maintain its housing stock
- Ensure that families continue to qualify under the program
- Collect rent due from the assisted family and comply with and enforce provisions of the lease
- Ensure that families comply with program rules

- Provide families with prompt and professional service

- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the Housing Authority's ACOP, and other applicable federal, state and local laws.

What does the Tenant do?
The tenant's responsibilities are articulated in the public housing lease. The tenant has the following broad responsibilities:

- Comply with the terms of the lease

- Provide the Housing Authority with complete and accurate information, determined by the Housing Authority to be necessary for administration of the program

- Cooperate in attending all appointments scheduled by the Housing Authority

- Allow the Housing Authority to inspect the unit at reasonable times and after reasonable notice

- Take responsibility for care of the housing unit, including any violations of uniform physical condition standards caused by the family

- Not engage in drug-related or violent criminal activity

- Notify the Housing Authority before moving or termination of the lease

- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit or assign the lease

- Promptly notify the Housing Authority of any changes in family composition

- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled in an effective manner.

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 902: Public Housing Assessment System
- 24 CFR Part 903: Public Housing Agency Plans
- 24 CFR Part 945: Designated Housing

- 24 CFR Part 960: Admission and Occupancy Policies
- 24 CFR Part 965: Housing Authority-Owned or Leased Projects – General Provisions
- 24 CFR Part 966: Lease and Grievance Procedures

PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES

1-III.A. OVERVIEW AND PURPOSE OF THE POLICY

The ACOP is the Housing Authority's written statement of policies used to carry out the housing program in accordance with federal law and regulations, and HUD requirements. The ACOP is required by HUD and it must be available for public review [CFR 24 Part 903]. The ACOP also contains policies that support the objectives contained in the Housing Authority's Agency Plan. All issues related to public housing not addressed in this ACOP are governed by federal regulations, HUD handbooks and guidebooks, notices and applicable state and local laws. The policies in this ACOP have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding. The Housing Authority is responsible for complying with all changes in HUD regulations pertaining to public housing. If such changes conflict with this plan, HUD regulations will have precedence.

1-III.B. CONTENTS OF THE POLICY

Unlike the housing choice voucher program, HUD regulations for public housing do not contain a list of what must be included in the ACOP. However, individual regulations contain requirements of inclusion in the Housing Authority's written policy. At a minimum, the ACOP plan should cover Housing Authority policies on these subjects:

- The organization of the waiting list and how families are selected and offered available units, including any Housing Authority admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the Housing Authority waiting list (Chapters 4 and 5)

- Transfer policies and the circumstances under which a transfer would take precedence over an admission (Chapter 12)

- Standards for determining eligibility, suitability for tenancy, and the size and type of the unit needed (Chapters 3 and 5)

- Procedures for verifying the information the family has provided (Chapter 7)

- The method for achieving deconcentration of poverty and income-mixing of public housing developments (Chapter 4)

- Grievance procedures (Chapter 14)

- Policies concerning payment by a family to the Housing Authority of amounts the family owes the Housing Authority (Chapter 15 and 16)

- Interim re-determinations of family income and composition (Chapter 9)

- Policies regarding community service requirements; (Chapter 11)

- Polices and rules about safety and ownership of pets in public housing (Chapter 10).

New Approach to Policy Development

HUD has developed an approach to monitoring policy that emphasizes the importance of consistency. The ACOP supports that goal by clearly defining Housing Authority policy for Housing Authority management and staff.

A primary focus of programs like HUD's Rental Integrity Monitoring (RIM) program has been consistency in how Housing Authorities conduct their business and in how HUD monitors Housing Authority activities. HUD has made it clear that consistency in Housing Authority conduct is important. Referring to and following the ACOP is essential to maintaining consistency in applying Housing Authority policy.

HUD makes a distinction between:

- Mandatory policies: those driven by legislation, regulations, current handbooks, notices, and legal opinions, and

- Optional, non-binding guidance, including guidebooks, notices that have expired and recommendations from individual HUD staff.

HUD expects Housing Authority to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the Housing Authority has adopted. The Housing Authority's Admissions and Continued Occupancy Policy is the document that contains and clarifies Housing Authority policy. HUD's new direction adds additional emphasis to the need for a clearly written and comprehensive ACOP to guide staff in the clear and consistent application of policy.

HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. Therefore, following HUD guidance in the preparation of Housing Authority policy, even though it is not mandatory, provides a Housing Authority with a "safe harbor." If a Housing Authority adopts its own optional policy, it must make its own determination that such policy is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than that suggested by HUD, but Housing Authority should carefully think through those decisions and be able to articulate how their policy is consistent with federal laws, regulations and mandatory policy.

1-III.C. UPDATING AND REVISING THE POLICY

The Housing Authority will revise this ACOP as needed to comply with changes in HUD regulations. The original policy and any changes must be approved by the board of commissioners of the Housing Authority, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

Housing Authority Policy

The Housing Authority will review and update the ACOP at least once a year, and more often if needed, to reflect changes in regulations, Housing Authority operations, or when needed to ensure staff consistency in operation.

Chapter 2
FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the HUD regulations requiring Housing Authority to affirmatively further civil rights and fair housing in all federally-assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes. The responsibility to further nondiscrimination pertains to all areas of the Housing Authority's public housing operations.

This chapter describes HUD regulations and Housing Authority policies related to these topics in three parts:

> Part I: Nondiscrimination. This part presents the body of laws and regulations governing the responsibilities of the Housing Authority regarding nondiscrimination.
>
> Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the public housing program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42.U.S.C.) and Section 504 of the Rehabilitation Act of 1973, and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.
>
> Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of the Housing Authority to ensure meaningful access to the public housing program and its activities by persons with limited English proficiency (LEP). This part incorporates HUD's Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal* Register ("Notice of Guidance").

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require Housing Authority to treat all applicants and tenant families equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. The Housing Authority will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

When more than one civil rights law applies to a situation, the laws will be read and applied together.

Housing Authority Policy
No state or local nondiscrimination laws or ordinances apply.

2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes. State and local requirements, as well as Housing Authority policies, can prohibit discrimination against additional classes of people.

The Housing Authority shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called "protected classes").
Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

Housing Authority Policy
The Housing Authority will not discriminate on the basis of marital status or sexual orientation.

The Housing Authority will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the public housing program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or tenant toward or away from a particular area based on any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class

Providing Information to Families

The Housing Authority must take steps to ensure that families are fully aware of all applicable civil rights laws. As part of the public housing orientation process, the Housing Authority will provide information to public housing applicant families about civil rights requirements during orientation.

Discrimination Complaints

If an applicant or tenant family believes that any family member has been discriminated against by the Housing Authority, the family should advise the Housing Authority. HUD requires the Housing Authority to make every reasonable attempt to determine whether the applicant's or tenant family's assertions have merit and take any warranted corrective action.

<u>Housing Authority Policy</u>

Applicants or tenant families who believe that they have been subject to unlawful discrimination may notify the Housing Authority either orally or in writing.

The Housing Authority will attempt to remedy discrimination complaints made against the Housing Authority.

The Housing Authority will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

The Housing Authority must ensure that persons with disabilities have full access to the Housing Authority's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the public housing program [24 CFR 8].

The Housing Authority must provide a notice to each tenant that the tenant may, at any time during the tenancy, request reasonable accommodation of a handicap of a household member, including reasonable accommodation so that the tenant can meet lease requirements or other requirements of tenancy [24 CFR 966.7(b)].

> Housing Authority Policy
> The Housing Authority will ask all applicants and resident families if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by the Housing Authority, by including the following language:
>
> > "If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the Housing Authority."
>
> A specific name and phone number will be indicated as the contact for requests for accommodation for persons with disabilities.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A "reasonable accommodation" is a change, exception, or adjustment to a rule, policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since rules, policies practices and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act] .

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the Housing Authority, or result in a "fundamental alteration" in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

Types of Reasonable Accommodations
When it is reasonable (see definition Section 2-II.E), the Housing Authority shall accommodate the needs of a person with disabilities. Examples include but are not limited to:

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Permitting a higher utility allowance for the unit if a person with disabilities requires the use of specialized equipment related to the disability
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability
- Installing a ramp into a dwelling or building
- Installing grab bars in a bathroom
- Installing visual fire alarms for hearing impaired persons
- Allowing a Housing Authority-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities, and would not be otherwise living in the unit
- Providing a designated handicapped-accessible parking space
- Allowing an assistance animal
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with Housing Authority staff
- Displaying posters and other housing information in locations throughout the Housing Authority's office in such a manner as to be easily readable from a wheelchair

2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the Housing Authority treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The family must explain what type of accommodation is needed to provide the person with the disability full access to the Housing Authority’s programs and services.

If the need for the accommodation is not readily apparent or known to the Housing Authority, the family must explain the relationship between the requested accommodation and the disability.

Housing Authority Policy
The Housing Authority will encourage the family to make its request in writing using a reasonable accommodation request form. However, the Housing Authority will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

2-II.D. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

Before providing an accommodation, the Housing Authority must determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family's access to the Housing Authority's programs and services.

If a person's disability is obvious or otherwise known to the Housing Authority, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the Housing Authority, the Housing Authority must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, the Housing Authority will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16 (Program Administration). In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

- The Housing Authority must request only information that is necessary to evaluate the

disability-related need for the accommodation. The Housing Authority may not inquire about the nature or extent of any disability.

- Medical records will not be accepted or retained in the participant file.

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

The Housing Authority must approve a request for an accommodation if the following three conditions are met.

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the Housing Authority, or fundamentally alter the nature of the Housing Authority's operations.

Requests for accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the cost of the requested accommodation, the financial resources of the Housing Authority at the time of the request, the benefits that the accommodation would provide to the family, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

Before making a determination whether to approve the request, the Housing Authority may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that the Housing Authority may verify the need for the requested accommodation.

<u>Housing Authority Policy</u>
After a request for an accommodation is presented, the Housing Authority will respond, in writing, within 10 business days.

If the Housing Authority denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal the Housing Authority's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).
If the Housing Authority denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of the Housing Authority's operations), the Housing Authority will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration

to the public housing program and without imposing an undue financial and administrative burden.

If the Housing Authority believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the Housing Authority will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal the Housing Authority's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

HUD regulations require the Housing Authority to take reasonable steps to ensure that persons with disabilities related to hearing and vision have reasonable access to the Housing Authority's programs and services [24 CFR 8.6].

At the initial point of contact with each applicant, the Housing Authority shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

Housing Authority Policy
To meet the needs of persons with hearing impairments, TTD/TTY, (209-466-5735), communication will be available.

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with Housing Authority staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

2-II.G. PHYSICAL ACCESSIBILITY

The Housing Authority must comply with a variety of regulations pertaining to physical accessibility, including the following.

- PIH 2002-01 (HA), Accessibility Notice
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990

- The Architectural Barriers Act of 1968

- The Fair Housing Act of 1988

The Housing Authority's policies concerning physical accessibility must be readily available to applicants and resident families. They can be found in three key documents.

- This policy, the Admissions and Continued Occupancy Policy, describes the key policies that govern the Housing Authority's responsibilities with regard to physical accessibility.

- Notice PIH 2002-01(HA) Accessibility Notice (which must be posted in the public housing offices in a conspicuous place) summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.

- The Housing Authority Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of Housing Authority facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Newly-constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the public housing program.

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

A Housing Authority's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 966.7]. When applicants with disabilities are denied assistance, the notice of denial must inform them of their right to request an informal hearing [24 CFR 960.208(a)].

When a family's lease is terminated, the notice of termination must inform the family of their right to request a hearing in accordance with the Housing Authority's grievance process [24 CFR 966.4(l)(3)(ii)].

When reviewing reasonable accommodation requests, the Housing Authority must consider whether reasonable accommodation will allow the family to overcome the problem that led to the Housing Authority's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the Housing Authority must make the accommodation [24 CFR 966.7].

In addition, the Housing Authority must provide reasonable accommodation for persons with disabilities to participate in the hearing process [24 CFR 966.56(h)].

PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

2-III.A. OVERVIEW

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

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

LEP persons are defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this Admissions and Continued Occupancy Policy, LEP persons are public housing applicants and resident families, and parents and family members of applicants and resident families.

In order to determine the level of access needed by LEP persons, the Housing Authority will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the public housing program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the Housing Authority and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the Housing Authority.

2-III.B. ORAL INTERPRETATION

In a hearing, or situations in which health, safety, or access to important benefits and services are at stake, the Housing Authority will generally offer, or ensure that the family is offered through other sources, competent interpretation services free of charge to the LEP person.

> Housing Authority Policy
>
> The Housing Authority will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits. Where feasible, the Housing Authority will train and hire bilingual staff to be available to act as interpreters and translators, and will standardize documents. Where feasible and possible, the Housing Authority will encourage the use of qualified community volunteers.
>
> Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language

services offered by the Housing Authority. The interpreter may be a family member or friend.

2-III.C. WRITTEN TRANSLATION

Translation is the replacement of a written text from one language into an equivalent written text in another language.

Housing Authority Policy

In order to comply with written-translation obligations, the Housing Authority will take the following steps:

The Housing Authority will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the Housing Authority may not translate vital written materials, but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

2-III.D. IMPLEMENTATION PLAN

After completing the four-factor analysis and deciding what language assistance services are appropriate, the Housing Authority shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.
If the Housing Authority determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to the Housing Authority's public housing program and services.

Housing Authority Policy

If it is determined that the Housing Authority serves very few LEP persons, and the Housing Authority has very limited resources, the Housing Authority will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.
If the Housing Authority determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.

EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3, 25.104, and 100.201]

A person with a disability, as defined under federal civil rights laws, is any person who:

- Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or
- Has a record of such impairment, or
- Is regarded as having such impairment

The phrase "physical or mental impairment" includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

"Major life activities" includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

"Has a record of such impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major live activities.

"Is regarded as having an impairment" is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as the Housing Authority) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

- Current illegal drug users
- People whose alcohol use interferes with the rights of others
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the public housing program

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this definition of disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the $400 elderly/disabled household deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the public housing program, yet an accommodation is needed to provide equal opportunity.

Chapter 3
ELIGIBILITY

INTRODUCTION

The Housing Authority is responsible for ensuring that every individual and family admitted to the public housing program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by the Housing Authority to confirm eligibility and determine the level of the family's assistance.

To be eligible for the public housing program:

- The applicant family must:
  - Qualify as a family as defined by HUD and the Housing Authority.
  - Have income at or below HUD-specified income limits.
  - Qualify on the basis of citizenship or the eligible immigrant status of family members.
  - Provide social security number information for family members as required.
  - Consent to the Housing Authority's collection and use of family information as provided for in Housing Authority-provided consent forms.
- The Housing Authority must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the Housing Authority.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and Housing Authority definitions of family and household members and explains initial and ongoing eligibility issues related to these members.

Part II: Basic Eligibility Criteria. This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.

Part III: Denial of Admission. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause the Housing Authority to deny admission.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the public housing unit. This part provides information that is needed to correctly identify family and household members, and to apply HUD's eligibility rules.

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 5.403]

The terms *family* and *household* have different meanings in the public housing program.

Family

To be eligible for admission, an applicant must qualify as a family. *Family* is defined by HUD as a single person or a group of persons, a family with a child or children, two or more elderly or disabled persons living together, and one or more elderly or disabled persons living with one or more live-in aides. The Housing Authority has the discretion to determine if any other group of persons qualifies as a family.

> Housing Authority Policy
>
> Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family's composition changes.
>
> To qualify as a family when proposed family members are not related by blood, marriage, adoption, or other operation of law, the Housing Authority will require applicants to demonstrate that the individuals have lived together previously, or certify that each individual's income and other resources will be available to meet the needs of the family.

Household

Household is a broader term that includes additional people who, with the Housing Authority's permission, live in a public housing unit, such as live-in aides, foster children, and foster adults.

3-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY

Family Break-up

> Housing Authority Policy
>
> When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.
>
> If a family breaks up into two otherwise eligible families while living in public housing, only one of the new families will continue to be assisted.

If a court determines the disposition of property between members of the applicant or resident family in a divorce or separation decree, the Housing Authority will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, the Housing Authority will determine which family retains their placement on the waiting list, or will continue in occupancy taking into consideration the following factors: (1) the interest of any minor children, including custody arrangements, (2) the interest of any ill, elderly, or disabled family members, (3) any possible risks to family members as a result of domestic violence or criminal activity, and (4) the recommendations of social service professionals.

Remaining Member of a Tenant Family [24 CFR 5.403]
The HUD definition of family includes the *remaining member of a tenant family,* which is a member of a resident family who remains in the unit when other members of the family have left the unit . Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

If dependents are the only "remaining members of a tenant family" and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B, for the policy on "Caretakers for a Child."

3-I.D. HEAD OF HOUSEHOLD [24 CFR 5.504(b)]
Head of household means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a co-head or spouse.

Housing Authority Policy
The family may designate any qualified family member as the head of household.
The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

3-I.E. SPOUSE, CO-HEAD, AND OTHER ADULT
A family may have a spouse or co-head, but not both

Spouse means the marriage partner of the head of household.

Housing Authority Policy
A *marriage partner* includes the partner in a "common law" marriage as defined in state law. The term "spouse" does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

A *co-head* is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one co-head.

Housing Authority Policy
Minors who are emancipated under state law may be designated as a co-head.

Other adult means a family member, other than the head, spouse, or co-head, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults [HUD-50058 IB, p. 14].

3-I.F. DEPENDENT [24 CFR 5.603]

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, co-head, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

Joint Custody of Dependents

Housing Authority Policy
Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family 50 percent or more of the time. When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the Housing Authority will make the determination based on available documents such as court orders, school records, or an IRS return showing which family has claimed the child for income tax purposes.

3-I.G. FULL-TIME STUDENT [24 CFR 5.603]

A *full-time student* (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution.

Identifying each FTS is important because (1) each family member that is an FTS, other than the head, spouse, or co-head, qualifies the family for a dependent deduction and (2) the income of such an FTS is treated differently from the income of other family members.

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY

Elderly Persons

An *elderly person* is a person who is at least 62 years of age [24 CFR 5.100].

Near-Elderly Persons

A *near-elderly person* is a person who is at least 50 years of age but below the age of 62 [24 CFR 945.105].

Elderly Family
An *elderly family* is one in which the head, spouse, co-head, or sole member is an elderly person [24 CFR 5.403]. Identifying elderly families is important because these families qualify for special deductions from income as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4(i.e. Senior only complex)

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403]

Persons with Disabilities
Under the public housing program, special rules apply to persons with disabilities and to any family whose head, spouse, or co-head is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

As discussed in Chapter 2, the Housing Authority must make all aspects of the public housing program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

Disabled Family
A *disabled family* is one in which the head, spouse, or co-head is a person with disabilities. Identifying disabled families is important because these families qualify for deductions from income as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent the Housing Authority from denying admission for reasons related to alcohol and drug abuse following policies found in Part III of this chapter, or from enforcing the lease following the policies in Chapter 13.

3-I.J. GUESTS [24 CFR 5.100]

A *guest* is defined as a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

The lease must provide that the tenant has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests [24 CFR 966.4(d)]. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near Housing Authority premises [24 CFR 966.4(f)].

> <u>Housing Authority Policy</u>
> A guest can remain in the unit not longer than 14 cumulative calendar days during any 12 month period.
>
> A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure expected to last 20 consecutive days). An exception

will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the public housing unit more than 50 percent of the time, are not subject to the time limitations of guests as described above.

Former residents who have been evicted are not permitted as overnight guests. Guests who represent the unit address as their residence address for receipt of benefits or other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered unauthorized occupants, and their presence constitutes violation of the lease.

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609(c)(2)].

The term *foster child* is not specifically defined by the regulations.
Foster children and foster adults that are living with an applicant or resident family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603].

Housing Authority Policy
A foster child is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.L.

3-I.L. ABSENT FAMILY MEMBERS

Individuals may be absent from the family, either temporarily or permanently, for a variety of reasons including educational activities, placement in foster care, employment, and illness.

Definitions of Temporarily and Permanently Absent

Housing Authority Policy
Generally an individual who is or is expected to be absent from the public housing unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the public housing unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

Housing Authority Policy
When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the Housing Authority indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care [24 CFR 5.403]
Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

Housing Authority Policy
If a child has been placed in foster care, the Housing Authority will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Absent Head, Spouse, or Co-head

Housing Authority Policy
An employed head, spouse, or co-head absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

Individuals Confined for Medical Reasons

Housing Authority Policy
An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

If there is a question about the status of a family member, the Housing Authority will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Return of Permanently Absent Family Members

Housing Authority Policy

The family must request Housing Authority approval for the return of any adult family members that the Housing Authority has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter.

3-I.M. LIVE-IN AIDE

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

The Housing Authority must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by a family member with disabilities.

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations [24 CFR 5.609(c)(5)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

Housing Authority Policy

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional of the family's choosing, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

The Housing Authority will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 966.4(d)(3)(i)]:

The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

The person has a history of drug-related criminal activity or violent criminal activity; or

The person currently owes rent or other amounts to the Housing Authority or to another Housing Authority in connection with Section 8 or public housing assistance under the 1937 Act.

Within 10 business days of receiving a request for a live-in aide, including all required documentation related to the request, the Housing Authority will notify the family of its decision in writing.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

HUD is required by law to set income limits that determine the eligibility of applicants for HUD's assisted housing programs, including the public housing program. The income limits are published annually and are based on HUD estimates of median family income in a particular area or county, with adjustments for family size.

Types of Low-Income Families [24 CFR 5.603(b)]

Low-income family. A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

Very low-income family. A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

Extremely low-income family. A family whose annual income does not exceed 30 percent of the median income for the area, adjusted for family size.

HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Using Income Limits for Eligibility [24 CFR 960.201]

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family must be a *low-income* family.

Using Income Limits for Targeting [24 CFR 960.202(b)]

At least 40 percent of the families admitted to the Housing Authority's public housing program during a Housing Authority fiscal year from the Housing Authority waiting list must be *extremely low-income* families. This is called the "basic targeting requirement".

If admissions of extremely low-income families to the Housing Authority's housing choice voucher program during a Housing Authority fiscal year exceed the 75 percent minimum targeting requirement for that program, such excess shall be credited against the Housing Authority's public housing basic targeting requirement for the same fiscal year.

The fiscal year credit for housing choice voucher program admissions that exceed the minimum voucher program targeting requirement must not exceed the lower of:

- Ten percent of public housing waiting list admissions during the Housing Authority fiscal year
- Ten percent of waiting list admission to the Housing Authority's housing choice voucher program during the Housing Authority fiscal year

- The number of qualifying low-income families who commence occupancy during the fiscal year of public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

For discussion of how income targeting is used in tenant selection, see Chapter 4.

3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with the Housing Authority's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

Declaration [24 CFR 5.508]

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head, spouse, co-head, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit the Housing Authority to request additional documentation of their status, such as a passport.

> <u>Housing Authority Policy</u>
> Family members who declare citizenship or national status will not be required to provide additional documentation unless the Housing Authority receives information indicating that an individual's declaration may not be accurate.

Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with Housing Authority efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

Ineligible Noncitizens
Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or co-head (regardless of citizenship status), indicating their ineligible immigration status. The Housing Authority is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

Mixed Families
A family is eligible for admission as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be prorated, and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 14 for a discussion of informal hearing procedures.

Ineligible Families [24 CFR 5.514(d), (e), and (f)]
A Housing Authority may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)] is established. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the Housing Authority that the individual or at least one family member is eligible [24 CFR 5.512(a)].

> Housing Authority Policy
> The Housing Authority will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible non-citizen.
>
> When a Housing Authority determines that an applicant family does not include any citizens, nationals, or eligible non-citizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.
>
> The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance, and will advise the family of its right to request an appeal to the USCIS, or to request an informal hearing with the Housing Authority. The informal hearing with the Housing Authority may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS

appeal process, but that it may be delayed pending the completion of the informal hearing process.

Informal hearing procedures are contained in Chapter 14.

Timeframe for Determination of Citizenship Status [24 CFR 5.508(g)]
For new occupants joining the resident family the Housing Authority must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first. If an individual qualifies for a time extension for the submission of required documents, the Housing Authority must grant such an extension for no more than 30 days [24 CFR 5.508(h)]. Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

Housing Authority Policy
The Housing Authority will verify the status of applicants at the time other eligibility factors are determined.

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218]

Disclosure required:
When a participant requests to add a new household member, the participant must submit the SSN to the HA at the time of the request or at the time of processing the interim reexamination or recertification of family composition that includes the new member(s).

If the participant or any member of the participant's household had a previously undisclosed SSN, or has been assigned a new SSN, the participant must submit the complete and accurate SSN assigned to the participant or household member involved at the next interim or regularly scheduled reexamination.

Termination of assistance or termination of participants:
The HA must terminate the assistance or tenancy or both of a participant, if the participant does not meet the applicable SSN disclosure, documentation and verification requirements.

Submission of evidence of citizenship or eligible immigration status (continues to be the same):

- For U.S. citizens or U.S. nationals, the evidence consists of a signed declaration of U.S. citizenship or U.S. national. The HA must obtain verification of the declaration by requiring presentation of a U.S. Passport, U.S. birth certificate, Employment Authorization card, Temporary Resident card or other appropriate documentation outlined in section 214.

- For non-citizens, adequate evidence of a signed declaration or eligible immigration status on the Section 214 document.

HUD makes it clear that the above requirements are not intended to apply to individuals in mixed families, who do not contend eligible immigration status under HUD's non-citizens regulation

nor does it interfere with existing requirements relative to pro-ration of assistance or screening for such families, or authorize their eviction or denial of admission on the basis of the new requirements pertaining to obtaining social security numbers

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230]

HUD requires each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/ Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

The Housing Authority must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow the Housing Authority to obtain information that the Housing Authority has determined is necessary in administration of the public housing program [24 CFR 960.259(a) and (b)].

PART III: DENIAL OF ADMISSION

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied admission.

In addition, HUD requires or permits the Housing Authority to deny admission based on certain types of current or past behaviors of family members as discussed in this part.

3-III.B. REQUIRED DENIAL OF ADMISSION [24 CFR 960.204]

Housing Authority are required to establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or if the Housing Authority has reasonable cause to believe that a household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

Where the statute requires that the Housing Authority prohibit admission for a prescribed period of time after some disqualifying behavior or event, the Housing Authority may choose to continue that prohibition for a longer period of time [24 CFR 960.203(c)(3)(ii)].

HUD requires the Housing Authority to deny assistance in the following cases:

- **Any member of the household has been evicted from federally-assisted housing in the last 5 years for any drug-related criminal activity. HUD permits but does not require the Housing Authority to admit an otherwise-eligible family if the household member has completed a Housing Authority-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).**

Housing Authority Policy

The Housing Authority may admit an otherwise-eligible family who was evicted from federally-assisted housing within the past five (5) years for drug-related criminal activity, if the Housing Authority is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the Housing Authority, or the person who committed the crime is no longer living in the household.

- **The Housing Authority determines that any household member is currently engaged in the use of illegal drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]. *Currently engaged in the illegal use of a drug* means a person has engaged in the behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)].**

Housing Authority Policy
Currently engaged in is defined as any use of illegal drugs during the previous six months.

- **The Housing Authority has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.**

Housing Authority Policy
In determining reasonable cause, the Housing Authority will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol.

- **Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing**.

Housing Authority Policy
If any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine in any location, not just federally assisted housing, the family will be denied assistance.

Housing Authority Policy
If any household member is currently registered as a sex offender under a state registration requirement, regardless of whether it is a lifetime registration requirement, the family will be denied assistance.

3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION

HUD permits, but does not require the Housing Authority to deny admission for the reasons discussed in this section.

Criminal Activity [24 CFR 960.203 (b) and (c)]

Under the Public Housing Assessment System (PHAS), Housing Authority that have adopted policies, implemented procedures and can document that they successfully screen out and deny admission to certain applicants with unfavorable criminal histories receive points.

The Housing Authority is responsible for screening family behavior and suitability for tenancy. In doing so, the Housing Authority may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety or welfare of other tenants.

Housing Authority Policy
If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past five (5) years, the family will be denied admission.

Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].

Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].

Criminal activity that may threaten the health, safety, or welfare of other tenants [24 CFR 960.203(c)(3)].

Criminal activity that may threaten the health or safety of Housing Authority staff, contractors, subcontractors, or agents.

Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.

Evidence of such criminal activity includes, but is not limited to any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past five 5 years.

In making its decision to deny assistance, the Housing Authority will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the Housing Authority may, on a case-by-case basis, decide not to deny assistance.

Previous Behavior [960.203(c) and (d)]
HUD authorizes the Housing Authority to deny admission based on relevant information pertaining to the family's previous behavior and suitability for tenancy.
In the event of the receipt of unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense).

Housing Authority Policy
The Housing Authority will deny admission to an applicant family if the Housing Authority determines that the family:

Has a record of unsuitable past performance in meeting financial obligations, including rent within the past five years

Has a record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past five years which may adversely affect the health, safety, or welfare of other tenants

Has a record of eviction from housing or termination from residential programs within the past five years (considering relevant circumstances)

Owes rent or other amounts to this or any other Housing Authority or owner in connection with any assisted housing program

Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent

Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program

Has engaged in or threatened violent or abusive behavior toward Housing Authority personnel

> ***Abusive or violent behavior towards Housing Authority personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.**
>
> ***Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.**

In making its decision to deny admission, the Housing Authority will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the Housing Authority may, on a case-by-case basis, decide not to deny admission.

The Housing Authority will consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations.

3-III.D. SCREENING

Screening for Eligibility

Housing Authorities are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the public housing program. This authority assists the Housing Authority in complying with HUD requirements and Housing Authority policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records the Housing Authority must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

The Housing Authority may not pass along to the applicant the costs of a criminal records check [24 CFR 960.204(d)].

> Housing Authority Policy
> The Housing Authority will perform criminal background checks through local law enforcement for all adult household members.
>
> If the results of the criminal background check indicate there may have been past criminal activity, but the results are inconclusive, the Housing Authority will request a fingerprint card and will request information from the National Crime Information Center (NCIC).

Housing Authority are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 960.204(a)(4)].

If the Housing Authority proposes to deny admission based on a criminal record or on lifetime sex offender registration information, the Housing Authority must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission [24 CFR 5.903(f) and 5.905(d)].

Obtaining Information from Drug Treatment Facilities [24 CFR 960.205]

HUD authorizes Housing Authority to request and obtain information from drug abuse treatment facilities concerning applicants. Specifically, the Housing Authority may require each applicant to submit for all household members who are at least 18 years of age, and for each family head, spouse, or co-head regardless of age, one or more consent forms signed by such household members that requests any drug abuse treatment facility to inform the Housing Authority whether the drug abuse treatment facility has reasonable cause to believe that the household member is currently engaging in illegal drug use.

Drug Abuse Treatment Facility means an entity that holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal drug use, and is either an identified unit within a general care facility, or an entity other than a general medical care facility.

Currently engaging in illegal use of a drug means illegal use of a drug that occurred recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member.

Any consent form used for the purpose of obtaining information from a drug abuse treatment facility to determine whether a household member is currently engaging in illegal drug use must expire automatically after the Housing Authority has made a final decision to either approve or deny the admission of such person.

Any charges incurred by the Housing Authority for information provided from a drug abuse treatment facility may not be passed on to the applicant or tenant.

If the Housing Authority chooses to obtain such information from drug abuse treatment facilities, it must adopt and implement one of the two following policies:

The Housing Authority must submit a request for information to a drug abuse treatment facility for all families before they are admitted. The request must be submitted for each proposed household member who is at least 18 years of age, and for each family head, spouse, or co-head regardless of age.

Housing Authority Policy

The Housing Authority will obtain information from drug abuse treatment facilities to determine whether any applicant family's household members are currently engaging in illegal drug activity only when the Housing Authority has determined that the family will be denied admission based on a family member's drug-related criminal activity, and the family claims that the culpable family member has successfully completed a supervised drug or alcohol rehabilitation program.

Screening for Suitability as a Tenant [24 CFR 960.203(c)]

The Housing Authority is responsible for the screening and selection of families to occupy public housing units. The Housing Authority may consider all relevant information. Screening is important to public housing communities and program integrity, and to ensure that assisted housing is provided to those families that will adhere to lease obligations.

Housing Authority Policy

The Housing Authority will consider the family's history with respect to the following factors:

- Payment of rent and utilities
- Caring for a unit and premises
- Respecting the rights of other residents to the peaceful enjoyment of their housing
- Criminal activity that is a threat to the health, safety, or property of others
- Behavior of all household members as related to the grounds for denial as detailed in Sections 3-III. B and C
- Compliance with any other essential conditions of tenancy

Resources Used to Check Applicant Suitability
Housing Authorities have a variety of resources available to them for determination of the suitability of applicants. Housing Authorities should reject applicants who have recent behavior that would warrant lease termination for a public housing resident.

Housing Authority Policy
In order to determine the suitability of applicants the Housing Authority will examine applicant history for the past five(5) years. Such background checks will include:

Past Performance in Meeting Financial Obligations, Especially Rent
Housing Authority and landlord references for the past five(5) years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether the Housing Authority/landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. Housing Authority and landlords will be asked if they would rent to the applicant family again.

Utility company references covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit and whether the applicant can get utilities turned on in his/her name. (Use of this inquiry will be reserved for applicants applying for units where there are tenant-paid utilities.)

If an applicant has no rental payment history the Housing Authority will check court records of eviction actions and other financial judgments, and credit reports. A lack of credit history will not disqualify someone from becoming a public housing resident, but a poor credit rating may.

Applicants with no rental payment history will also be asked to provide the Housing Authority with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available. The applicant will also be required to complete a checklist documenting their ability to meet financial obligations.

If previous landlords or the utility company do not respond to requests from the Housing Authority, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)

Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare of Other Tenants, or Cause Damage to the Unit or the Development

Housing Authority and landlord references for the past five (5)years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.

Police and court records within the past five (5) years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction.

A personal reference will be requested to complete a verification of the applicant's ability to care for the unit and avoid disturbing neighbors if no other documentation is available. In these cases, the applicant will also be required to complete a checklist documenting their ability to care for the unit and to avoid disturbing neighbors.

Home visits may be used to determine the applicant's ability to care for the unit.

3-III.E. CRITERIA FOR DECIDING TO DENY ADMISSION

Evidence

Housing Authority Policy

The Housing Authority will use the concept of the preponderance of the evidence as the standard for making all admission decisions.

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

Consideration of Circumstances [24 CFR 960.203(c)(3) and (d)]

HUD authorizes the Housing Authority to consider all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated (see Section 3-III.B).

In the event the Housing Authority receives unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). In a manner consistent with its policies, Housing Authority may

give consideration to factors which might indicate a reasonable probability of favorable future conduct.

Housing Authority Policy
The Housing Authority will consider the following factors when making its decision:

The seriousness of the case, especially with respect to how it would affect other residents

The effects that denial of admission may have on other members of the family who were not involved in the action or failure

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities

The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future

Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

The Housing Authority will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

Removal of a Family Member's Name from the Application [24 CFR 960.203(c)(3)(i)]
HUD permits Housing Authority to impose as a condition of admission, a requirement that family members who participated in or were culpable for an action or failure to act which warrants denial of admission, to not reside in the unit.

Housing Authority Policy
As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the public housing unit.

After admission to the program, the family must present evidence of the former family member's current address upon Housing Authority request.

Reasonable Accommodation
If the family includes a person with disabilities, the Housing Authority's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

Housing Authority Policy
If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, the Housing Authority will determine whether the behavior is related to the disability. If so, upon the family's request, the Housing Authority will determine whether alternative measures are appropriate as a reasonable accommodation. The Housing Authority will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of admission. See Chapter 2 for a discussion of reasonable accommodation.

3-III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING [Pub.L. 109-162]

The Violence against Women Reauthorization Act of 2005 (VAWA) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking. Specifically, Section 607(2) of VAWA adds the following provision to Section 6 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the public housing program:

> Every contract for contributions shall provide that . . . the public housing agency shall not deny admission to the project to any applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking if the applicant otherwise qualifies for assistance or admission, and that nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

Definitions

As used in VAWA:

- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *stalking* means:
  - To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
  - To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
  - In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

- The term *immediate family member* means, with respect to a person –
- A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or
- Any other person living in the household of that person and related to that person by blood and marriage.

Notification

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under the Housing Authority's policies. Therefore, if the HOUSING AUTHORITY makes a determination to deny admission to an applicant family, the HOUSING AUTHORITY will include in its notice of denial:

A statement of the protection against denial provided by VAWA

A description of HOUSING AUTHORITY confidentiality requirements

A request that an applicant wishing to claim this protection submit to the HOUSING AUTHORITY documentation meeting the specifications below with her or his request for an informal hearing (see section 14-I.B)

Documentation

Victim Documentation

Housing Authority Policy

An applicant claiming that the cause of an unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, or stalking must provide documentation (1) demonstrating the connection between the abuse and the unfavorable history and (2) naming the perpetrator of the abuse. The documentation may consist of any of the following:

A statement signed by the victim certifying that the information provided is true and correct and that it describes bona fide incident(s) of actual or threatened domestic violence, dating violence, or stalking

A police or court record documenting the domestic violence, dating violence, or stalking

Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing

the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

Perpetrator Documentation

Housing Authority Policy

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the public housing unit

Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

Time Frame for Submitting Documentation

Housing Authority Policy

The applicant must submit the required documentation with her or his request for an informal hearing (see section 14-I.B) or must request an extension in writing at that time. If the applicant so requests, the HOUSING AUTHORITY will grant an extension of 10 business days and will postpone scheduling the applicant's informal hearing until after it has received the documentation or the extension period has elapsed. If, after reviewing the documentation provided by the applicant, the HOUSING AUTHORITY determines that the family is eligible for assistance, no informal hearing will be scheduled, and the HOUSING AUTHORITY will proceed with admission of the applicant family.

HOUSING AUTHORITY Confidentiality Requirements

All information provided to the HOUSING AUTHORITY regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

Housing Authority Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the HOUSING AUTHORITY will inform the victim before disclosure occurs so that safety risks can be identified and addressed

3-III.G. NOTICE OF ELIGIBILITY OR DENIAL

The Housing Authority will notify an applicant family of its final determination of eligibility in accordance with the policies in Section 4-III.E.

If a Housing Authority uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the Housing Authority can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)].

Housing Authority Policy

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, the Housing Authority will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 10 business days to dispute the accuracy and relevance of the information. If the family does not contact the Housing Authority to dispute the information within that 10 day period, the Housing Authority will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

The term *person with disabilities* means a person who has any of the following types of conditions.

Has a disability, as defined in 42 U.S.C. Section 423(d) (1) (A), which reads:

> 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
>
> In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i) (1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C.6001 (8)], which defines developmental disability in functional terms as:

A severe, chronic disability of a person 5 years of age or older which:

- Is attributable to a mental or physical impairment or combination of mental and physical impairments
- Is manifested before the person attains age twenty-two
- Is likely to continue indefinitely
- Results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and responsive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency
- Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated; except that such term, when applied to infants and young children, means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided."

Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

People with the Acquired Immune-Deficiency Syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps.

Individual with Handicaps [24 CFR 8.3]
Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

(1) Physical or mental impairment includes:
   (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

   (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) Is regarded as having an impairment means:
   (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation

(b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment

(c) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment.

Chapter 4
APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to reside in public housing, the family must submit an application that provides the Housing Authority with the information needed to determine the family's eligibility. HUD requires the Housing Authority to place all eligible families that apply for public housing on a waiting list. When a unit becomes available, the Housing Authority must select families from the waiting list in accordance with HUD requirements and Housing Authority policies as stated in its Admissions and Continued Occupancy Policy (ACOP) and its annual plan.

The Housing Authority is required to adopt a clear approach to accepting applications, placing families on the waiting list, and selecting families from the waiting list, and must follow this approach consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the Housing Authority to receive preferential treatment.

HUD regulations require that the Housing Authority comply with all equal opportunity requirements and it must affirmatively further fair housing goals in the administration of the program [24 CFR 960.103]. Adherence to the selection policies described in this chapter ensures that the Housing Authority will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and Housing Authority policies for taking applications, managing the waiting list and selecting families from the waiting list. The Housing Authority policies for assigning unit size and making unit offers are contained in Chapter 5. Together, Chapters 4 and 5 of the ACOP comprise the Housing Authority's Tenant Selection and Assignment Plan (TSAP).

The policies outlined in this chapter are organized into three sections, as follows:

> Part I: The Application Process. This part provides an overview of the application process, and discusses how applicants can obtain and submit applications. It also specifies how the Housing Authority will handle the applications it receives.
>
> Part II: Managing the Waiting List. This part presents the policies that govern how the Housing Authority's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for public housing. It also discusses the process the Housing Authority will use to keep the waiting list current.
>
> Part III: Tenant Selection. This part describes the policies that guide the Housing Authority in selecting families from the waiting list as units become available. It also specifies how in-person interviews will be used to ensure that the Housing Authority has the information needed to make a final eligibility determination.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the policies that guide the Housing Authority's efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes the Housing Authority's obligation to ensure the accessibility of the application process.

4-I.B. APPLYING FOR ASSISTANCE

Any family that wishes to reside in public housing must apply for admission to the program [24 CFR 1.4(b) (2) (ii), 24 CFR 960.202(a) (2) (iv)]. HUD permits the Housing Authority to determine the format and content of its applications, as well how such applications will be made available to interested families and how applications will be accepted by the Housing Authority.

Housing Authority Policy

Depending upon the length of time that applicants may need to wait to be housed, the Housing Authority may use a one- or two-step application process.

A one-step process will be used when it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and the amount of rent the family will pay.

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, the Housing Authority initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and the amount of rent the family will pay when selected from the waiting list.

Families may obtain application forms from the Housing Authority's office during normal business hours. Families may also request via telephone or in writing – that a form be sent to the family via first class mail. Applications can also be downloaded from http://www.hacsj.com.

Completed applications must be returned to the Housing Authority **only** by mail. Applications must be complete in order to be accepted by the Housing Authority for processing. If an application is incomplete, the Housing Authority will notify the family of the additional information required.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

The Housing Authority must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard Housing Authority application process.

Disabled Populations [24 CFR 8]
The Housing Authority must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or the Housing Authority must provide an alternate approach that provides equal access to the application process. Chapter 2 provides a full discussion of the Housing Authority's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency
Housing Authorities are required to take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the Housing Authority's policies related to ensuring access to people with limited English proficiency (LEP).

4-I.D. PLACEMENT ON THE WAITING LIST

The Housing Authority will review each completed application received and make a preliminary assessment of the family's eligibility. The Housing Authority must place on the waiting list families for whom the list is open unless the Housing Authority determines the family to be ineligible. Where the family is determined to be ineligible, the Housing Authority must notify the family in writing [24 CFR 960.208(a);]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list.

Eligible for Placement on the Waiting List

Housing Authority Policy
The pre-application will be dated, time-stamped and referred to the Housing Authority's eligibility office where it will be maintained until such time as it is needed for processing

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. A final determination of eligibility and qualification for preferences will be made when the family is selected from the waiting list.

Applicants will be placed on the waiting list according to Housing Authority preference(s) and the date and time their complete application is received by the Housing Authority.

The Housing Authority will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (see Chapter 5). Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to Housing Authority standards and local codes).

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

The Housing Authority must have policies regarding the type of waiting list it will utilize as well as the various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for public housing, and conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how the Housing Authority may structure its waiting list and how families must be treated if they apply for public housing at a Housing Authority that administers more than one assisted housing program.

4-II.B. ORGANIZATION OF THE WAITING LIST

The Housing Authority's public housing waiting list must be organized in such a manner to allow the Housing Authority to accurately identify and select families in the proper order, according to the admissions policies described in this ACOP.

Housing Authority Policy

The waiting list will contain the following information for each applicant listed:

- Name and social security number of head of household
- Unit size required (number of family members)
- Amount of annual income
- Accessibility requirement, if any
- Date and time of application or application number
- Household type (family, elderly, disabled)
- Admission preference, if any
- Race and ethnicity of the head of household
- The specific site(s) selected (only if Housing Authority offers site-based waiting lists)

The Housing Authority may adopt one community-wide waiting list or site-based waiting lists. The Housing Authority must obtain approval from HUD through submission of its Annual Plan before it may offer site-based waiting lists. Site-based waiting lists allow families to select the development where they wish to reside and must be consistent with all applicable civil rights and fair housing laws and regulations [24 CFR 903.7(b)(2)].

Housing Authority Policy

The Housing Authority will maintain separate waiting list for its developments.

HUD directs that a family that applies to reside in public housing must be offered the opportunity to be placed on the waiting list for any tenant-based or project-based voucher or moderate rehabilitation program that the Housing Authority operates if:

1) the other programs' waiting lists are open, and

2) the family is qualified for the other programs [24 CFR 982.205(a) (2) (i)].

HUD permits, but does not require, that Housing Authority maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs [24 CFR 982.205(a)(1)].

Housing Authority Policy
The Housing Authority will not merge the public housing waiting list with the waiting list for any other program the Housing Authority operates.

4-II.C. OPENING AND CLOSING THE WAITING LIST

Closing the Waiting List

The Housing Authority is permitted to close the waiting list, in whole or in part, if it has an adequate pool of families to fill its developments. The Housing Authority may close the waiting list completely, or restrict intake by preference, type of project, or by size and type of dwelling unit.

Housing Authority Policy
The Housing Authority will close the waiting list when the estimated waiting period for housing applicants on the list reaches 24 months for the most current applicants. Where the Housing Authority has particular preferences or other criteria that require a specific category of family, the Housing Authority may elect to continue to accept applications from these applicants while closing the waiting list to others.

Reopening the Waiting List

If the waiting list has been closed, it may be reopened at any time. The Housing Authority will publish a notice in local newspapers of general circulation, minority media, and other suitable media outlets that the Housing Authority is reopening the waiting list. Such notice must comply with HUD fair housing requirements. The Housing Authority should specify who may apply, and where and when applications will be received.

Housing Authority Policy
The Housing Authority will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice. The notice will specify where, when, and how applications are to be received. The Housing Authority will give public notice by publishing the relevant information in suitable media outlets including, but not limited to:

a) Stockton Record

b) Lodi Sentinel

c) Tracy Press

d) Manteca Bulletin

e) San Joaquin County Human Services Agency

f) California State Employment Development Department

g) Social Security Administration Office

h) San Joaquin Fair Housing Office

i) Local Center for Deafness

j) Community Center for the Blind & Visual Impaired

k) California State Department of Rehabilitation

4-II.D. FAMILY OUTREACH [24 CFR 903.2(d); 24 CFR 903.7(a) and (b)]

The Housing Authority should conduct outreach as necessary to ensure that the Housing Authority has a sufficient number of applicants on the waiting list to fill anticipated vacancies and to assure that the Housing Authority is affirmatively furthering fair housing and complying with the Fair Housing Act.

Because HUD requires the Housing Authority to serve a specified percentage of extremely low income families, the Housing Authority may need to conduct special outreach to ensure that an adequate number of such families apply for public housing.

Housing Authority outreach efforts must comply with fair housing requirements. This includes:

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

Housing Authority outreach efforts must be designed to inform qualified families about the availability of units under the program. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low income population

- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

Housing Authority Policy
The Housing Authority will monitor the characteristics of the population being served and the characteristics of the population as a whole in the Housing Authority's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

Housing Authority Policy
While the family is on the waiting list, the family must inform the Housing Authority, within 10 business days, of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

Changes in an applicant's circumstances while on the waiting list may affect the family's qualification for a particular bedroom size or entitlement to a preference. When an applicant reports a change that affects their placement on the waiting list, the waiting list will be updated accordingly.

4-II.F. UPDATING THE WAITING LIST

HUD requires the Housing Authority to establish policies to use when removing applicant names from the waiting list [24 CFR 960.202(a) (2) (IV)].

Purging the Waiting List

The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to the Housing Authority's request for information or updates because of the family member's disability, the Housing Authority must, upon the family's request, reinstate the applicant family to their former position on the waiting list as a reasonable accommodation [24 CFR 8.4(a), 24 CFR 100.204(a),]. See Chapter 2 for further information regarding reasonable accommodations.

Housing Authority Policy
The waiting list will be updated as needed to ensure that all applicants and applicant information is current and timely.

To update the waiting list, the Housing Authority will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the Housing Authority has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

Any mailings to the applicant which require a response will state that failure to respond within ten (10) days will result in the applicant's name being dropped from the waiting list. An extension of thirty (30) days to respond will be granted, if requested and needed as a reasonable accommodation for a person with a disability.

If a letter is returned by the Post Office without a forwarding address, the applicant will be removed from the waiting list without further notice, and the envelope and letter will be maintained in the file. If a letter is returned with a forwarding address, the Housing Authority will make no more than two (2) attempts to forward the appointment letter to the new forwarding address before removing the applicant from the wait list.

When a family is removed from the waiting list during the update process for failure to respond, no informal hearing will be offered. Such failures to act on the part of the applicant prevent the Housing Authority from making an eligibility determination; therefore no informal hearing is required.

If an applicant is removed from the waiting list for failure to respond, they will not be entitled to reinstatement unless the Application's Compliance Supervisor or his/her designee determines there were circumstances beyond the person's control.

The Housing Authority allows a grace period of thirty (30) days after completion of the purge. Applicants who respond during this grace period will be reinstated.

Removal from the Waiting List

Housing Authority Policy

The Housing Authority will remove applicants from the waiting list if they have requested that their name be removed. In such cases no informal hearing is required. If the Housing Authority determines that the family is not eligible for admission (see Chapter 3) at any time while the family is on the waiting list the family will be removed from the waiting list.

If a family is removed from the waiting list because the Housing Authority has determined the family is not eligible for admission, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal hearing regarding the Housing Authority's decision (see Chapter 14) [24 CFR 960.208(a)].

PART III: TENANT SELECTION

4-III.A. OVERVIEW

The Housing Authority must establish tenant selection policies for families being admitted to public housing [24 CFR 960.201(a)]. The Housing Authority must not require any specific income or racial quotas for any developments [24 CFR 903.2(d)]. The Housing Authority must not assign persons to a particular section of a community or to a development or building based on race, color, religion, sex, disability, familial status or national origin for purposes of segregating populations [24 CFR 1.4(b)(1)(iii) and 24 CFR 903.2(d)(1)].

The order in which families will be selected from the waiting list depends on the selection method chosen by the Housing Authority and is impacted in part by any selection preferences that the family qualifies for. The availability of units also may affect the order in which families are selected from the waiting list.

The Housing Authority must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the Housing Authority's selection policies [24 CFR 960.206(e)(2)]. The Housing Authority's policies must be posted any place where the Housing Authority receives applications. The Housing Authority must provide a copy of its tenant selection policies upon request to any applicant or tenant. The Housing Authority may charge the family for providing a copy of its tenant selection policies [24 CFR 960.202(c) (2)].

> Housing Authority Policy
> When an applicant or resident family requests a copy of the Housing Authority's tenant selection policies, the Housing Authority will provide copies to them at a charge of $.25 per page.

4-III.B. SELECTION METHOD

Housing Authority must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the Housing Authority will use.

Local Preferences [24 CFR 960.206]

Housing Authorities are permitted to establish local preferences and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the Housing Authority to establish other local preferences, at its discretion. Any local preferences established must be consistent with the Housing Authority plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources [24 CFR 960.206(a)].

> Housing Authority Policy
> The Housing Authority will use the following local preference:
>
> **Displaced by Government Action (5 points)**
> Families who were receiving Public Housing Assistance will take precedence over other waiting list place holders. New applicants to the Public Housing Program must be a

family displaced by a natural disaster, including disasters recognized by the Federal Government, which extensively damaged or destroyed their dwelling.

Veteran Preference (4 points)
Current members of the military, veterans, or surviving spouses of veterans. Applicants must provide proof of honorable discharge. If discharge is less than honorable, applicant must provide proof of eligibility to receive veteran benefits.

Residency Preference (2 points)
Families who live, work, or have been hired to work within San Joaquin County and/or residents moving to San Joaquin County who currently participate in an approved Cal Work's Program at time of submission of pre-application.

The following preferences are equal in the selection process:

Disability Preference (1 point)
This preference is extended to disabled persons or families with a disabled member as defined in this Admissions and Continued Occupancy Policy. Proof of disability will be required at the time of selection.

Involuntary Displacement (1 point)
Involuntary displace applicant are applicants who have been involuntarily displaced and are not living in standard, permanent replacement housing, or will be involuntarily displaced within no more than six months from the date of verification by the Housing Authority. These applicants would include those:

1. Displaced due to action by a housing owner which is beyond an applicants ability to control despite the applicant's having met all previous conditions of occupancy, and is other than a rent increase, such as:
    - Conversion of an applicants housing unit to non-rental or non-residential use
    - Closure of an applicants housing unit for rehabilitation or non-residential use
    - Notice to an applicant that he/she must vacate a unit because the owner wants the unit for the owner's personal or family occupancy

2. Part of a Witness Protection Program or the HUD Office or law enforcement agency and, after a threat assessment, the law enforcement agency recommends re-housing the family to avoid or reduce risk of violence against the family.
3. Displaced due to a family member being the victim of one or more hate crimes, and the applicant has vacated the unit because of the crime or fear of such a crime has destroyed the applicant's peaceful enjoyment of the unit.

The Housing Authority will use the following to select among applicants on the waiting list with the same preference status:

- Date and time of receipt of a completed application

SPECIAL ADMISSIONS

If HUD awards a Housing Authority program funding that is targeted for specifically named families, the Housing Authority will admit these families under a special admission procedure. Special admission families will be admitted outside of the regular waiting list process. They do not have to qualify for any preferences, nor are they required to be on the program waiting list.

The Housing Authority maintains separate records of these admissions.

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

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

Income Targeting Requirement [24 CFR 960.202(b)]

HUD requires that extremely low-income (ELI) families make up at least 40% of the families admitted to public housing during the Housing Authority's fiscal year. ELI families are those with annual incomes at or below 30% of the area median income. To ensure this requirement is met, the Housing Authority may skip non-ELI families on the waiting list in order to select an ELI family.

If a Housing Authority also operates a housing choice voucher (HCV) program, admissions of extremely low-income families to the Housing Authority's HCV program during a Housing Authority fiscal year that exceed the 75% minimum target requirement for the voucher program, shall be credited against the Housing Authority's basic targeting requirement in the public housing program for the same fiscal year. However, under these circumstances the fiscal year credit to the public housing program must not exceed the lower of:

(1) Ten percent of public housing waiting list admissions during the Housing Authority fiscal year;

(2) ten percent of waiting list admissions to the Housing Authority's housing choice voucher program during the Housing Authority fiscal year; or

(3) the number of qualifying low-income families who commence occupancy during the fiscal year of Housing Authority public housing units located in census tracts with a poverty rate of 30 percent or more.

For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

Housing Authority Policy
The Housing Authority will monitor progress in meeting the ELI requirement throughout the fiscal year. ELI families will be selected ahead of other eligible families on an as-needed basis to ensure that the income targeting requirement is met.

Mixed Population Developments [24 CFR 960.407]
A mixed population development is a public housing development or portion of a development that was reserved for elderly families and disabled families at its inception (and has retained that character) or the Housing Authority at some point after its inception obtained HUD approval to give preference in tenant selection for all units in the development (or portion of a development) to elderly and disabled families [24 CFR 960.102]. Elderly family means a family whose head, spouse, co-head, or sole member is a person who is at least 62 years of age. Disabled family means a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403]. The Housing Authority must give elderly and disabled families equal preference in selecting these families for admission to mixed population developments. The Housing Authority may not establish a limit on the number of elderly or disabled families that may occupy a mixed population development. In selecting elderly and disabled families to fill these units, the Housing Authority must first offer the units that have accessibility features for families that include a person with a disability and require the accessibility features of such units. The Housing Authority may not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

Units Designated for Elderly or Disabled Families [24 CFR 945]
The Housing Authority may designate projects or portions of a public housing project specifically for elderly or disabled families. The Housing Authority must have a HUD-approved allocation plan before the designation may take place.

Among the designated developments, the Housing Authority must also apply any preferences that it has established. If there are not enough elderly families to occupy the units in a designated elderly development, the Housing Authority may allow near-elderly families to occupy the units [24 CFR 945.303(c) (1)]. Near-elderly family means a family whose head, spouse, or co-head is at least 50 years old, but is less than 62 [24 CFR 5.403].

If there are an insufficient number of elderly families and near-elderly families for the units in a development designated for elderly families, the Housing Authority must make available to all other families any unit that is ready for re-rental and has been vacant for more than 60 consecutive days [24 CFR 945.303(c)(2)].

The decision of any disabled family or elderly family not to occupy or accept occupancy in designated housing shall not have an adverse affect on their admission or continued occupancy in public housing or their position on or placement on the waiting list. However, this protection does not apply to any family who refuses to occupy or accept occupancy in designated housing because of the race, color, religion, sex, disability, familial status, or national origin of the occupants of the designated housing or the surrounding area [24 CFR 945.303(d)(1) and (2)].

This protection does apply to an elderly family or disabled family that declines to accept occupancy, respectively, in a designated project for elderly families or for disabled families, and requests occupancy in a general occupancy project or in a mixed population project [24 CFR 945.303(d)(3)].

> Housing Authority Policy
> The Housing Authority does have a designated elderly housing at this time. It is located at 2525 Buthmann, Tracy, CA 95376.
>
> When there are insufficient elderly families on the waiting list who wish to reside in a designated elderly development, near-elderly families will receive a preference over other families for designated elderly units.

Deconcentration of Poverty and Income-Mixing [24 CFR 903.1 and 903.2]
The Housing Authority's admission policy must be designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. A statement of the Housing Authority's deconcentration policies must be in included in its annual plan [24 CFR 903.7(b)].

The Housing Authority's deconcentration policy must comply with its obligation to meet the income targeting requirement [24 CFR 903.2(c) (5)].

Developments subject to the deconcentration requirement are referred to as 'covered developments' and include general occupancy (family) public housing developments. The following developments are not subject to deconcentration and income mixing requirements: developments operated by a Housing Authority with fewer than 100 public housing units; mixed population or developments designated specifically for elderly or disabled families; developments operated by a Housing Authority with only one general occupancy development; developments approved for demolition or for conversion to tenant-based public housing; and developments approved for a mixed-finance plan using HOPE VI or public housing funds [24 CFR 903.2(b)].

Steps for Implementation [24 CFR 903.2(c) (1)]
To implement the statutory requirement to deconcentrate poverty and provide for income mixing in covered developments, the Housing Authority must comply with the following steps:

> Step 1. The Housing Authority must determine the median income of all families residing in all the Housing Authority's covered developments.

Step 2. The Housing Authority must determine the median income, of all families residing in each covered development. In determining median income for each development, the Housing Authority has the option of adjusting its income analysis for unit size in accordance with procedures prescribed by HUD.

Step 3. The Housing Authority must then determine whether each of its covered developments falls above, within, or below the established income range (EIR), which is from 85% to 115% of the median family income determined in Step 1. However, the upper limit must never be less than the income at which a family would be defined as an extremely low income family (30% of median income).

Step 4. The Housing Authority with covered developments having median incomes outside the EIR must then determine whether or not these developments are consistent with its local goals and annual plan.

Step 5. Where the income profile for a covered development is not explained or justified in the annual plan submission, the Housing Authority must include in its admission policy its specific policy to provide for deconcentration of poverty and income mixing.

Depending on local circumstances the Housing Authority's deconcentration policy may include, but is not limited to the following:

- Providing incentives to encourage families to accept units in developments where their income level is needed

- Targeting investment and capital improvements toward developments with an median income below the EIR to encourage families with incomes above the EIR to accept units in those developments

- Establishing a preference for admission of working families in developments below the EIR

- Pulling families from a different income level on the waiting list to reach another family in an effort to further the goals of deconcentration

- Providing other strategies permitted by statute and determined by the Housing Authority in consultation with the residents and the community through the annual plan process to be responsive to local needs and Housing Authority strategic objectives

A family has the sole discretion whether to accept an offer of a unit made under the Housing Authority's deconcentration policy. The Housing Authority must not take any adverse action toward any eligible family for choosing not to accept an offer of a unit under the Housing Authority's deconcentration policy [24 CFR 903.2(c) (4)].

If, at annual review, the median incomes at all general occupancy developments are within the EIR, the Housing Authority will be considered to be in compliance with the deconcentration requirement and no further action is required.

Housing Authority Policy

For developments outside the EIR the Housing Authority will take the following actions to provide for deconcentration of poverty and income mixing:

Families will be selected from the waiting list based on preference. Among applicants with the same preference, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the Housing Authority.

When selecting applicants from the waiting list the Housing Authority will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. The Housing Authority will offer the unit to the highest ranking applicant who qualifies for that unit size or type, or that requires the accessibility features.

By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application or higher preference status.

Factors such as de-concentration or income mixing and income targeting will also be considered in accordance with HUD requirements and Housing Authority policy.

Order of Selection [24 CFR 960.206(e)]

The Housing Authority system of preferences may select families either according to the date and time of application or by a random selection process.

Housing Authority Policy

Families will be selected from the waiting list based on preference. Among applicants with the same preference, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the Housing Authority.

When selecting applicants from the waiting list the Housing Authority will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. The Housing Authority will offer the unit to the highest ranking applicant who qualifies for that unit size or type, or that requires the accessibility features.

By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application or higher preference status.

Factors such as deconcentration or income mixing and income targeting will also be considered in accordance with HUD requirements and Housing Authority policy.

4-III.C. NOTIFICATION OF SELECTION

When the family has been selected from the waiting list, the Housing Authority must notify the family.

Housing Authority Policy

The Housing Authority will notify the family by first class mail when it is selected from the waiting list.

A 7-Day letter of interest is sent to the prospects selected from the wait list. Attached to the 7-Day letter are: (1) Authorization for the Release of Information (HUD-9886, (2) Housing Authority Authorization for the Release of Information, (3) Things You Should know about the "One Strike Policy", (4) Criminal Background Check

All family members over the age of 18 must sign and return the copies with valid driver's licenses and social security cards. Any family member over the age of 18 must complete their own "Consumer History Application

Signed criminal background checks are submitted to the Community Police Officers for processing. Alternatively, the criminal background check may be done via NCR along with the credit check.

If the family passes the criminal background check a credit check is completed for each member of the household over the age of 18.

If the family fails the criminal background check a Notice of Ineligibility for Participation (NIP). Denied families can make a written request for a conference with the Community Police Officers to receive a full disclosure of their criminal background check.

If the Prospect passes the credit and criminal background checks, the second 7-Day letter is sent. Prospects are requested to make an appointment and bring in the remainder of their eligibility paperwork.

If not all the requested documentation is provided, the Prospect is sent a Notice of Pending Eligibility (NPE) If a notification letter is returned to the Housing Authority with no forwarding address, the family will be removed from the waiting list without further notice. Such failure to act on the part of the applicant prevents the Housing Authority from making an eligibility determination; therefore no informal hearing will be offered.

4-III.D. THE APPLICATION INTERVIEW

HUD recommends that the Housing Authority obtain the information and documentation needed to make an eligibility determination through a private interview. **Being invited to attend an interview does not constitute admission to the program.**

Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability [24 CFR 8.4(a) and 24 CFR 100.204(a)].

Housing Authority Policy

Families selected from the waiting list are required to participate in an eligibility interview.

The head of household, the spouse/co-head, and all other adult members of the household may be required to attend the interview together.

The interview will be conducted only if the head of household provides appropriate documentation of legal identity for all household members (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference (see Chapter 7). If the family is verified as eligible for the preference, the Housing Authority will proceed with the interview. If the Housing Authority determines the family is not eligible for the preference, the interview will not proceed and the family will be placed back on the waiting list according to the date and time of their application.

The family must provide the information necessary to establish the family's eligibility, including suitability, and to determine the appropriate amount of rent the family will pay. The family must also complete required forms, provide required signatures, and submit required documentation. If any materials are missing, the Housing Authority will provide the family with a written list of items that must be submitted.
Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (see Chapter 3).

An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

Interviews will be conducted in English. For Limited English proficient (LEP) applicants, the Housing Authority will provide translation services in accordance with the Housing Authority's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact the Housing Authority in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the Housing Authority will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without Housing Authority approval will be removed from the waiting list without further notice.

The second appointment letter will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no longer interested and their application will be cancelled. Such failure to act on the part of the applicant prevents the Housing Authority from making an eligibility determination, therefore the Housing Authority will not offer an informal hearing.

4-III.E. FINAL ELIGIBILITY DETERMINATION [24 CFR 960.208]

The Housing Authority must verify all information provided by the family (Chapter 7). Based on verified information related to the eligibility requirements, including Housing Authority suitability standards, the Housing Authority must make a final determination of eligibility (Chapter 3).

When a determination is made that a family is eligible and satisfies all requirements for admission, including tenant selection criteria, the applicant must be notified of the approximate date of occupancy insofar as that date can be reasonably determined [24 CFR 960.208(b)].

Housing Authority Policy

The Housing Authority will notify a family in writing of their eligibility within 10 business days of the determination and will provide the approximate date of occupancy insofar as that date can be reasonably determined.

The Housing Authority must promptly notify any family determined to be ineligible for admission of the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination [24 CFR 960.208(a)].

Housing Authority Policy

If the Housing Authority determines that the family is ineligible, the Housing Authority will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing (see Chapter 14).

If the Housing Authority uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the Housing Authority can move to deny the application. (Section 3-III.F) for the Housing Authority's policy regarding such circumstances.

Chapter 5
OCCUPANCY STANDARDS AND UNIT OFFERS

INTRODUCTION

The Housing Authority must establish policies governing occupancy of dwelling units and offering dwelling units to qualified families.

This chapter contains policies for assigning unit size and making unit offers. The Housing Authority's waiting list and selection policies are contained in Chapter 4. Together, Chapters 4 and 5 of the ACOP comprise the Housing Authority's Tenant Selection and Assignment Plan (TSAP).

Policies in this chapter are organized in two parts.

> Part I: Occupancy Standards. This part contains the Housing Authority's standards for determining the appropriate unit size for families of different sizes and types.
>
> Part II: Unit Offers. This part contains the Housing Authority's policies for making unit offers, and describes actions to be taken when unit offers are refused.

PART I: OCCUPANCY STANDARDS

5-I.A. OVERVIEW

Occupancy standards are established by the Housing Authority to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units, while preserving them from excessive wear and tear or underutilization. Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors the Housing Authority will use to determine the size unit for which a family qualifies, and includes the identification of the minimum and maximum number of household members for each unit size. This part also identifies circumstances under which an exception to the occupancy standards may be approved.

5-I.B. DETERMINING UNIT SIZE

In selecting a family to occupy a particular unit, the Housing Authority may match characteristics of the family with the type of unit available, for example, number of bedrooms [24 CFR 960.206(c)].

HUD does not specify the number of persons who may live in public housing units of various sizes. Housing Authorities are permitted to develop appropriate occupancy standards as long as the standards do not have the effect of discriminating against families with children [PH Occ GB, p. 62].

Although the Housing Authority does determine the size of unit the family qualifies for under the occupancy standards, the Housing Authority does not determine who shares a bedroom/sleeping room.

The Housing Authority's occupancy standards for determining unit size must be applied in a manner consistent with fair housing requirements.

> <u>Housing Authority Policy</u>
> The Housing Authority will use the same occupancy standards for each of its developments.
>
> The Housing Authority's occupancy standards are as follows:
>
> > The Housing Authority will assign one bedroom for each two persons within the household, except in the following circumstances:
> >
> > > Persons of the opposite sex (other than spouses, and children under age 5) will not be required to share a bedroom.
> > >
> > > Persons of different generations will not be required to share a bedroom.
> > >
> > > Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family.
> > >
> > > Single person families will be allocated a zero or one bedroom.

Foster children will be included in determining unit size.

The Housing Authority will reference the following standards in determining the appropriate unit bedroom size for a family:

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
1	1	2
2	2	4
3	3	6
4	4	8
5	6	10

5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS

Types of Exceptions

Housing Authority Policy

The Housing Authority will consider granting exceptions to the occupancy standards at the family's request if the Housing Authority determines the exception is justified by the relationship, age, sex, health or disability of family members, or other personal circumstances. For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities.

When evaluating exception requests the Housing Authority will consider the size and configuration of the unit. In no case will the Housing Authority grant an exception that is in violation of local housing or occupancy codes, regulations or laws.
Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be approved as long as the unit is not overcrowded according to local code, and the family agrees not to request a transfer for a period of two years from the date of admission, unless they have a subsequent change in family size or composition.

To prevent vacancies, the Housing Authority may provide an applicant family with a larger unit than the occupancy standards permit. However, in these cases the family must agree to move to a suitable, smaller unit when another family qualifies for the larger unit and there is an appropriate size unit available for the family to transfer to.

Processing of Exceptions

Housing Authority Policy

All requests for exceptions to the occupancy standards must be submitted in writing.
In the case of a request for exception as a reasonable accommodation, the Housing Authority will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the Housing Authority will consider the

exception request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.
Requests for a larger size unit must explain the need or justification for the larger size unit, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source.

The Housing Authority will notify the family of its decision within 10 business days of receiving the family's request.

PART II: UNIT OFFERS

24 CFR 1.4(b)(2)(ii); 24 CFR 960.208

5-II.A. OVERVIEW

The Housing Authority must assign eligible applicants to dwelling units in accordance with a plan that is consistent with civil rights and nondiscrimination.

In filling an actual or expected vacancy, the Housing Authority must offer the dwelling unit to an applicant in the appropriate sequence. The Housing Authority will offer the unit until it is accepted. This section describes the Housing Authority's policies with regard to the number of unit offers that will be made to applicants selected from the waiting list. This section also describes the Housing Authority's policies for offering units with accessibility features.

Housing Authority Policy

The Housing Authority will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection.

5-II.B. NUMBER OF OFFERS

Housing Authority Policy

The Housing Authority has adopted a "two-to-three offer plan" for offering units to applicants. Under this plan, the Housing Authority will determine how many locations within its jurisdiction have available units of suitable size and type in the appropriate type of project. The number of unit offers will be based on the distribution of vacancies. If a suitable unit is available in:

- Each applicant gets one offer.
- Applicants have an incentive to accept the unit offered.
- Unless the applicant has good cause for refusing the offer, the applicant should accept it or be dropped to the bottom of or off the waiting list.
- The amount of time spent making offers to any applicant is limited to the time it takes to make one offer.
- The Housing Authority's record-keeping is limited to the offer made, whether it is accepted or refused, and whether the applicant has good cause for refusal (and is entitled to another offer).
- If Housing Authorities have short waiting lists and allow applicants refusing an offer to be dropped to the bottom of the list, applicants may refuse offers and simply wait until they arrive back at the top of the list in hopes of receiving an offer they prefer.

5-II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL

Housing Authority Policy
Applicants must accept or refuse a unit offer within 3 business days of the date of the unit offer.

5-II.D. REFUSALS OF UNIT OFFERS

Good Cause for Unit Refusal

An elderly or disabled family may decline an offer for designated housing. Such a refusal must not adversely affect the family's position on or placement on the public housing waiting list [24 CFR 945.303(d)].

Housing Authority Policy
Applicants may refuse to accept a unit offer for *"good cause." Good cause* includes situations in which an applicant is willing to move but is unable to do so at the time of the unit offer, or the applicant demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant's race, color, national origin, etc. [PH Occ GB, p. 104]. Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

Inaccessibility to source of employment, education, or job training, children's day care, or educational program for children with disabilities, so that accepting the unit offer would require the adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities

The family demonstrates to the Housing Authority's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency. Reasons offered must be specific to the family. **Refusals due to location alone do not qualify for this good cause exemption.**

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member

The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move

The unit has lead-based paint and the family includes children under the age of six

In the case of a unit refusal for good cause the applicant will not be removed from the waiting list as described later in this section. The applicant will remain at the top of the waiting list until the family receives an offer for which they do not have good cause to refuse.

The Housing Authority will require documentation of good cause for unit refusals.

Unit Refusal Without Good Cause

Housing Authority Policy
When an applicant rejects the final unit offer without good cause, the Housing Authority will remove the applicant's name from the waiting list and send notice to the family of such removal. The notice will inform the family of their right to request an informal hearing and the process for doing so (see Chapter 14).

The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply until the Housing Authority opens the waiting list.

5-II.E. ACCESSIBLE UNITS [24 CFR 8.27]

Housing Authority must adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities, and take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of a particular unit.

When an accessible unit becomes vacant, before offering such units to a non-disabled applicant the Housing Authority must offer such units:

- First, to a current resident of another unit of the same development, or other public housing development under the Housing Authority's control, who has a disability that requires the special features of the vacant unit and is occupying a unit not having such features, or if no such occupant exists, then

- Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

When offering an accessible unit to an applicant not having a disability requiring the accessibility features of the unit, the Housing Authority may require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.

Housing Authority Policy
Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit.

When there are no resident or applicant families requiring the accessible features of the unit, including families who would be over-housed, the Housing Authority will offer the unit to a non-disabled applicant.

When offering an accessible unit to a non-disabled applicant, the Housing Authority will require the applicant to agree to move to an available non-accessible unit within 30 days when either a current resident or an applicant needs the features of the unit and there is another unit available for the non-disabled family. This requirement will be a provision of the lease agreement.

5-II.F. DESIGNATED HOUSING

When applicable, the Housing Authority's policies for offering units designated for elderly families only or for disabled families only are described in the Housing Authority's Designated Housing Plan.

Chapter 6

INCOME AND RENT DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C]

INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's rent payment. The PHA will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and PHA policies related to these topics in three parts as follows:

> Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and PHA policies for calculating annual income are found in Part I.
>
> Part II: Adjusted Income. Once annual income has been established HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and PHA policies for calculating adjusted income are found in Part II.
>
> Part III: Calculating Rent. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also included here are flat rents and the family's choice in rents.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

The general regulatory definition of *annual income* shown below is from 24 CFR 5.609.

> 5.609 Annual income.
>
> (a) Annual income means all amounts, monetary or not, which:
>
> (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
>
> (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
>
> (3) Which are not specifically excluded in paragraph [5.609(c)].
>
> (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Inclusions (Exhibit 6-1)
- Annual Income Exclusions (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)
- Earned Income Disallowance (Exhibit 6-4)
- The Effect of Welfare Benefit Reduction (Exhibit 6-5)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this ACOP, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I.D). Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(a)(1)].
Head, spouse, or co-head Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or co-head)	Employment income above $480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit..

Housing Authority Policy

Generally an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

Housing Authority Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the Housing Authority indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

Housing Authority Policy
If a child has been placed in foster care, the Housing Authority will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Absent Head, Spouse, or Co-head

Housing Authority Policy
An employed head, spouse, or co-head absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member**.**

Individuals Confined for Medical Reasons

Housing Authority Policy
An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

If there is a question about the status of a family member, the Housing Authority will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Joint Custody of Children

Housing Authority Policy
Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family fifty (50) percent or more of the time.

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the Housing Authority will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

Caretakers for a Child

Housing Authority Policy
If neither a parent nor a designated guardian remains in a household receiving assistance, the Housing Authority will take the following actions.

If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will not

be considered a family member until a determination of custody or legal guardianship is made.

If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for ninety (90) days. After the ninety(90) days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the Housing Authority will extend the caretaker's status as an eligible visitor.

At any time that custody or guardianship legally has been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household.

During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

6-I.C. ANTICIPATING ANNUAL INCOME

The Housing Authority is required to count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date" [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

Basis of Annual Income Projection

The Housing Authority generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the Housing Authority to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected.
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- The Housing Authority believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

<u>Housing Authority Policy</u>

When the Housing Authority cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the Housing Authority will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. Anytime current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to

the Housing Authority to show why the historic pattern does not represent the family's anticipated income.

Known Changes in Income

If the Housing Authority verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

Example: An employer reports that a full-time employee who has been receiving $6/hour will begin to receive $6.25/hour in the eighth week after the effective date of the reexamination. In such a case the Housing Authority would calculate annual income as follows: ($6/hour × 40 hours × 7 weeks) + ($6.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the Housing Authority will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the Housing Authority's policy on reexaminations does not require interim reexaminations for other types of changes.

Up-Front Income Verification (UIV) and Income Projection [HUD 2008 EIV Webcasts]

HUD strongly recommends the use of up-front income verification (UIV) techniques. UIV is "the verification of income, before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals" [VG, p. 7]. One such source is HUD's Enterprise Income Verification (EIV) system, which maintains data on three types of income: wages, unemployment benefits, and social security (SS) and supplemental security income (SSI) benefits.

HUD allows the Housing Authority to use UIV data as third-party verification of an income source when a resident does not dispute the source. UIV data, however, is generally several months old. Therefore, except in the case of SS and SSI benefits, which are not subject to frequent or dramatic changes, HUD expects the Housing Authority to base its income projection on documentation of current circumstances provided by the resident (such as consecutive pay stubs dated within the last 60 days) or by the income source (if the PHA determines that additional verification is necessary).

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation [24 CFR 5.609(b)(1)]

The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income.

Housing Authority Policy
For persons who regularly receive bonuses or commissions, the Housing Authority will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the Housing Authority will use the prior year amounts. In either case the family may provide, and the Housing Authority will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the Housing Authority will count only the amount estimated by the employer.

Some Types of Military Pay
All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].

Types of Earned Income Not Counted in Annual Income

Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]
This type of income (including gifts) is not included in annual income.

Housing Authority Policy
Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

Children's Earnings [24 CFR 5.609(c)(1)]
Employment income earned by children (including foster children) under the age of 18 years is not included in annual income. (See Eligibility chapter for a definition of *foster children*.)

Certain Earned Income of Full-Time Students
Earnings in excess of $480 for each full-time student 18 years old or older (except for the head, spouse, or co-head) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program.

Income of a Live-in Aide.
Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income[24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

Income Earned under Certain Federal Programs [24 CFR 5.609(c)(17)]
Income from some federal programs is specifically excluded from consideration as income, including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)

- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b))

- Awards under the federal work-study program (20 U.S.C. 1087 uu)

- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))

- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))

- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

Resident Service Stipend [24 CFR 5.600(c)(8)(iv)]
Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed $200 per individual per month) received by a resident for performing a service for the Housing Authority or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the Housing Authority's governing board. No resident may receive more than one such stipend during the same period of time.

State and Local Employment Training Program
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 a local government) and training of a family member as resident management staff are excluded from annual income. 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 training program [24 CFR 5.609(c)(8)(v)].

Housing Authority Policy
The Housing Authority defines *training program* as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to:

(1) Classroom training in a specific occupational skill,

(2) On-the-job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].

The Housing Authority defines *incremental earnings and benefits* as the difference between:

(1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and

(2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, the Housing Authority will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058. End of participation in a training program must be reported in accordance with the Housing Authority's interim reporting requirements (see chapter on reexaminations).

HUD-Funded Training Programs
Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

Housing Authority Policy
To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

Earned Income Tax Credit. Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

Earned Income Disallowance. The earned income disallowance is discussed in section 6-I.E below.

6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255]

The earned income disallowance (EID) encourages people to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 960.255 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.

Eligibility

This disallowance applies only to individuals in families already participating in the public housing program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

- Employment of a family member who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.

- Increased earnings by a family member whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].

- New employment or increased earnings by a family member who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least $500.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "prior income."

Housing Authority Policy
The Housing Authority defines *prior income,* or *pre-qualifying income,* as the family member's last certified income prior to qualifying for the EID.

The family member's prior, or pre-qualifying, income remains constant throughout the period that he or she is receiving the EID.

Initial 12-Month Exclusion
During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.

Housing Authority Policy
The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion and Housing Authority se-In
During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

Lifetime Limitation
The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

Housing Authority Policy
During the 48-month eligibility period, the Housing Authority will conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her pre-qualifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]
Annual income includes "the net income from the 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" [24 CFR 5.609(b)(2)].

Business Expenses
Net income is "gross income less business expense".

Housing Authority Policy
To determine business expenses that may be deducted from gross income, the Housing Authority will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

Business Expansion
HUD regulations do not permit the Housing Authority to deduct from gross income expenses for business expansion.

Housing Authority Policy
Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness
HUD regulations do not permit the Housing Authority to deduct from gross income the amortization of capital indebtedness.

Housing Authority Policy
Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the Housing Authority will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income
If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

Withdrawal of Cash or Assets from a Business
HUD regulations require the Housing Authority to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

Housing Authority Policy
Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of a tenant family provided an up-front loan of $2,000 to help a business get started, the Housing Authority will not count as income any withdrawals from the business up to the amount of this loan until the loan has been

repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

Housing Authority Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

6-I.G. ASSETS [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]

Overview

There is no asset limitation for participation in the public housing program. However, HUD requires that the Housing Authority include in annual income the "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the Housing Authority must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and Housing Authority policies related to each type of asset.

General Policies

Income from Assets

The Housing Authority generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the Housing Authority to use other than current circumstances to anticipate income when:

(1) An imminent change in circumstances is expected

(2) It is not feasible to anticipate a level of income over 12 months or

(3) The Housing Authority believes that past income is the best indicator of anticipated income.

For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the Housing Authority can take into consideration past rental income along with the prospects of obtaining a new tenant.

Housing Authority Policy

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present

information and documentation to the Housing Authority to show why the asset income determination does not represent the family's anticipated asset income.

Valuing Assets
The calculation of asset income sometimes requires the Housing Authority to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in an investment account).

- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

  Housing Authority Policy
  Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions.

Lump-Sum Receipts
Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account). (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.)

Imputing Income from Assets [24 CFR 5.609(b)(3)]
When net family assets are $5,000 or less, the Housing Authority will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of $5,000, the Housing Authority will include in annual income the greater of

(1) the actual income derived from the assets or

(2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by the current HUD-established passbook savings rate.

Determining Actual Anticipated Income from Assets
It may or may not be necessary for the Housing Authority to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

Withdrawal of Cash or Liquidation of Investments
Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement fund.

Jointly Owned Assets
The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family has access."

> Housing Authority Policy
> If an asset is owned by more than one person and any family member has unrestricted access to the asset, the Housing Authority will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.
>
> If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the Housing Authority will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the Housing Authority will prorate the asset evenly among all owners.

Assets Disposed Of for Less than Fair Market Value [24 CFR 5.603(b)]
HUD regulations require the Housing Authority to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold
The Housing Authority may set a threshold below which assets disposed of for less than fair market value will not be counted.

> Housing Authority Policy
> The Housing Authority will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $1,000.
>
> When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual re-certifications, the family may request an interim recertification to eliminate consideration of the asset(s).
>
> Assets placed by the family in non-revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

Separation or Divorce
The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

> Housing Authority Policy
> All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy
Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

Family Declaration

> Housing Authority Policy
> Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The Housing Authority may verify the value of the assets disposed of if other information available to the Housing Authority does not appear to agree with the information reported by the family.

Types of Assets
Checking and Savings Accounts
For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

> Housing Authority Policy
> In determining the value of a checking account, the Housing Authority will use the average monthly balance for the last six months.
>
> In determining the value of a savings account, the Housing Authority will use the current balance.
>
> In determining the anticipated income from an interest-bearing checking or savings account, the Housing Authority will multiply the value of the account by the current rate of interest paid on the account.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds
Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by

deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

Housing Authority Policy
In determining the market value of an investment account, the Housing Authority will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), the Housing Authority will calculate asset income based on the earnings for the most recent reporting period.

Equity in Real Property or Other Capital Investments
Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [, p. 5-25 and PH, p. 121].
Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- Equity in real property when a family member's main occupation is real estate [, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [, p. 5-25]

A family may have real property as an asset in two ways:

(1) owning the property itself and

(2) holding a mortgage or deed of trust on the property.

In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

Housing Authority Policy

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the Housing Authority determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

Trusts

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

Revocable Trusts

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

Non-revocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

Retirement Accounts

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the Housing Authority must know whether the money is accessible before retirement [, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [, p. 5-25].

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [, p. 5-25].

Housing Authority Policy

In determining the value of personal property held as an investment, the Housing Authority will use the family's estimate of the value. However, the Housing Authority also may obtain an appraisal if appropriate to confirm the value of the asset. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

Housing Authority Policy
Necessary personal property consists of items such as clothing, furniture, household furnishings, jewelry that is not held as an investment, and vehicles, including those specially equipped for persons with disabilities.

Life Insurance
The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

6-I.H. PERIODIC PAYMENTS
Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.

Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].

- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4)]

Lump-Sum Payments for the Delayed Start of a Periodic Payment
Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b)(4)].

Housing Authority Policy
When a delayed-start payment is received and reported during the period in which the Housing Authority is processing an annual reexamination, the Housing Authority will adjust the tenant rent retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with the Housing Authority.

See the chapter on reexaminations for information about a family's obligation to report lump-sum receipts between annual reexaminations.

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone) [24 CFR 5.609(c)(2)]

  Housing Authority Policy
  The Housing Authority will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [, p. 5-18].

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]

- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]

- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]

- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.

- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b)(4)].

6-I.I. PAYMENTS IN LIEU OF EARNINGS

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24

CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)

6-I.J. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

The Housing Authority must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was a public housing resident at the time the sanction was imposed.

Covered Families

The families covered by 24 CFR 5.615 are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance" [24 CFR 5.615(b)]

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the Housing Authority must include in annual income "imputed" welfare income. The Housing Authority must request that the welfare agency inform the Housing Authority when the benefits of a public housing resident are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

This requirement does not apply to reductions in welfare benefits:

(1) At the expiration of the lifetime or other time limit on the payment of welfare benefits,

(2) If a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or

(3) Because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

For special procedures related to grievance hearings based upon the Housing Authority's denial of a family's request to lower rent when the family experiences a welfare benefit reduction, see Chapter 14, Grievances and Appeals.

Offsets

The amount of the imputed income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with a tenant family.

Alimony and Child Support

The Housing Authority must count alimony or child support amounts awarded as part of a divorce or separation agreement.

> Housing Authority Policy
>
> The Housing Authority will count court-awarded amounts for alimony and child support unless the Housing Authority verifies that (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [, pp. 5-23 and 5-47].
>
> Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

Regular Contributions or Gifts

The Housing Authority must count as income regular monetary and non-monetary contributions or gifts from persons not residing with a tenant family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

> Housing Authority Policy
>
> Examples of regular contributions include:
>
> (1) Regular payment of a family's bills (e.g., utilities, telephone, cell phone, rent, credit cards, cable/satellite, personal hygiene/maintenance (hair, nails, etc.), school tuition, pet food/maintenance and car payments and insurance),
>
> (2) Cash or other liquid assets provided to any family member on a regular basis, and
>
> (3) "In-kind" contributions such as groceries and clothing provided to a family on a regular basis.

Non-monetary contributions will be valued at the cost of purchasing the items, as determined by the Housing Authority. For contributions that may vary from month to month (e.g., utility payments), the Housing Authority will include an average amount based upon past history.

6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]

- The full amount of student financial assistance paid directly to the student or to the educational institution [24 CFR 5.609(c)(6)]

- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]

- Amounts received by a person with a disability 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) [(24 CFR 5.609(c)(8)(ii)]

- 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 [24 CFR 5.609(c)(10)]

- Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)]

- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]

- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)]. HUD publishes an updated list of these exclusions periodically. It includes:

    (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))

    (b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)

    (c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))

(d) Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)

(e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))

(f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931).)

(g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)

(h) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)

(i) 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 Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu)

(j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))

(k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.)

(l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)

(m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)

(n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))

(o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)

(p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))

(q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805)

(r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)

(s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

HUD regulations require Housing Authority to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity (Housing Authority) must deduct the following amounts from annual income:

(1) $480 for each dependent;

(2) $400 for any elderly family or disabled family;

(3) The sum of the following, to the extent the sum exceeds three percent of annual income:

(i) Un-reimbursed medical expenses of any elderly family or disabled family;

(ii) Un-reimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and

(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7, Verifications.

Anticipating Expenses

Housing Authority Policy

Generally, the Housing Authority will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), the Housing Authority will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, the Housing Authority will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts

were not paid as expected in a preceding period. The Housing Authority may require the family to provide documentation of payments made in the preceding year.

6-II.B. DEPENDENT DEDUCTION

A deduction of $480 is taken for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, co-head, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

Un-reimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of *Medical Expenses*

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean "medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance."

Housing Authority Policy

The most current IRS Publication 502, *Medical and Dental Expenses,* will be used to determine the costs that qualify as medical expenses.

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals Surgery and medical procedures that are necessary, legal, non-cosmetic Services of medical facilities Hospitalization, long-term care, and in-home nursing services Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) Cost and continuing care of necessary service animals

	Medical insurance premiums or the cost of a health maintenance organization (HMO)
Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.	

Families That Qualify for Both Medical and Disability Assistance Expenses

Housing Authority Policy
This policy applies only to families in which the head, spouse, or co-head is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the Housing Authority will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction
A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].
The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

Housing Authority Policy
The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the Housing Authority will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the Housing Authority determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members' incomes. ..

Eligible Disability Expenses
Examples of auxiliary apparatus are provided in the *PH Occupancy Guidebook* as follows: "Auxiliary apparatus: Including wheelchairs, walkers, scooters, reading devices for persons with visual disabilities, equipment added to cars and vans to permit their use by the family member with a disability, or service animals" but only if these items are directly related to permitting the disabled person or other family member to work. HUD advises Housing Authority to further define and describe auxiliary apparatus.

Eligible Auxiliary Apparatus

Housing Authority Policy

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care
The family determines the type of attendant care that is appropriate for the person with disabilities.

Housing Authority Policy

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the Housing Authority will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Payments to Family Members
No disability expenses may be deducted for payments to a member of a tenant family [23 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the tenant family may be deducted if they are reimbursed by an outside source.

Necessary and Reasonable Expenses
The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

> Housing Authority Policy
> The Housing Authority determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the Housing Authority will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the Housing Authority will consider, the family's justification for costs that exceed typical costs in the area.

Families That Qualify for Both Medical and Disability Assistance Expenses

> Housing Authority Policy
> This policy applies only to families in which the head, spouse, or co-head is 62 or older or is a person with disabilities.
>
> When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the Housing Authority will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.F. CHILD CARE EXPENSE DEDUCTION

HUD defines *child care expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children **under 13 years of age** during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family's household are included when determining the family's child care expenses.

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

Housing Authority Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the Housing Authority will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Housing Authority Policy

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the child care expense being allowed by the Housing Authority.

Furthering Education

Housing Authority Policy

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

Being Gainfully Employed

Housing Authority Policy

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and

reasonable. However, when child care enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)]. The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, child care expenses are limited to $5,000.
The Housing Authority must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [, p. 5-30].

> Housing Authority Policy
> When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the Housing Authority generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

Eligible Child Care Expenses
The type of care to be provided is determined by the tenant family. The Housing Authority may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care..

Allowable Child Care Activities

> Housing Authority Policy
> For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.
>
> The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.
> If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the Housing Authority will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Child care expenses will be considered necessary if:

(1) A family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and

(2) The family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

Housing Authority Policy

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, the Housing Authority will use the schedule of child care costs from the local welfare agency. Families may present, and the Housing Authority will consider, justification for costs that exceed typical costs in the area.

6-II.G. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)]

Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If the Housing Authority offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions.

The *Form HUD-50058 Instruction Booklet* states that the maximum allowable amount for total permissive deductions is less than $90,000 per year.

Housing Authority Policy

The Housing Authority has opted not to use permissive deductions.

PART III: CALCULATING RENT

6-III.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then, if the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to the family or directly to the utility company by the Housing Authority.

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for a tenant family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by the Housing Authority

The Housing Authority has the right to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

Welfare Rent [24 CFR 5.628]

Housing Authority Policy
Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

Housing Authority Policy
The minimum rent for this locality is $50.

Optional Changes to Income-Based Rents [24 CFR 960.253(c)(2)]

Housing Authority have been given very broad flexibility to establish their own, unique rent calculation systems as long as the rent produced is not higher than that calculated using the TTP and mandatory deductions. At the discretion of the Housing Authority, rent policies may structure a system that uses combinations of permissive deductions, escrow accounts, income-based rents, and the required flat and minimum rents.

The Housing Authority's minimum rent and rent choice policies still apply to affected families. Utility allowances are applied to Housing Authority designed income-based rents in the same manner as they are applied to the regulatory income-based rents.

The choices are limited only by the requirement that the method used not produce a TTP or tenant rent greater than the TTP or tenant rent produced under the regulatory formula.

Housing Authority Policy
The Housing Authority chooses not to adopt optional changes to income-based rents.

Ceiling Rents [24 CFR 960.253 (c)(2) and (d)]
Ceiling rents are used to cap income-based rents. They are part of the income-based formula. If the calculated TTP exceeds the ceiling rent for the unit, the ceiling rent is used to calculate tenant rent (ceiling rent/TTP minus utility allowance). Increases in income do not affect the family since the rent is capped. The use of ceiling rents fosters upward mobility and income mixing. Because of the mandatory use of flat rents, the primary function of ceiling rents now is to assist families who cannot switch back to flat rent between annual reexaminations and would otherwise be paying an income-based tenant rent that is higher than the flat rent.

Ceiling rents must be set to the level required for flat rents (which will require the addition of the utility allowance to the flat rent for properties with tenant-paid utilities).

Housing Authority Policy
The Housing Authority chooses not to use ceiling rents.

Utility Reimbursement [24 CFR 960.253(c)(3)]
Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. HUD permits the Housing Authority to pay the reimbursement to the family or directly to the utility provider.

Housing Authority Policy
The Housing Authority will make utility reimbursements to the family.

6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

Overview
The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the Housing Authority determines that a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship
Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act

who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

Housing Authority Policy
A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.
For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following

(1) Implementation of assistance, if approved, or

(2) The decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

Housing Authority Policy
For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or tenant-paid utilities.

(3) Family income has decreased because of changed family circumstances, including the loss of employment.

(4) A death has occurred in the family.

Housing Authority Policy
In order to qualify under this provision, a family must provide 3rd party proof the death occurred and describe in writing how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

(5) The family has experienced other circumstances determined by the Housing Authority.

Housing Authority Policy
The Housing Authority has not established any additional hardship criteria.

Implementation of Hardship Exemption
Determination of Hardship
When a family requests a financial hardship exemption, the Housing Authority must suspend the minimum rent requirement beginning the first of the month following the family's request.
The Housing Authority then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

Housing Authority Policy
The Housing Authority defines temporary hardship as a hardship expected to last 90 days or less. Long term hardship is defined as a hardship expected to last more than 90 days.

The Housing Authority may not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the family's request for a hardship exemption.

When the minimum rent is suspended, the TTP reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume the Housing Authority has established a minimum rent of $50.	
TTP – No Hardship	**TTP – With Hardship**
$0 30% of monthly adjusted income $35 10% of monthly gross income N/A Welfare rent $50 Minimum rent	$0 30% of monthly adjusted income $35 10% of monthly gross income N/A Welfare rent $50 Minimum rent
Minimum rent applies. TTP = $50	Hardship exemption granted. TTP = $35

Housing Authority Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The Housing Authority will make the determination of hardship within 30 calendar days.

No Financial Hardship

If the Housing Authority determines there is no financial hardship, the Housing Authority will reinstate the minimum rent and require the family to repay the amounts suspended.
For procedures pertaining to grievance hearing requests based upon the Housing Authority's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

Housing Authority Policy

The Housing Authority will require the family to repay the suspended amount within 30 calendar days of the Housing Authority's notice that a hardship exemption has not been granted.

Temporary Hardship

If the Housing Authority determines that a qualifying financial hardship is temporary, the Housing Authority must reinstate the minimum rent from the beginning of the first of the month following the date of the family's request for a hardship exemption.
The family must resume payment of the minimum rent and must repay the Housing Authority the amounts suspended. HUD requires the Housing Authority to offer a reasonable repayment agreement, on terms and conditions established by the Housing Authority. The Housing Authority also may determine that circumstances have changed and the hardship is now a long-term hardship.

For procedures pertaining to grievance hearing requests based upon the Housing Authority's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

Housing Authority Policy
The Housing Authority will enter into a repayment agreement in accordance with the Housing Authority's repayment agreement policy (see Chapter 16).

Long-Term Hardship
If the Housing Authority determines that the financial hardship is long-term, the Housing Authority must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

Housing Authority Policy
The hardship period ends when any of the following circumstances apply:

(1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.

(2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.

(3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

6-III.C. UTILITY ALLOWANCES [24 CFR 965, Subpart E]

Overview
Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, the Housing Authority must use the utility allowance applicable to the type of dwelling unit leased by the family.

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation [24 CFR 8]
On request from a family, Housing Authority must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability..

Residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability..
See Chapter 2 for policies related to reasonable accommodations.

Utility Allowance Revisions [24 CFR 965.507]
The Housing Authority must review its schedule of utility allowances each year. Between annual reviews, the Housing Authority must revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which such allowances were based. Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective .

The tenant rent calculations must reflect any changes in the Housing Authority's utility allowance schedule [24 CFR 960.253(c)(3)].

> Housing Authority Policy
> Unless the Housing Authority is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

6-III.D. PRORATED RENT FOR MIXED FAMILIES [24 CFR 5.520]
HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The Housing Authority must prorate the assistance provided to a mixed family. The Housing Authority will first determine TTP as if all family members were eligible and then prorate the rent based upon the number of family members that actually are eligible. To do this, the Housing Authority must:

(1) Subtract the TTP from a maximum rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.

(2) Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).

(3) Multiply the member maximum subsidy by the number of eligible family members.

(4) Subtract the subsidy calculated in the last step from the maximum rent. This is the prorated TTP.

(5) Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.

Housing Authority Policy

Revised public housing maximum rents will be applied to a family's rent calculation at the first annual reexamination after the revision is adopted.

For policies related to the establishment of the public housing maximum rent see Chapter 16.

6-III.E. FLAT RENTS AND FAMILY CHOICE IN RENTS [24 CFR 960.253]

Flat Rents [24 CFR 960.253(b)]

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient. There is no utility allowance or reimbursement with flat rents. When the family elects to pay the flat rent, the flat rent amount quoted to the family by the Housing Authority is the amount the family pays. Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and review of flat rents are contained in Chapter 16.

Family Choice in Rents [24 CFR 960.253(a) and (e)]

Once each year, the Housing Authority must offer families the choice between a flat rent and an income-based rent. The family may not be offered this choice more than once a year. The Housing Authority must document that flat rents were offered to families under the methods used to determine flat rents for the Housing Authority.

Housing Authority Policy

The annual Housing Authority offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.

The Housing Authority will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the tenant file as part of the admission or annual reexamination process.

The Housing Authority must provide sufficient information for families to make an informed choice. This information must include the Housing Authority's policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option. However, if the family chose the flat rent for the previous year the Housing Authority is required to provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]

A family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If the Housing Authority determines that a financial

hardship exists, the Housing Authority must immediately allow the family to switch from flat rent to the income-based rent.

Housing Authority Policy
Upon determination by the Housing Authority that a financial hardship exists, the Housing Authority will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, child care, transportation, education, or similar items
- Such other situations determined by the Housing Authority to be appropriate

Housing Authority Policy
The Housing Authority considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent.

Change in Flat Rents

Housing Authority Policy
Changes to flat rents, up or down, will not affect families paying flat rent until their next annual flat rent offer, at which time the family will be given the choice of switching back to income-based rent or of remaining on flat rent at the current (most recently adjusted) flat rent for their unit.[

Flat Rents and Earned Income Disallowance [A&O FAQs]

Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID. If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.

A family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their 48 month period would have the 12 cumulative months of full (100 percent) and Housing Authority se-in (50 percent) exclusion continue while paying flat rent as long as the employment that is the subject of the exclusion continues, and the 48-month lifetime limit would continue uninterrupted. A family paying flat rent could therefore see a family member's 48-month lifetime limit expire while the family is paying flat rent.

Flat Rents and Mixed Families [A&O FAQs]

Mixed families electing to pay flat rent must first have a flat rent worksheet completed to see if the flat rent must be prorated. The worksheet is located in Appendix III of the *Form HUD-50058 Instruction Booklet*.

If the flat rent is greater than or equal to the public housing maximum rent, there is no proration of flat rent and the family pays the flat rent for the unit.

If the flat rent is less than the maximum rent, the worksheet will calculate a prorated flat rent. The mixed family will pay the prorated flat rent.

Flat Rents

Development	**Bedroom/#**	**Flat Rent**
Sierra Vista	1 bedroom	$479
	2 bedroom	$600
	3 bedroom	$780
	4 bedroom	$953
	5 bedroom	$1083
Conway Duplex	1 bedroom	$479
	2 bedroom	$600
	3 bedroom	$780
	4 bedroom	$953
Conway Single Family	3 bedroom	$882

	4 bedroom	$1078
	5 bedroom	$1083
Tracy Duplex	1 bedroom	$478
	2 bedroom	$600
	3 bedroom	$780
	4 bedroom	$953
Tracy Quad	2 bedroom	$602
Tracy Triplex	1 bedroom	$477
	2 bedroom	$588
Tracy Single Family	3 bedroom	$857
	4 bedroom	$1043
Thornton	1 bedroom	$479
	2 bedroom	$622
	3 bedroom	$876
	4 bedroom	$1074

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

(a) *Annual income means all amounts, monetary or not, which:*

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this section.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) *Annual income includes, but is not limited to:*

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) The net income from the 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;

(3) 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. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) 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 in excess of $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;

(4) The full amount of periodic amounts 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 amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31[1]; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

---

[1] Text of 45 CFR 260.31 follows (next page).

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.
(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;
(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).
(2) It includes such benefits even when they are:
(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and
(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).
(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.
(b) [The definition of "assistance"] excludes:
(1) Non-recurrent, short-term benefits that:
(i) Are designed to deal with a specific crisis situation or episode of need;
(ii) Are not intended to meet recurrent or ongoing needs; and
(iii) Will not extend beyond four months.
(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);
(3) Supportive services such as child care and transportation provided to families who are employed;
(4) Refundable earned income tax credits;
(5) Contributions to, and distributions from, Individual Development Accounts;
(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and
(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

(c) *Annual income does not include the following:*

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) 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 (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in Sec. 5.403;

(6) The full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8) (i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability 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 participant 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;

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the Housing Authority or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the Housing Authority's governing board. No resident may receive more than one such stipend during the same period of time;

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a 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;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) 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;

(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) 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;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to Housing Authority and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits

a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));
b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);
c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
d) Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));
f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);
g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L- 94-540, 90 Stat. 2503-04);
h) The first $2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);
i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);
j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));
k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);
l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);
m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);
n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);
p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);
r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and
s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has 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 under Sec. 5.609.

(3) In determining net family assets, Housing Authority or owners, as applicable, shall include the value of any business or family assets 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 the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

EXHIBIT 6-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

24 CFR 5.617 Self-sufficiency incentives for persons with disabilities–Disallowance of increase in annual income.

(a) *Applicable programs.* The disallowance of increase in annual income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

(b) *Definitions.* The following definitions apply for purposes of this section.

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

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

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six 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 the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least $500.

(c) *Disallowance of increase in annual income—*

(1) Initial twelve month exclusion. During the cumulative twelve month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) Second twelve month exclusion and Housing Authority se-in. During the second cumulative twelve month period after the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) Maximum four year disallowance. The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) is limited to a lifetime 48 month period. The disallowance only applies for a maximum of twelve months for disallowance under paragraph (c)(1) and a maximum of twelve months for disallowance under paragraph (c)(2), during the 48 month period starting from the initial exclusion under paragraph (c)(1) of this section.

(d) *Inapplicability to admission.* The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) *Definitions.* The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) *Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the Housing Authority by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the Housing Authority, the welfare agency will inform the Housing Authority in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the Housing Authority of any subsequent changes in the term or amount of such specified welfare benefit reduction. The Housing Authority will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the Housing Authority's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the Housing Authority by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The Housing Authority may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) *Review of Housing Authority decision.*

(1) Public housing. If a public housing tenant claims that the Housing Authority has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the Housing Authority denies the family's request to modify such amount, the Housing Authority shall give the tenant written notice of such denial, with a brief explanation of the basis for the Housing Authority determination of the amount of imputed welfare income. The Housing Authority notice shall also state that if the tenant does not agree with the Housing Authority determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the Housing Authority determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the Housing Authority determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the Housing Authority determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the Housing Authority denies the family's request to modify such amount, the Housing Authority shall give the family written notice of such denial, with a brief explanation of the basis for the Housing Authority determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the Housing Authority determination, the family may request an informal hearing on the determination under the Housing Authority hearing procedure.

(e) *Housing Authority relation with welfare agency.*

(1) The Housing Authority must ask welfare agencies to inform the Housing Authority of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the Housing Authority written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The Housing Authority is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the Housing Authority. However, the Housing Authority is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The Housing Authority shall be entitled to rely on the welfare agency notice to the Housing Authority of the welfare agency's determination of a specified welfare benefits reduction.

Chapter 7

VERIFICATION

[24 CFR 960.259, 24 CFR 5.230]

INTRODUCTION

The HOUSING AUTHORITY must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and tenants must cooperate with the verification process as a condition of receiving assistance. The HOUSING AUTHORITY must not pass on the cost of verification to the family.

The HOUSING AUTHORITY will follow the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance ("VG") and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary HOUSING AUTHORITY policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by the HOUSING AUTHORITY.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 960.259, 24 CFR 5.230]

The family must supply any information that the HOUSING AUTHORITY or HUD determines is necessary to the administration of the program and must consent to HOUSING AUTHORITY verification of that information [24 CFR 960.259(a)(1)].

Consent Forms

It is required that all adult applicants and tenants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the HOUSING AUTHORITY may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the HOUSING AUTHORITY will deny admission to applicants and terminate the lease of tenants. The family may request a hearing in accordance with the HOUSING AUTHORITY's grievance procedures.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy [VG, p. 11-14]

HUD authorizes the HOUSING AUTHORITY to use five methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the HOUSING AUTHORITY to use the most reliable form of verification that is available and to document the reasons when the HOUSING AUTHORITY uses a lesser form of verification.

<u>HOUSING AUTHORITY Policy</u>

In order of priority, the forms of verification that the HOUSING AUTHORITY will use are:

Up-front Income Verification (UIV) whenever available

Third-party Written Verification

Third-party Oral Verification

Review of Documents

Self-Certification

Each of the verification methods is discussed in subsequent sections below. Exhibit 7-1 at the end of the chapter contains an excerpt from the Verification Guidance that provides guidance with respect to how each method may be used.

Requirements for Acceptable Documents

HOUSING AUTHORITY Policy

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 calendar days of the date they are provided to the HOUSING AUTHORITY. The documents must not be damaged, altered or in any way illegible.

The HOUSING AUTHORITY will accept documents dated up to 6 months before the effective date of the family's reexamination if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, the HOUSING AUTHORITY would accept the most recent report.

Print-outs from web pages are considered original documents.

The HOUSING AUTHORITY staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

Any family self-certifications must be made in a format acceptable to the HOUSING AUTHORITY and must be signed in the presence of a HOUSING AUTHORITY representative or HOUSING AUTHORITY notary public.

File Documentation

The HOUSING AUTHORITY must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the HOUSING AUTHORITY has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY will document, in the family file, the following:

Reported family annual income

Value of assets

Expenses related to deductions from annual income

Other factors influencing the adjusted income or income-based rent determination

When the HOUSING AUTHORITY is unable to obtain 3rd party verification, the HOUSING AUTHORITY will document in the family file the reason that third-party verification was not available and will place a photocopy of the original document(s) in the family file. [24 CFR 960.259(c)(1); VG, p.15]

7-I.C. UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the HOUSING AUTHORITY's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to the HOUSING AUTHORITY.

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY will inform all applicants and residents of its use of the following UIV resources during the admission and reexamination process:

1. HUD's EIV system
2. **Third-Party Written:** The Housing Authority's next choice is a written third-party verification to substantiate claims made by an applicant or resident, such as TANF, Work Number, SSI, SSA
3. **Third-Party Oral:** The Housing Authority may also use telephone verifications.
4. **Review of Documents:** The Housing Authority will review documents, when relevant, to substantiate the claim of an applicant or resident.
5. **Certification/Self-Declaration:** An affidavit, certification, or statement made under penalty of perjury, and witnessed by the Housing Authority.

The Housing Authority will allow two (2) weeks for return of third-party verifications before going to the next method. The Housing Authority will document the file as to why third-party written verification was not used. Below are some examples of acceptable file documentation:

- New admission, information not available in EIV
- New tenant, information not available in EIV
- Current tenant, information not available in EIV due to identity validation error
- Current tenant, information not available in EIV, reason unknown

There may be legitimate differences between the information provided by the family and UIV-generated information. The HOUSING AUTHORITY may not take any adverse action against a family based solely on UIV data unless the family does not dispute the data. The HOUSING AUTHORITY must independently verify any UIV data that the family disputes, and, before taking any adverse action, it must give the family the opportunity to contest the action through the HOUSING AUTHORITY's informal review/hearing processes. (For more on UIV and income projection, see section 6-I.C.)

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

HUD's EIV system contains data showing earned income, unemployment benefits, and social security (SS) and supplemental security income (SSI) benefits for resident families. HUD requires the HOUSING AUTHORITY to use the EIV system. The following policies apply to use of HUD's EIV system.

The EIV system contains two main components: income reports and income discrepancy reports.

Income Reports

The data shown on income reports is updated quarterly. Data may be between three and six months old at the time reports are generated.

HOUSING AUTHORITY Policy

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

Income reports will be compared to family-provided information as part of the annual reexamination process. When the family does not dispute the UIV data, income reports may be used to meet the regulatory requirement for third-party verification.

Income reports will be used in interim reexaminations when necessary to verify employment income, unemployment benefits, and SS/SSI benefits and to verify that families claiming zero income are not receiving income from any of these sources.

Income reports will be retained in resident files with the applicable annual or interim reexamination documents.

When the HOUSING AUTHORITY determines through income reports and independent third-party verification that a family has concealed or underreported income, corrective action will be taken pursuant to the policies in Chapter 15, "Program Integrity."

Income Discrepancy Reports (IDRs)

The income discrepancy report (IDR) is a tool for identifying families that may have concealed or underreported income. Data in the IDR represents income for past reporting periods and may be between 6 and 30 months old at the time the report is generated.

Families that have not concealed or underreported income may appear on the IDR in some circumstances, such as loss of a job or addition of new family members.

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY will generate and review IDRs at least semiannually. The IDR threshold percentage will be adjusted as necessary based on the findings in the IDRs.

In reviewing IDRs, the HOUSING AUTHORITY will begin with the largest discrepancies.

When the HOUSING AUTHORITY determines that a resident appearing on the IDR has not concealed or underreported income, the resident's name will be placed on a list of "false positive" reviews. To avoid multiple reviews in this situation, residents appearing on this list will be eliminated from IDR processing until a subsequent interim or annual reexamination has been completed.

When it appears that a family may have concealed or underreported income, the HOUSING AUTHORITY will request independent third-party written verification of the income in question.

When the HOUSING AUTHORITY determines through IDR review and independent third-party verification that a family has concealed or underreported income, corrective action will be taken pursuant to the policies in Chapter 15, "Program Integrity."

EIV Identity Verification

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to Public and Indian Housing Information Center (PIC) data for a match on social security number, name, and date of birth.

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

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY will identify residents whose identity verification has failed as part of the annual reexamination process.

The HOUSING AUTHORITY will attempt to resolve PIC/SSA discrepancies by reviewing file documents. When the HOUSING AUTHORITY determines that discrepancies exist as a result of HOUSING AUTHORITY errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

Reasonable Effort and Timing

Unless third-party verification is not required as described below, HUD requires the HOUSING AUTHORITY to make at least two unsuccessful attempts to obtain third-party verification before using another form of verification [VG, p. 15].

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY will diligently seek third-party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.

The HOUSING AUTHORITY may mail, fax, e-mail, or hand-deliver third-party written verification requests and will accept third-party responses using any of these methods. The HOUSING AUTHORITY will send a written request for verification to each required source within 5 business days of securing a family's authorization for the release of the information and give the source 10 business days to respond in writing. If a response has not been received by the 11th business day, the HOUSING AUTHORITY will request third-party oral verification.

The HOUSING AUTHORITY will make a minimum of two attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file. Regarding third-party oral verification, HOUSING AUTHORITY staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds orally to the initial written request for verification, the HOUSING AUTHORITY will accept the oral response as oral verification but will also request that the source complete and return any verification forms that were provided.

If a third party agrees to confirm in writing the information provided orally, the HOUSING AUTHORITY will wait no more than 5 business days for the information to be provided. If the information is not provided by the 6th business day, the HOUSING AUTHORITY will use any information provided orally in combination with reviewing family-provided documents (see below).

When Third-Party Information is Late

When third-party verification has been requested and the timeframes for submission have been exceeded, the HOUSING AUTHORITY will use the information from documents on a provisional basis. If the HOUSING AUTHORITY later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, the HOUSING AUTHORITY will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of the HOUSING AUTHORITY's interim reexamination policy.

When Third-Party Verification is Not Required

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Certain Assets and Expenses

The HOUSING AUTHORITY may accept a self-certification from the family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

The HOUSING AUTHORITY may determine that third-party verification is not available if the asset or expense involves an insignificant amount, making it not cost-effective or reasonable to obtain third-party verification [VG, p. 15].

> HOUSING AUTHORITY Policy
>
> The HOUSING AUTHORITY will use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than $500 annually and the family has original documents that support the declared amount.

Certain Income, Asset and Expense Sources

The HOUSING AUTHORITY will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification [VG, p. 15]. For example, the HOUSING AUTHORITY will rely upon review of documents when the HOUSING AUTHORITY determines that a third party's privacy rules prohibit the source from disclosing information.

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY will determine that third-party verification is not available when there is a service charge for verifying an asset or expense *and* the family has original documents that provide the necessary information.

If the family cannot provide original documents, the HOUSING AUTHORITY will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

The HOUSING AUTHORITY will document, in the family file, the reason that the third-party verification was not available and will place a photocopy of the original document(s) in the family file. [VG, p. 15]

7-I.E. REVIEW OF DOCUMENTS

Using Review of Documents as Verification

HOUSING AUTHORITY Policy

If the HOUSING AUTHORITY has determined that third-party verification is not available or not required, the HOUSING AUTHORITY will use documents provided by the family as verification.

The HOUSING AUTHORITY may also review documents when necessary to help clarify information provided by third parties. In such cases the HOUSING AUTHORITY will document in the file how the HOUSING AUTHORITY arrived at a final conclusion about the income or expense to include in its calculations.

7-I.F. SELF-CERTIFICATION

HOUSING AUTHORITY Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the HOUSING AUTHORITY.

The HOUSING AUTHORITY may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the HOUSING AUTHORITY and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a HOUSING AUTHORITY representative or HOUSING AUTHORITY notary public.

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers	Certificate of birth
Church issued baptismal certificate	Adoption papers
Current, valid driver's license or Department of Motor Vehicle identification card	Custody agreement
	Health and Human Services ID
U.S. military discharge (DD 214)	School records
U.S. passport	
Employer identification card	

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the HOUSING AUTHORITY's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the HOUSING AUTHORITY and be signed in the presence of a HOUSING AUTHORITY representative or HOUSING AUTHORITY notary public.

Legal identity will be verified on an as needed basis.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and HCV, p. 5-12]

For every family member age 6 or older, the family must provide documentation of a valid social security number (SSN), or a self-certification stating that no SSN has been issued. The self-certification must be executed personally by any family member 18 or older, or by a parent or guardian for a minor.

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY will also accept the following documents as evidence if the SSN is provided on the document:

Driver's license

Other identification card issued by a federal, state, or local agency, a medical insurance company or provider, or employer or trade union

Payroll stubs

Benefit award letters from government agencies; retirement benefit letters; life insurance policies

Court records (real estate, tax notices, marriage and divorce, judgment or bankruptcy records)

If the family reports an SSN but cannot provide acceptable documentation of the number, the HOUSING AUTHORITY will require a self-certification stating that documentation of the SSN cannot be provided at this time. The HOUSING AUTHORITY will require documentation of the SSN within 60 calendar days from the date of the family member's self-certification mentioned above. If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided.

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY will instruct the family to obtain a duplicate card from the local Social Security Administration (SSA) office.

For individuals who are at least 62 years of age and are unable to submit the required documentation of their SSN within the initial 60-day period, the HOUSING AUTHORITY will grant an additional 60 calendar days to provide documentation.

Social security numbers must be verified only once during continuously-assisted occupancy.

If any family member obtains an SSN after admission to the program, the new SSN must be disclosed at the next regularly scheduled reexamination. In addition, if a child reaches the age of

6 and has no SSN, the parent or guardian must execute a self-certification stating that the child has no SSN at the next regularly scheduled reexamination.

The social security numbers of household members, such as live-in aids, must be verified for the purpose of conducting criminal background checks.

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

HOUSING AUTHORITY Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the HOUSING AUTHORITY will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously-assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

Applicants and tenants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

HOUSING AUTHORITY Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

HOUSING AUTHORITY Policy

Certification by the head of household is normally sufficient verification. If the HOUSING AUTHORITY has reasonable doubts about a marital relationship, the HOUSING AUTHORITY will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

HOUSING AUTHORITY Policy

Certification by the head of household is normally sufficient verification. If the HOUSING AUTHORITY has reasonable doubts about a separation or divorce, the HOUSING AUTHORITY will require the family to document the divorce, or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

HOUSING AUTHORITY Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

Foster Children and Foster Adults

HOUSING AUTHORITY Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7-II.E. VERIFICATION OF STUDENT STATUS

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

The family claims full-time student status for an adult other than the head, spouse, or co-head, or

The family claims a child care deduction to enable a family member to further his or her education.

7-II.F. DOCUMENTATION OF DISABILITY

The HOUSING AUTHORITY must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The HOUSING AUTHORITY is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The HOUSING AUTHORITY may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the HOUSING AUTHORITY receives a verification document that provides such information, the HOUSING AUTHORITY will not place this information in the tenant file. Under no circumstances will the HOUSING AUTHORITY request a resident's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' Web site at **www.os.dhhs.gov**.

The HOUSING AUTHORITY may make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiry about whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiry about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions [VG, p. 23].

HOUSING AUTHORITY Policy

For family members claiming disability who receive disability payments from the SSA, the HOUSING AUTHORITY will attempt to obtain information about disability benefits through HUD's Enterprise Income Verification (EIV) system. If documentation is not available through HUD's EIV system, the HOUSING AUTHORITY will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, the HOUSING AUTHORITY will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from **www.ssa.gov**. Once the family receives the benefit verification letter, it will be required to provide the letter to the HOUSING AUTHORITY.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

HOUSING AUTHORITY Policy

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. See the Eligibility chapter for detailed discussion of eligibility requirements. This chapter (7) discusses HUD and HOUSING AUTHORITY verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The HOUSING AUTHORITY may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

HOUSING AUTHORITY Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the HOUSING AUTHORITY receives information indicating that an individual's declaration may not be accurate.

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-2 at the end of this chapter summarizes documents family members must provide.

HOUSING AUTHORITY Verification [HCV GB, pp 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the HOUSING AUTHORITY must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

The HOUSING AUTHORITY will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The HOUSING AUTHORITY must verify any preferences claimed by an applicant.

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY offers a preference for working families, described in Section 4-III.B.

The HOUSING AUTHORITY may verify that the family qualifies for the working family preference based on the family's submission of the working member's most recent paycheck stub indicating that the working member works at least 20 hours per week. The paycheck stub must have been issued to the working member within the last thirty days.

The HOUSING AUTHORITY may also seek third party verification from the employer of the head, spouse, co-head or sole member of a family requesting a preference as a working family.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides HOUSING AUTHORITY policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

HOUSING AUTHORITY Policy

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

HOUSING AUTHORITY Policy

Business owners and self-employed persons will be required to provide:

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.
- All schedules completed for filing federal and local taxes in the preceding year.
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The HOUSING AUTHORITY will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the HOUSING AUTHORITY may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the HOUSING AUTHORITY will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the HOUSING AUTHORITY will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

HOUSING AUTHORITY Policy

To verify the SS/SSI benefits of applicants, the HOUSING AUTHORITY will request a current (dated within the last 60 days) SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, the HOUSING AUTHORITY will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from **www.ssa.gov**. Once the family has received the original benefit verification letter, it will be required to provide the letter to the HOUSING AUTHORITY.

To verify the SS/SSI benefits of residents, the HOUSING AUTHORITY will obtain information about social security/SSI benefits through HUD's EIV system. If benefit information is not available in the EIV system, the HOUSING AUTHORITY will request a current (dated within the last 60 days) SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, the HOUSING AUTHORITY will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from **www.ssa.gov**. Once the family has received the benefit verification letter, it will be required to provide the letter to the HOUSING AUTHORITY.

7-III.D. ALIMONY OR CHILD SUPPORT

HOUSING AUTHORITY Policy

The way the HOUSING AUTHORITY will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be sought in the following order.

If payments are made through a state or local entity, the HOUSING AUTHORITY will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.

Third-party verification from the person paying the support

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

Copy of the latest check and/or payment stubs

Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If the family declares that it ***receives irregular or no payments***, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts

If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

Note: Families are not required to undertake independent enforcement action.

7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The HOUSING AUTHORITY needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY will verify the value of assets disposed of only if:

The HOUSING AUTHORITY does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the HOUSING AUTHORITY verified this amount. Now the person reports that she has given this $10,000 to her son. The HOUSING AUTHORITY has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the HOUSING AUTHORITY will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

HOUSING AUTHORITY Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the HOUSING AUTHORITY will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.G. RETIREMENT ACCOUNTS

HOUSING AUTHORITY Policy

When third-party verification is not available the type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, the HOUSING AUTHORITY will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.
Upon retirement, the HOUSING AUTHORITY will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.
After retirement, the HOUSING AUTHORITY will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

The HOUSING AUTHORITY must obtain verification for income exclusions only if, without verification, the HOUSING AUTHORITY would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, the HOUSING AUTHORITY will confirm that HOUSING AUTHORITY records verify the child's age but will not send a verification request to the restaurant. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family's rent (as is the case with the earned income disallowance). In all other cases, the HOUSING AUTHORITY will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

HOUSING AUTHORITY Policy

Families claiming to have no annual income will be required to execute verification forms to determine that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household. Special reexaminations will occur every 90 days.

.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the HOUSING AUTHORITY verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. The HOUSING AUTHORITY will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or co-head of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The HOUSING AUTHORITY will verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

Third-party verification form signed by the provider, when possible

If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case the HOUSING AUTHORITY will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The HOUSING AUTHORITY will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months

In addition, the HOUSING AUTHORITY must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62 or a person with disabilities. The HOUSING AUTHORITY will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for the HOUSING AUTHORITY's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

HOUSING AUTHORITY Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

Expenses Incurred in Past Years

HOUSING AUTHORITY Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the HOUSING AUTHORITY will verify:

The anticipated repayment schedule
The amounts paid in the past, and
Whether the amounts to be repaid have been deducted from the family's annual income in past years

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

Third-party verification form signed by the provider, when possible
If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source
If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

Auxiliary Apparatus

HOUSING AUTHORITY Policy

Expenses for auxiliary apparatus will be verified through:

- Third-party verification of anticipated purchase costs of auxiliary apparatus
- If third-party is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months
- If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, the HOUSING AUTHORITY must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The HOUSING AUTHORITY will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The HOUSING AUTHORITY must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.).

If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

HOUSING AUTHORITY Policy

An attendant care provider will be asked to certify that, to the best of the provider's knowledge, the expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, the HOUSING AUTHORITY must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The HOUSING AUTHORITY will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

> HOUSING AUTHORITY Policy
>
> The child care provider will be asked to certify that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.
>
> The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

The HOUSING AUTHORITY must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

HOUSING AUTHORITY Policy

Information to be Gathered

The HOUSING AUTHORITY will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible the HOUSING AUTHORITY will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the HOUSING AUTHORITY will request verification from the agency of the member's job seeking efforts to date and require the family to submit to the HOUSING AUTHORITY any reports provided to the other agency.

In the event third-party verification is not available, the HOUSING AUTHORITY will provide the family with a form on which the family member must record job search efforts. The HOUSING AUTHORITY will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The HOUSING AUTHORITY will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered.

Gainful Employment

The HOUSING AUTHORITY will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

The HOUSING AUTHORITY will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The HOUSING AUTHORITY will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

HOUSING AUTHORITY Policy

The actual costs the family incurs will be compared with the HOUSING AUTHORITY's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the HOUSING AUTHORITY will request additional documentation, as required, to support a determination that the higher cost is appropriate.

7-III.A. EARNED INCOME

Tips

HOUSING AUTHORITY Policy

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

HOUSING AUTHORITY Policy

Business owners and self-employed persons will be required to provide:

> An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.
>
> All schedules completed for filing federal and local taxes in the preceding year.
>
> If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The HOUSING AUTHORITY will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the HOUSING AUTHORITY may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the HOUSING AUTHORITY will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the HOUSING AUTHORITY will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

HOUSING AUTHORITY Policy

To verify the SS/SSI benefits of applicants, the HOUSING AUTHORITY will request a current (dated within the last 60 days) SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, the HOUSING AUTHORITY will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from **www.ssa.gov**. Once the family has received the original benefit verification letter, it will be required to provide the letter to the HOUSING AUTHORITY.

To verify the SS/SSI benefits of residents, the HOUSING AUTHORITY will obtain information about social security/SSI benefits through HUD's EIV system. If benefit information is not available in the EIV system, the HOUSING AUTHORITY will request a current (dated within the last 60 days) SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, the HOUSING AUTHORITY will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from **www.ssa.gov**. Once the family has received the benefit verification letter, it will be required to provide the letter to the HOUSING AUTHORITY.

7-III.D. ALIMONY OR CHILD SUPPORT

HOUSING AUTHORITY Policy

The way the HOUSING AUTHORITY will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be sought in the following order.

If payments are made through a state or local entity, the HOUSING AUTHORITY will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.

Third-party verification from the person paying the support

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

Copy of the latest check and/or payment stubs

Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If the family declares that it ***receives irregular or no payments***, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts

If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

Note: Families are not required to undertake independent enforcement action.

7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The HOUSING AUTHORITY needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY will verify the value of assets disposed of only if:

The HOUSING AUTHORITY does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the HOUSING AUTHORITY verified this amount. Now the person reports that she has given this $10,000 to her son. The HOUSING AUTHORITY has a reasonable estimate of the value of the asset; therefore, re-verification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the HOUSING AUTHORITY will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

HOUSING AUTHORITY Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the HOUSING AUTHORITY will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.G. RETIREMENT ACCOUNTS

HOUSING AUTHORITY Policy

When third-party verification is not available the type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, the HOUSING AUTHORITY will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.
Upon retirement, the HOUSING AUTHORITY will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.
After retirement, the HOUSING AUTHORITY will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

The HOUSING AUTHORITY must obtain verification for income exclusions only if, without verification, the HOUSING AUTHORITY would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, the HOUSING AUTHORITY will confirm that HOUSING AUTHORITY records verify the child's age but will not send a verification request to the restaurant. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family's rent (as is the case with the earned income disallowance). In all other cases, the HOUSING AUTHORITY will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

HOUSING AUTHORITY Policy

Families claiming to have no annual income will be required to execute verification forms to determine that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household. Special reexaminations will occur every 90 days.

.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the HOUSING AUTHORITY verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. The HOUSING AUTHORITY will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or co-head of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The HOUSING AUTHORITY will verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

Third-party verification form signed by the provider, when possible

If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case the HOUSING AUTHORITY will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The HOUSING AUTHORITY will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months

In addition, the HOUSING AUTHORITY must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62 or a person with disabilities. The HOUSING AUTHORITY will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for the HOUSING AUTHORITY's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

HOUSING AUTHORITY Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

Expenses Incurred in Past Years

HOUSING AUTHORITY Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the HOUSING AUTHORITY will verify:

The anticipated repayment schedule
The amounts paid in the past, and
Whether the amounts to be repaid have been deducted from the family's annual income in past years

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

Third-party verification form signed by the provider, when possible
If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source
If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

Auxiliary Apparatus

HOUSING AUTHORITY Policy

Expenses for auxiliary apparatus will be verified through:

Third-party verification of anticipated purchase costs of auxiliary apparatus
If third-party is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months
If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, the HOUSING AUTHORITY must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The HOUSING AUTHORITY will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The HOUSING AUTHORITY must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.).

If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

HOUSING AUTHORITY Policy

An attendant care provider will be asked to certify that, to the best of the provider's knowledge, the expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, the HOUSING AUTHORITY must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The HOUSING AUTHORITY will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

> HOUSING AUTHORITY Policy
>
> The child care provider will be asked to certify that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.
>
> The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

The HOUSING AUTHORITY must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

HOUSING AUTHORITY Policy

Information to be Gathered

The HOUSING AUTHORITY will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible the HOUSING AUTHORITY will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the HOUSING AUTHORITY will request verification from the agency of the member's job seeking efforts to date and require the family to submit to the HOUSING AUTHORITY any reports provided to the other agency.

In the event third-party verification is not available, the HOUSING AUTHORITY will provide the family with a form on which the family member must record job search efforts. The HOUSING AUTHORITY will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The HOUSING AUTHORITY will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered.

Gainful Employment

The HOUSING AUTHORITY will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

HOUSING AUTHORITY Policy

The HOUSING AUTHORITY will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

The HOUSING AUTHORITY will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The HOUSING AUTHORITY will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

HOUSING AUTHORITY Policy

The actual costs the family incurs will be compared with the HOUSING AUTHORITY's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the HOUSING AUTHORITY will request additional documentation, as required, to support a determination that the higher cost is appropriate.

Exhibit 7-1: Excerpt from HUD Verification Guidance Notice (PIH 2004-01, pp. 11-14)

Upfront (UIV)	**Highest (Highly Recommended, highest level of third party verification)**
Written 3rd Party	**High (Mandatory if upfront income verification is not available or if UIV data differs substantially from tenant-reported information)**
Oral 3rd Party	**Medium (Mandatory if written third party verification is not available)**
Document Review	**Medium-Low (Use on provisional basis)**
Tenant Declaration	**Low (Use as a last resort)**

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Wages/Salaries	Use of computer matching agreements with a State Wage Information Collection Agency (SWICA) to obtain wage information electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the independent sources to obtain wage information.	In the event the independent source does not respond to the PHA's written request for information, the PHA may contact the independent source by phone or make an in person visit to obtain the requested information.	When neither form of third party verification can be obtained, the PHA may accept original documents such as consecutive pay stubs (HUD recommends the PHA review at least three months of pay stubs, if employed by the same employer for three months or more), W-2 forms, etc. from the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from earnings. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
	Agreements with private vendor agencies, such as The Work Number or ChoicePoint to obtain wage and salary information.	The PHA may have the tenant sign a Request for Earnings Statement from the SSA to confirm past earnings. The PHA mails the form to SSA and the statement will be sent to the address the PHA specifies on the form.			
	Use of HUD systems, when available.				

Verification of Employment Income: The PHA should always obtain as much information as possible about the employment, such as start date (new employment), termination date (previous employment), pay frequency, pay rate, anticipated pay increases in the next twelve months, year-to-date earnings, bonuses, overtime, company name, address and telephone number, name and position of the person completing the employment verification form.
Effective Date of Employment: The PHA should always confirm start and termination dates of employment.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Self-Employment	Not Available	The PHA mails or faxes a verification form directly to sources identified by the family to obtain income information.	The PHA may call the source to obtain income information.	The PHA may accept any documents (i.e. tax returns, invoices and letters from customers) provided by the tenant to verify self-employment income. **Note:** The PHA must document in the tenant file, the reason third party verification was not obtained.	The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from self-employment. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
Verification of Self-Employment Income: Typically, it is a challenge for PHAs to obtain third party verification of self-employment income. When third party verification is not available, the PHA should always request a notarized tenant declaration that includes a perjury statement.					
Social Security Benefits	Use of HUD Tenant Assessment System (TASS) to obtain current benefit history and discrepancy reports.	The PHA mails or faxes a verification form directly to the local SSA office to obtain social security benefit information. **(Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)**	The PHA may call SSA, with the tenant on the line, to obtain current benefit amount. **(Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)**	The PHA may accept an original SSA Notice from the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly social security benefits. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
Welfare Benefits	Use of computer matching agreements with the local Social Services Agency to obtain current benefit amount electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the local Social Services Agency to obtain welfare benefit information.	The PHA may call the local Social Services Agency to obtain current benefit amount.	The PHA may review an original award notice or printout from the local Social Services Agency provided by the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly welfare benefits. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Child Support	Use of agreement with the local Child Support Enforcement Agency to obtain current child support amount and payment status electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The PHA may call the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The PHA may review an original court order, notice or printout from the local Child Support Enforcement Agency provided by the tenant to verify current child support amount and payment status. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares current child support amount and payment status. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
Unemployment Benefits	Use of computer matching agreements with a State Wage Information Collection Agency to obtain unemployment compensation electronically, by mail or fax or in person. Use of HUD systems, when available.	The PHA mails, faxes, or e-mails a verification form directly to the State Wage Information Collection Agency to obtain unemployment compensation information.	The PHA may call the State Wage Information Collection Agency to obtain current benefit amount.	The PHA may review an original benefit notice or unemployment check stub, or printout from the local State Wage Information Collection Agency provided by the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares unemployment benefits. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
Pensions	Use of computer matching agreements with a Federal, State, or Local Government Agency to obtain pension information electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the pension provider to obtain pension information.	The PHA may call the pension provider to obtain current benefit amount.	The PHA may review an original benefit notice from the pension provider provided by the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly pension amounts. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Assets	Use of cooperative agreements with sources to obtain asset and asset income information electronically, by mail or fax or in person.	The PHA mails, faxes, or emails a verification form directly to the source to obtain asset and asset income information.	The PHA may call the source to obtain asset and asset income information.	The PHA may review original documents provided by the tenant. **Note: The PHA must document in the tenant file, the reason third party verification was not available.**	The PHA may accept a notarized statement or affidavit from the tenant that declares assets and asset income. **Note: The PHA must document in the tenant file, the reason third party verification was not available.**
Comments	Whenever HUD makes available wage, unemployment, and SSA information, the PHA should use the information as part of the reexamination process. Failure to do so may result in disallowed costs during a RIM review.	**Note:** The independent source completes the form and returns the form directly to the PHA. Agency. The tenant should not hand carry documents to or from the independent source.	The PHA should document in the tenant file, the date and time of the telephone call or in person visit, along with the name and title of the person that verified the current income amount.		The PHA should use this verification method as a last resort, when all other verification methods are not possible or have been unsuccessful. **Notarized statement should include a perjury penalty statement.**

Note: The PHA must not pass verification costs along to the participant.

Note: In cases where the PHA cannot reliably project annual income, the PHA may elect to complete regular interim reexaminations (this policy should be apart of the PHA's written policies.)

Exhibit 7-2: Summary of Documentation Requirements for Noncitizens
[, pp. 5-9 and 5-10)

<table>
<tr><td colspan="2">• All noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the Housing Authority.
• Except for persons 62 or older, all noncitizens must sign a verification consent form
• Additional documents are required based upon the person's status.</td></tr>
<tr><td colspan="2">Elderly Noncitizens
• A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.</td></tr>
<tr><td colspan="2">All other Noncitizens
• Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.</td></tr>
<tr><td>• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
• Form I-94 Arrival-Departure Record annotated with one of the following:
  • “Admitted as a Refugee Pursuant to Section 207”
  • “Section 208” or “Asylum”
  • “Section 243(h)” or “Deportation stayed by Attorney General”
  • “Paroled Pursuant to Section 221 (d)(5) of the USCIS”</td><td>• Form I-94 Arrival-Departure Record with no annotation accompanied by:
  • A final court decision granting asylum (but only if no appeal is taken);
  • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
  • A court decision granting withholding of deportation; or
  • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).</td></tr>
<tr><td>• Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.</td><td>Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.</td></tr>
<tr><td colspan="2">• A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or
• Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the Federal Register</td></tr>
</table>

Chapter 8
LEASING AND INSPECTIONS
[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

INTRODUCTION
Public housing leases are the basis of the legal relationship between the Housing Authority and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD's regulations.

HUD rules also require the Housing Authority to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, the Housing Authority may require additional inspections in accordance with Housing Authority policy.

This chapter is divided into two parts as follows:

> Part I: Leasing. This part describes pre-leasing activities and the Housing Authority's policies pertaining to lease execution, modification, and payments under the lease.
>
> Part II: Inspections. This part describes the Housing Authority's policies for inspecting dwelling units.

PART I: LEASING

8-I.A. OVERVIEW

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements, and must also comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term, except that the Housing Authority may not renew the lease if the family has violated the community service requirement [24 CFR 966.4(a)(2)].
Part I of this chapter contains regulatory information, when applicable, as well as the Housing Authority's policies governing leasing issues.

8-I.B. LEASE ORIENTATION

Housing Authority Policy
After unit acceptance but prior to occupancy, a Housing Authority representative will provide a lease orientation to the family. The head of household or spouse is required to attend.

Orientation Agenda

Housing Authority Policy
When families attend the lease orientation, at a minimum they will be provided with:

A copy of the lease

A copy of the Housing Authority's grievance procedure

A copy of the house rules

A copy of the Housing Authority's schedule of maintenance charges

A copy of the pamphlet *Protect Your Family From Lead in Your Home*

A copy of *Things You Should Know* (HUD-1140-OIG)

Topics to be discussed at a minimum will include:

Applicable deposits and other charges

Review and explanation of lease provisions

Unit maintenance and work orders

The Housing Authority's reporting requirements

Explanation of occupancy forms

Community service requirements

Family choice of rent

8-I.C. EXECUTION OF LEASE

The lease must be executed by the tenant and the Housing Authority, except for automatic renewals of a lease [24 CFR 966.4(a)(3)].

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one Housing Authority unit to another.
The lease must state the composition of the household as approved by the Housing Authority (family members and any Housing Authority-approved live-in aide) [24 CFR 966.4(a)(1)(v)]. See Section 8-I.D. for policies regarding changes in family composition during the lease term.

Housing Authority Policy
The head of household, spouse or co-head, and all other adult members of the household will be required to sign the public housing lease prior to admission. An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and the Housing Authority will retain a copy in the resident's file.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to Housing Authority assistance. The live-in aide is only approved to live in the unit while serving as the attendant for the participant family member.

8-I.D. MODIFICATIONS TO THE LEASE

The lease may be modified at any time by written agreement of the tenant and the Housing Authority [24 CFR 966.4(a)(3)].

Modifications to the Lease Form

The Housing Authority may modify its lease from time to time. However, the Housing Authority must give residents 30 days advance notice of the proposed changes and an opportunity to comment on the changes. The Housing Authority must also consider any comments before formally adopting the new lease [24 CFR 966.3].

After proposed changes have been incorporated into the lease and approved by the Board of Commissioners, each family must be notified at least 60 days in advance of the effective date of the new lease or lease revision. A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy [24 CFR 966.4(l)(2)(iii)(E)].

Housing Authority Policy
The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30 day timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.

Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations must be provided at least thirty days written notice of the reason(s) for any proposed modifications or revisions, and must be given an opportunity to present written comments. The notice must be delivered directly or mailed to each tenant; and posted in the rental office. Comments must be taken into consideration before any proposed modifications or revisions become effective [24 CFR 966.5].

After the proposed revisions become effective they must be publicly posted in a conspicuous manner in the project office and must be furnished to applicants and tenants on request [24 CFR 966.5].

Housing Authority Policy

When the Housing Authority proposes to modify or revise schedules of special charges or rules and regulations, the Housing Authority will post a copy of the notice in the central office, and will mail a copy of the notice to each resident family. Documentation of proper notice will be included in each resident file.

Other Modifications

Housing Authority Policy

The lease will be amended to reflect all changes in family composition.

If, for any reason, any member of the household ceases to reside in the unit, the lease will be amended by drawing a line through the person's name. The head of household and Housing Authority will be required to initial and date the change.

If a new household member is approved by the Housing Authority to reside in the unit, the person's name and birth date will be added to the lease. The head of household and Housing Authority will be required to initial and date the change. If the new member of the household is an adult, s/he will also be required to sign and date the lease.

Policies governing when and how changes in family composition must be reported are contained in Chapter 9, Reexaminations.

8-I.E. SECURITY DEPOSITS [24 CFR 966.4(b)(5)]

The Housing Authority will require security deposits. The amount of the security deposit cannot exceed one month's rent or a reasonable fixed amount as determined by the Housing Authority. The Housing Authority may allow for gradual accumulation of the security deposit by the family, or the family may be required to pay the security deposit in full prior to occupancy.

Subject to applicable laws, interest earned on security deposits may be refunded to the tenant after vacating the unit, or used for tenant services or activities.

Housing Authority Policy

Upon signing a lease agreement and in addition to the monthly rent, a resident shall pay a security deposit as follows before occupying the unit:

A. *1 Bedroom Units: a minimum Security Deposit of $300 or one month's Total Tenant Payment (TTP) rent, whichever is higher. The Security Deposit is not to exceed $500*

B. *2-3 Bedroom Units: a minimum Security Deposit of $500 or one month's Total Tenant Payment (TTP) rent, whichever is higher. The Security Deposit is not to exceed $750.*

C. *4-5 Bedroom Units: a minimum Security Deposit of $800 or one month's Total Tenant Payment (TTP) rent, whichever is higher. The Security Deposit is not to exceed $1000.*

The Housing Authority will hold the security deposit for the period the family occupies the unit. The Housing Authority will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 21 calendar days of move-out, the Housing Authority will refund to the resident the amount of the security deposit (including interest earned on the security deposit), less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease.

The Housing Authority will provide the resident with a written list of any charges against the security deposit within 21 calendar days of the move-out inspection. If the resident disagrees with the amount charged, the Housing Authority will provide a meeting to discuss the charges.

If the resident transfers to another unit, the Housing Authority will transfer the security deposit to the new unit. The tenant will be billed for any maintenance or other charges due for the "old" unit.

8-I.F. PAYMENTS UNDER THE LEASE

Rent Payments [24 CFR 966.4(b)(1)]

Families must pay the amount of the monthly tenant rent determined by the Housing Authority in accordance with HUD regulations and other requirements. The amount of the tenant rent is subject to change in accordance with HUD requirements.

The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term, and the Housing Authority must give written notice stating any change in the amount of tenant rent and when the change is effective.

Housing Authority Policy

The tenant rent is due and payable at the Housing Authority-designated location by the 7th calendar day of the month. If the first falls on a weekend or holiday, the rent is due and payable on the first business day thereafter.

If a family's tenant rent changes, the Housing Authority will notify the family of the new amount and the effective date by sending a "Notice of Rent Adjustment" which will become an attachment to the lease.

Late Fees and Nonpayment

The lease must provide that late payment fees are not due and collectible until two weeks after the Housing Authority gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the Housing Authority grievance procedures. The Housing Authority must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

Housing Authority Policy

If the family fails to pay their rent by the seventh calendar day of the month, and the Housing Authority has not agreed to accept payment at a later date, a 14 day Notice to Pay Rent or Quit will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises.

In addition, if the resident fails to make payment by the end of office hours on the seventh calendar day of the month, a late fee of $25.00 will be charged. Notices of late fees will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the Housing Authority may not take action for nonpayment of the fee until the conclusion of the grievance process. If the resident can document financial hardship, the late fee may be waived on a case-by-case basis.

Rental payments are to be paid by money order, certified check or personal check. All personals checks must be printed with the residents name and current address. No two party checks will be accepted. A returned check fee of $50 will be charged to the tenant's account and the tenant will no longer be eligible to pay with a personal check.

Excess Utility Charges

The lease must state the basis for the determination of excess utility charges. The imposition of charges for consumption of excess utilities is permissible only if the charges are determined by an individual check meter servicing the leased unit or result from the use of major tenant-supplied appliances [24 CFR 966.4(b)(2)].

Schedules of special charges for utilities that are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for excess utility consumption are not due and collectible until two weeks after the Housing Authority gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the Housing Authority grievance procedures. The Housing Authority must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

> Housing Authority Policy
> When applicable, families will be charged for excess utility usage according to the Housing Authority's current posted schedule. Notices of excess utility charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the Housing Authority may not take action for nonpayment of the charges until the conclusion of the grievance process.
>
> Nonpayment of excess utility charges is a violation of the lease and is grounds for eviction.

Maintenance and Damage Charges

If the Housing Authority charges the tenant for maintenance and repair beyond normal wear and tear, the lease must state the basis for the determination of such charges [24 CFR 966.4(b)(2)]. Schedules of special charges for services and repairs which are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for maintenance and repair beyond normal wear and tear are not due and collectible until two weeks after the Housing Authority gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the Housing Authority grievance procedures. The Housing Authority must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

Housing Authority Policy

For tenant charged damages families will be charged for maintenance and/or damages according to the Housing Authority's current schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

Notices of maintenance and damage charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the Housing Authority may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

PART II: INSPECTIONS

8-II.A. OVERVIEW

HUD rules require the Housing Authority to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, the Housing Authority may require additional inspections, in accordance with Housing Authority Policy. This part contains the Housing Authority's policies governing inspections, notification of unit entry, and inspection results.

8-II.B. TYPES OF INSPECTIONS

Move-In Inspections [24 CFR 966.4(i)]

The lease must require the Housing Authority and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by the Housing Authority and the resident, must be provided to the tenant and be kept in the resident file.

> Housing Authority Policy
> The Head of Household must attend the initial inspection and sign the inspection form (Exhibit A).

Move-Out Inspections [24 CFR 966.4(i)]

The Housing Authority must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if he or she wishes, unless the tenant vacates without notice to the Housing Authority. The Housing Authority must provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear. The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

> Housing Authority Policy
> When applicable, the Housing Authority will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 21 business days of conducting the move-out inspection.

Annual Inspections

Under the Public Housing Assessment System (HOUSING AUTHORITY S), the Housing Authority is required to inspect all occupied units annually using HUD's Uniform Physical Condition Standards (UPCS) [24 CFR 902.43(a)(4)].

Quality Control Inspections

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed at an acceptable level of craftsmanship and within an acceptable time frame

Housing Authority Policy
On an annual basis, the Housing Authority will conduct supervisory quality control inspections, on 5 percent of all units, or 5 total units, whichever is greater. Quality control inspections will be completed within 45 days of the original inspection.

Special Inspections

Housing Authority Policy
A Housing Services Manager, Maintenance Supervisor, Compliance Supervisor, or a Resident Manager may conduct a special inspection for any of the following reasons:

Housekeeping

Unit condition

Suspected lease violation

Preventive maintenance

Routine maintenance

There is reasonable cause to believe an emergency exists

Other Inspections

Housing Authority Policy
Building exteriors, grounds, common areas and systems will be inspected according to the Housing Authority's maintenance plan.

8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS

Notice of Entry

Non-emergency Entries [24 CFR 966.4(j)(1)]

The Housing Authority may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of the Housing Authority entry delivered to the dwelling unit at least forty-eight hours before such entry is considered reasonable advance notification.

Housing Authority Policy
The Housing Authority will notify the resident in writing at least 48 hours prior to any non-emergency inspection.

For regular annual inspections, the family will receive at least 2 weeks written notice of the inspection to allow the family to prepare the unit for the inspection.

Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for the Housing Authority to enter the unit.

Emergency Entries [24 CFR 966.4(j)(2)]
The Housing Authority may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, the Housing Authority must leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

Scheduling of Inspections

Housing Authority Policy
Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify the Housing Authority at least 24 hours prior to the scheduled inspection. The Housing Authority will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. The Housing Authority may request verification of such cause.

Attendance at Inspections
Residents are required to be present for move-in inspections [24 CFR 966.4(i)]. There is no such requirement for other types of inspections.

Housing Authority Policy
Except at move-in inspections, the resident is not required to be present for the inspection. The resident may attend the inspection if he or she wishes.
If no one is at home, the inspector will enter the unit, conduct the inspection and leave a copy of the inspection report in the unit. An inspection will be rescheduled once by the Housing Authority if there are only minors occupying the unit.

8-II.D. INSPECTION RESULTS
The Housing Authority is obligated to maintain dwelling units and the project in decent, safe and sanitary condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

Emergency Repairs [24 CFR 966.4(h)]
If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify (within 24 hours) the Housing Authority of the damage, and the Housing Authority must make repairs within a reasonable time frame(within 24 hours).

If the damage was caused by a household member or guest, the Housing Authority must charge the family for the reasonable cost of repairs. The Housing Authority may also take lease enforcement action against the family.

If the Housing Authority cannot make repairs within 24 hours, the Housing Authority must offer the family standard alternative accommodations. If the Housing Authority can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be prorated in

proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be proratedif the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

Housing Authority Policy
When conditions in the unit are hazardous to life, health, or safety, the Housing Authority will make repairs or otherwise abate the situation within 24 hours.

Defects hazardous to life, health or safety include, but are not limited to, the following:

Any condition that jeopardizes the security of the unit

Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling

Natural or LP gas or fuel oil leaks

Any electrical problem or condition that could result in shock or fire

Absence of a working heating system when the inside temperature is below 70 degrees Fahrenheit and there are infants and elderly are living in the home, or for a reasonable accommodation.

Utilities provided by the Housing Authority not in service, including no running hot water

Conditions that present the imminent possibility of injury

Obstacles that prevent safe entrance or exit from the unit

Absence of a functioning toilet in the unit

Inoperable smoke detectors

Non-emergency Repairs

Housing Authority Policy
The Housing Authority will correct non-life threatening health and safety defects within 15 business days of the inspection date. If the Housing Authority is unable to make repairs within that period due to circumstances beyond the Housing Authority's control (e.g. required parts or services are not available, weather conditions, etc.) the Housing Authority will notify the family of an estimated date of completion.

The family must allow the Housing Authority access to the unit to make repairs.

Resident-Caused Damages

Housing Authority Policy
Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in 8-I.G., Maintenance and Damage Charges.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

Housekeeping

Housing Authority Policy
Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, the Housing Authority will provide proper notice of a lease violation.

A re-inspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a re-inspection is considered a violation of the lease and **will** result in termination of tenancy in accordance with Chapter 13.

Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector. Only one warning will be given. A second incidence will result in lease termination.

Chapter 9
REEXAMINATIONS
[24 CFR 960.257, 960.259, 966.4]

INTRODUCTION

The Housing Authority is required to monitor each family's income and composition over time, and to adjust the family's rent accordingly. Housing Authority must adopt policies concerning the conduct of annual and interim reexaminations that are consistent with regulatory requirements, and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].

The frequency with which the Housing Authority must reexamine income for a family depends on whether the family pays income-based or flat rent. HUD requires the Housing Authority to offer all families the choice of paying income-based rent or flat rent at least annually. The Housing Authority's policies for offering families a choice of rents are located in Chapter 6.

This chapter discusses both annual and interim reexaminations.

> Part I: Annual Reexaminations. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.
>
> Part II: Reexaminations for Families Paying Flat Rents. This part contains the Housing Authority's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every 3 years. This part also contains the Housing Authority's policies for conducting annual updates of family composition for flat rent families.
>
> Part III: Interim Reexaminations. This part includes HUD requirements and Housing Authority policies related to when a family may and must report changes that occur between annual reexaminations.
>
> Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, the Housing Authority must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

Policies governing reasonable accommodation, family privacy, required family cooperation and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS [24 CFR 960.257]

9-I.A. OVERVIEW

For those families who choose to pay income-based rent, the Housing Authority must conduct a reexamination of income and family composition at least annually [24 CFR 960.257(a)(1)].

For all residents of public housing, whether those residents are paying income-based or flat rents, the Housing Authority must conduct an annual review of community service requirement compliance. This annual reexamination is also a good time to have residents sign consent forms for criminal background checks in case the criminal history of a resident is needed at some point to determine the need for lease enforcement or eviction.

The Housing Authority is required to obtain information needed to conduct reexaminations. How that information will be collected is left to the discretion of the Housing Authority. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

This part contains the Housing Authority's policies for conducting annual reexaminations.

9-I.B. SCHEDULING ANNUAL REEXAMINATIONS

The Housing Authority must establish a policy to ensure that the annual reexamination for each family paying an income-based rent is completed within a 12 month period [24 CFR 960.257(a)(1)].

> Housing Authority Policy
>
> Generally, the Housing Authority will schedule annual reexaminations to coincide with the reexamination date determined by the unit. . The Housing Authority will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date.
>
> *Anniversary date* is defined as 12 months from the effective date of the family's last annual reexamination or, the re-examination that corresponds with the families unit for transfers or new admissions.
>
> The Housing Authority may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

The Housing Authority is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the Housing Authority.

Housing Authority Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse or co-head, and any other adult members. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the Housing Authority to request a reasonable accommodation.

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact the Housing Authority in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview the Housing Authority will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without Housing Authority approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.

9-I.C. CONDUCTING ANNUAL REEXAMINATIONS

The terms of the public housing lease require the family to furnish information necessary for the re-determination of rent and family composition [24 CFR 966.4(c)(2)].

Housing Authority Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a Housing Authority-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of

information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

Change in Unit Size
Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The Housing Authority may use the results of the annual reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks
Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

Housing Authority Policy
Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

Compliance with Community Service
For families who include nonexempt individuals, the Housing Authority must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)]. See Chapter 11 for the Housing Authority's policies governing compliance with the community service requirement.

9-I.D. EFFECTIVE DATES
As part of the annual reexamination process, the Housing Authority must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

Housing Authority Policy
In general, an *increase* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If the Housing Authority chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the Housing Authority, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date.

If the Housing Authority chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the Housing Authority.

If the family causes a delay in processing the annual reexamination, d*ecreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the Housing Authority by the date specified, and this delay prevents the Housing Authority from completing the reexamination as scheduled.

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS [24 CFR 960.257(2)]

9-II.A. OVERVIEW

HUD requires that the Housing Authority offer all families the choice of paying income-based rent or flat rent at least annually. The Housing Authority's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, the Housing Authority must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(a)(2)]. The Housing Authority is only required to provide the amount of income-based rent the family might pay in those years that the Housing Authority conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)].

As it does for families that pay income-based rent, on an annual basis, the Housing Authority will also review community service compliance and will have each adult resident consent to a criminal background check.

This part contains the Housing Authority's policies for conducting reexaminations of families who choose to pay flat rents.

9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

Frequency of Reexamination

> Housing Authority Policy
> For families paying flat rents, the Housing Authority will conduct a full reexamination of family income and composition once every 3 years.

Reexamination Policies

> Housing Authority Policy
> In conducting full reexaminations for families paying flat rents, the Housing Authority will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.D above.

9-II.C. REEXAMINATION OF FAMILY COMPOSITION ("FOR FLAT RENT ANNUAL UPDATE")

As noted above, full reexaminations are conducted every 3 years for families paying flat rents. In the years between full reexaminations, regulations require the Housing Authority to conduct a reexamination of family composition ("annual update") [24 CFR 960.257(a)(2)].

The annual update process is similar to the annual reexamination process, except that the Housing Authority does not collect information about the family's income and expenses, and the family's rent is not recalculated following an annual update.

Scheduling
The Housing Authority must establish a policy to ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually [24 CFR 960.257(a)(2)].

Housing Authority Policy
For families paying flat rents, annual updates will be conducted in each of the 2 years following the full reexamination.

In scheduling the annual update, the Housing Authority will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

Conducting Annual Updates
The terms of the public housing lease require the family to furnish information necessary for the re-determination of rent and family composition [24 CFR 966.4(c)(2)].

Housing Authority Policy
Families generally are required to participate in an annual update interview, which must be attended by the head of household, spouse or co-head, and any other adult member. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the Housing Authority to request a reasonable accommodation.

Notification of the annual update will be sent by first-class mail and will inform the family of the information and documentation that must be provided to the Housing Authority. The family will have 10 business days to submit the required information to the Housing Authority. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. The Housing Authority will accept required documentation by mail, by fax, or in person.

If the family's submission is incomplete, or the family does not submit the information in the required time frame, the Housing Authority will send a second written notice to the family. The family will have 10 business days from the date of the second notice to provide the missing information or documentation to the Housing Authority.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Change in Unit Size
Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The Housing Authority may use the results of the annual update to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Compliance with Community Service

For families who include nonexempt individuals, the Housing Authority must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)]. See Chapter 11 for the Housing Authority's policies governing compliance with the community service requirement.

PART III: INTERIM REEXAMINATIONS [24 CFR 960.257; 24 CFR 966.4]

9-III.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD and Housing Authority policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the Housing Authority must process interim reexaminations to reflect those changes. HUD regulations also permit the Housing Authority to conduct interim reexaminations of income or family composition at any time.

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition change. The Housing Authority must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and Housing Authority policies describing what changes families are required to report, what changes families may choose to report, and how the Housing Authority will process both Housing Authority- and family-initiated interim reexaminations.

The Housing Authority shall have the right to require the resident to attend an interim rent review. Resident may request an interim rent review at any time. Resident shall attend any meetings held to the conduct the interim at the time and place specified by the Authority or, if requested by the resident, at an alternative time during normal Housing Authority business hours. Resident will be required to provide to the Authority complete and accurate information as specified by the Authority. (Special accommodations will be made for individuals requiring in home visits)

9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The Housing Authority must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to provisions of the public housing lease, the Housing Authority has limited discretion in this area.

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

> <u>Housing Authority Policy</u>
> All families, paying flat rent must report all changes in family and household composition that occur between annual reexaminations (or annual updates).
>
> The Housing Authority will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members Not Requiring Approval
The addition of a family member as a result of birth, adoption, or court-awarded custody does not require Housing Authority approval. However, the family is required to promptly notify the Housing Authority of the addition [24 CFR 966.4(a)(1)(v)].

Housing Authority Policy
The family must inform the Housing Authority of the birth, adoption or court-awarded custody of a child within 10 business days.

New Family and Household Members Requiring Approval
With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request Housing Authority approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

The Housing Authority may adopt reasonable policies concerning residence by a foster child or a live-in aide, and defining the circumstances in which Housing Authority consent will be given or denied. Under such policies, the factors considered by the Housing Authority may include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.

- The Housing Authority's obligation to make reasonable accommodation for disabled persons.

Housing Authority Policy
Families must request Housing Authority approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any 12 month period, and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the Housing Authority prior to the individual moving into the unit.

The Housing Authority will not approve the addition of a new family or household member unless the individual meets the Housing Authority's eligibility criteria (see Chapter 3).

A request to allow adult children to move back into the unit will not be approved unless it is determined that the move is essential for the mental or physical well being of the tenant **and** it does not disqualify the family for the size of unit it is currently occupying. If the Housing Authority determines that an individual does not meet the Housing Authority's eligibility criteria as defined in Chapter 3, the Housing Authority will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The Housing Authority will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

Housing Authority Policy
If a family member ceases to reside in the unit, the family must inform the Housing Authority within 10 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the Housing Authority within 10 business days.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the Housing Authority has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the Housing Authority may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

Housing Authority Policy
This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

Housing Authority-initiated Interim Reexaminations

Housing Authority-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the Housing Authority. They are not scheduled because of changes reported by the family.

Housing Authority Policy
The Housing Authority will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), the Housing Authority will conduct an interim reexamination at the start, to adjust the exclusion with any changes in income, and at the conclusion of the second 12 month exclusion period (50 percent phase-in period).

If the family has reported zero income, the Housing Authority will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.

If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the Housing Authority will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

If at the time of the annual reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the Housing Authority will conduct an interim reexamination.

The Housing Authority may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

Family-Initiated Interim Reexaminations

The Housing Authority must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 960.257(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)].

Required Reporting

HUD regulations give the Housing Authority the freedom to determine the circumstances under which families will be required to report changes affecting income.

Housing Authority Policy

Families are required to report all increases in earned income, including new employment, within 10 business days of the date the change takes effect.

The Housing Authority will only conduct interim reexaminations for families that qualify for the EID, and only when the EID family's rent will change as a result of the increase. In all other cases, the Housing Authority will note the information in the tenant file, but will not conduct an interim reexamination unless the increase in income is over $300 a month ($3600 annually).

Families are not required to report any other changes in income or expenses.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)]. The Housing Authority must process the request if the family reports a change that will result in a reduced family income.

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

Housing Authority Policy

If a family reports a change that it was not required to report and that would result in an increase in the tenant rent, the Housing Authority will note the information in the tenant file, but will not conduct an interim reexamination unless the increase in income is over $300 a month ($3600 annually). If a family reports a change that it was not required to

report and that would result in a decrease in the tenant rent, the Housing Authority will conduct an interim reexamination. See Section 9-III.D. for effective dates.

Families may report changes in income or expenses at any time.

9-III.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

Housing Authority Policy

The family must notify the Housing Authority of changes in writing. If the family provides oral notice, the Housing Authority may also require the family to submit the changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the Housing Authority determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the Housing Authority will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from the Housing Authority. This time frame may be extended for good cause with Housing Authority approval. The Housing Authority will accept required documentation by mail, by fax, or in person.

Effective Dates

The Housing Authority must make the interim reexamination within a reasonable time after the family request [24 CFR 960.257(b)].

Housing Authority Policy

If the family share of the rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

PART IV: RECALCULATING TENANT RENT

9-IV.A. OVERVIEW

For those families paying income-based rent, the Housing Authority must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

The tenant rent calculations must reflect any changes in the Housing Authority's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

> Housing Authority Policy
> Unless the Housing Authority is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

9-IV.C. NOTIFICATION OF NEW TENANT RENT

The public housing lease requires the Housing Authority to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].

When the Housing Authority re-determines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of the Housing Authority's schedule of Utility Allowances for families in the Housing Authority's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, the Housing Authority must notify the tenant that the tenant may ask for an explanation stating the specific grounds of the Housing Authority determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under the Housing Authority's grievance procedure [24 CFR 966.4(c)(4)].

> Housing Authority Policy
> The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

9-IV.D. DISCREPANCIES

During an annual or interim reexamination, the Housing Authority may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the Housing Authority may discover errors made by the Housing Authority. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

Chapter 10
PETS
[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

INTRODUCTION
This chapter explains the Housing Authority's policies on the keeping of pets and any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of the Housing Authority to provide a decent, safe and sanitary living environment for all tenants, and to protect and preserve the physical condition of the property, as well as the financial interest of the Housing Authority.

The chapter is organized as follows:

Part I: Assistance Animals. This part explains the difference between assistance animals and pets and contains policies related to the designation of an assistance animal as well as their care and handling.

Part II: Pet policies for all developments. This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.

Part III: Pet deposits and fees for elderly/disabled developments. This part contains policies for pet deposits and fees that are applicable to elderly/disabled developments.

Part IV: Pet deposits and fees for general occupancy developments. This part contains policies for pet deposits and fees that are applicable to general occupancy developments.

PART I: ASSISTANCE ANIMALS

[Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303]

10-I.A. OVERVIEW

This part discusses situations under which permission for an assistance animal may be denied, and also establishes standards for the care of assistance animals.

Assistance animals are animals that work, provide assistance, or perform tasks for the benefit of a person with a disability, or that provide emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals – often referred to as "service animals," "assistive animals," "support animals," or "therapy animals" – perform many disability-related functions, including but not limited to the following:

- Guiding individuals who are blind or have low vision
- Alerting individuals who are deaf or hearing impaired
- Providing minimal protection or rescue assistance
- Pulling a wheelchair
- Fetching items
- Alerting persons to impending seizures
- Providing emotional support to persons with disabilities who have a disability-related need for such support

Assistance animals that are needed as a reasonable accommodation for persons with disabilities are not considered pets, and thus, are not subject to the Housing Authority's pet policies described in Parts II through IV of this chapter [24 CFR 5.303; 960.705].

10-I.B. APPROVAL OF ASSISTANCE ANIMALS

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and his or her need for the animal .

A Housing Authority may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability .

A Housing Authority's refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless :

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation

- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others

Housing Authority have the authority to regulate assistance animals under applicable federal, state, and local law [24 CFR 5.303(b)(3); 960.705(b)(3)].

Housing Authority Policy
For an animal to be excluded from the pet policy and be considered an assistance animal, there must be a person with disabilities in the household, and the family must request and the Housing Authority approve a reasonable accommodation in accordance with the policies contained in Chapter 2.

10-I.C. CARE AND HANDLING

HUD regulations do not affect any authority a Housing Authority may have to regulate assistance animals under federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

Housing Authority Policy
Residents must care for assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident's care or handling of an assistance animal violates these policies, the Housing Authority will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If the Housing Authority determines that no such accommodation can be made, the Housing Authority may withdraw the approval of a particular assistance animal.

PART II: PET POLICIES FOR ALL DEVELOPMENTS
[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

10-II.A. OVERVIEW
The purpose of a pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets. This part contains pet policies that apply to all developments.

10-II.B. MANAGEMENT APPROVAL OF PETS
Registration of Pets
Housing Authority may require registration of the pet with the Housing Authority [24 CFR 960.707(b)(5)].

Housing Authority Policy
Pets must be registered with the Housing Authority before they are brought onto the premises.

Registration includes documentation signed by a licensed veterinarian or state/local authority that the pet has received all inoculations required by state or local law, and that the pet has no communicable disease(s) and is pest-free. This registration must be renewed annually and will be coordinated with the annual reexamination date.

Pets will not be approved to reside in a unit until completion of the registration requirements.

Residents are not allowed to watch anyone else's pet nor are guests allowed to bring their pets with them to visit.

Exceptions will be made for guests with service animals.

Refusal to Register Pets

Housing Authority Policy
The Housing Authority will refuse to register a pet if:

The pet is not *a common household pet* as defined in Section 10-II.C. below
Keeping the pet would violate any pet restrictions listed in this policy
The pet owner fails to provide complete pet registration information, or fails to update the registration annually

The applicant has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order

The Housing Authority reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

If the Housing Authority refuses to register a pet, a written notification will be sent to the pet owner within 10 business days of the Housing Authority's decision. The notice will state the reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with the Housing Authority's grievance procedures.

Pet Agreement

Housing Authority Policy

Residents who have been approved to have a pet must enter into a pet agreement with the Housing Authority, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that he or she has received a copy of the Housing Authority's pet policy and applicable house rules, that he or she has read the policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that he or she understands that noncompliance with the Housing Authority's pet policy and applicable house rules may result in the withdrawal of Housing Authority approval of the pet or termination of tenancy.

10-II.C. STANDARDS FOR PETS [24 CFR 5.318; 960.707(b)]

Housing Authority may establish reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit, based on unit size
- Prohibitions on types of animals that the Housing Authority classifies as dangerous, provided that such classifications are consistent with applicable state and local law
- Prohibitions on individual animals, based on certain factors, including the size and weight of the animal
- Requiring pet owners to have their pets spayed or neutered

Housing Authority's may not require pet owners to have any pet's vocal cords removed.

Definition of "Common Household Pet"

There is no regulatory definition of common household pet for public housing programs, although the regulations for pet ownership in both elderly/disabled and general occupancy developments use the term. The regulations for pet ownership in elderly/disabled developments expressly authorize Housing Authority to define the term [24 CFR 5.306(2)].

Housing Authority Policy
Common household pet means a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a companion animal and is kept in the home for pleasure rather than commercial purposes.

The following animals are not considered common household pets:

Reptiles
Rodents
Insects
Arachnids
Wild animals or feral animals
Pot-bellied pigs
Animals used for commercial breeding
Turkeys
Chickens

Pet Restrictions

Housing Authority Policy
The following animals are **not permitted**:

Any animal whose adult weight will exceed 20 pounds

Dogs of the pit bull, rottweiler, chow, or boxer breeds

Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations

Any animal not permitted under state or local law or code

Number of Pets

Housing Authority Policy
Residents may own a maximum of 1 pet.

In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank not exceeding 10 gallons. Such a tank or aquarium will be counted as 1 pet.

Other Requirements

Housing Authority Policy
Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 days of the pet reaching 6 months of age. Exceptions may be

made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

Pets must be licensed in accordance with state or local law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

10-II.D. PET RULES

Pet owners must maintain pets responsibly, in accordance with Housing Authority policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations [24 CFR 5.315; 24 CFR 960.707(a)].

Pet Area Restrictions

Housing Authority Policy

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds), dogs and cats must be kept on a leash or carried and under the control of the resident or other responsible individual at all times.

Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit. Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building. Pet owners are not permitted to exercise pets or permit pets to deposit waste on project premises outside.

Cleanliness

Housing Authority Policy

The pet owner shall be responsible for the removal of waste by placing it in a sealed plastic bag and disposing of it in the garbage can.

The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.
Litter box requirements:

Pet owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner.

Litter shall not be disposed of by being flushed through a toilet.

Litter boxes shall be kept inside the resident's dwelling unit.

Alterations to Unit

Housing Authority Policy

Pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited.

Noise

Housing Authority Policy
Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

Pet Care

Housing Authority Policy
Each pet owner shall be responsible for adequate care, nutrition, exercise and medical attention for his/her pet.

Each pet owner shall be responsible for appropriately training and caring for his/her pet to ensure that the pet is not a nuisance or danger to other residents and does not damage Housing Authority property.

No animals may be tethered or chained inside or outside the dwelling unit at any time.

Responsible Parties

Housing Authority Policy
The pet owner will be required to designate two responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

A resident who cares for another resident's pet must notify the Housing Authority and sign a statement that they agree to abide by all of the pet rules.

Pets Temporarily on the Premises

Housing Authority Policy
Pets that are not owned by a tenant are not allowed on the premises. Residents are prohibited from feeding or harboring stray animals.

Pet Rule Violations

Housing Authority Policy
All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation and enforcement.

If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

That the pet owner has 10 business days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation

That the pet owner is entitled to be accompanied by another person of his or her choice at the meeting

That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy

Notice for Pet Removal

Housing Authority Policy
If the pet owner and the Housing Authority are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by the Housing Authority, the Housing Authority may serve notice to remove the pet.
The notice will contain:

- A brief statement of the factual basis for the Housing Authority's determination of the pet rule that has been violated
- The requirement that the resident /pet owner must remove the pet within 3 business calendar days of the notice. All pit bulls, rottwieler, chow, or boxer breeds need to be removed within 24 hours due to safety concerns.
- A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures

Pet Removal

Housing Authority Policy
If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner.

If the responsible party is unwilling or unable to care for the pet, or if the Housing Authority after reasonable efforts cannot contact the responsible party, the Housing

Authority may contact the appropriate state or local agency and request the removal of the pet. Any costs incurred by the Housing Authority will be billed to the family.

Termination of Tenancy

Housing Authority Policy

The Housing Authority may initiate procedures for termination of tenancy based on a pet rule violation if:

The pet owner has failed to remove the pet or correct a pet rule violation within the time period specified

The pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease

Emergencies

Housing Authority Policy

The Housing Authority will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local entity authorized to remove such animals.

If it is necessary for the Housing Authority to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

PART III: PET DEPOSITS AND FEES IN ELDERLY/DISABLED DEVELOPMENTS

10-III.A. OVERVIEW

This part describes the Housing Authority's policies for pet deposits and fees in elderly, disabled and mixed population developments. Policies governing deposits and fees in general occupancy developments are described in Part IV.

10-III.B. PET DEPOSITS

Payment of Deposit

The Housing Authority may require tenants who own or keep pets in their units to pay a refundable pet deposit. This deposit is in addition to any other financial obligation generally imposed on tenants of the project [24 CFR 5.318(d)(1)].

The maximum amount of pet deposit that may be charged by a Housing Authority on a per dwelling unit basis, is the higher of the total tenant payment (TTP) or such reasonable fixed amount as the Housing Authority may require. The Housing Authority may permit gradual accumulation of the pet deposit by the pet owner [24 CFR 5.318(d)(3)].

The pet deposit is not part of the rent payable by the resident [24 CFR 5.318(d)(5)].

> Housing Authority Policy
>
> Pet owners are required to pay a pet deposit of $300 ($150.00 of which is a non-refundable fee) and; $150.00(Per Pet) if the resident is elderly or disabled ($75.00 of which is a non-refundable fee).in addition to any other required deposits.
>
> **The pet owner must pay at least one-half of the pet deposit at the time the pet is brought on the premises. The remainder of the deposit may be paid in three equal payments, due on the first of each of the three months following the day the pet is brought on the premises.**

Refund of Deposit [24 CFR 5.318(d)(1)]

The Housing Authority may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including (but not limited to) the costs of repairs and replacements to, and fumigation of, the tenant's dwelling unit. The Housing Authority must refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the project or no longer owns or keeps a pet in the unit.

> Housing Authority Policy
>
> The Housing Authority will refund half the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 days of move-out or removal of the pet from the unit.
>
> The resident will be billed for any amount that exceeds the pet deposit.
> The Housing Authority will provide the resident with a written list of any charges against the pet deposit within 21business days of the move-out inspection. If the resident

disagrees with the amount charged to the pet deposit, the Housing Authority will provide a meeting to discuss the charges.

10-III.C. OTHER CHARGES
Pet-Related Damages During Occupancy

Housing Authority Policy

All reasonable expenses incurred by the Housing Authority as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements to the resident's dwelling unit

Fumigation of the dwelling unit

Repairs to common areas of the project

The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

PART IV: PET DEPOSITS AND FEES IN GENERAL OCCUPANCY DEVELOPMENTS

10-IV.A. OVERVIEW

This part describes the Housing Authority's policies for pet deposits and fees for those who reside in general occupancy developments.

10-IV.B. PET DEPOSITS

A Housing Authority may require a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered [24 CFR 960.707(b)(1)].

A Housing Authority that requires a resident to pay a pet deposit must place the deposit in an account of the type required under applicable State or local law for pet deposits, or if there are no such requirements, for rental security deposits, if applicable. The Housing Authority must comply with such laws as to retention of the deposit, interest, and return of the deposit to the resident, and any other applicable requirements [24 CFR 960.707(d)].

Payment of Deposit

Housing Authority Policy

Pet owners are required to pay a pet deposit of $300 in addition to any other required deposits. The deposit must be paid in full before the pet is brought on the premises. The pet deposit is not part of rent payable by the resident.

Refund of Deposit

Housing Authority Policy

The Housing Authority will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

The Housing Authority will provide the resident with a written list of any charges against the pet deposit within 10 business days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, the Housing Authority will provide a meeting to discuss the charges.

10-IV.C. NON-REFUNDABLE NOMINAL PET FEE

Housing Authority may require payment of a non-refundable nominal pet fee to cover the reasonable operating costs to the development relating to the presence of pets [24 CFR 960.707(b)(1)].

Housing Authority Policy

The Housing Authority requires pet owners to pay a non-refundable nominal pet fee.

This fee is intended to cover the reasonable operating costs to the project relating to the presence of pets. Reasonable operating costs to the project relating to the presence of pets include, but are not limited to:

Landscaping costs

Pest control costs

Insurance costs

Clean-up costs

The pet fee of $10.00 will be billed on a monthly basis, and payment will be due 14 calendar days after billing.

Charges for the non-refundable pet fee are not part of rent payable by the resident.

10-IV.D. OTHER CHARGES
Pet-Related Damages During Occupancy

Housing Authority Policy
All reasonable expenses incurred by the Housing Authority as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements to the resident's dwelling unit

Fumigation of the dwelling unit

Repairs to common areas of the project

The expense of flea elimination shall also be the responsibility of the resident.
If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge
The regulations do not address the Housing Authority's ability to impose charges for house pet rule violations. However, charges for violation of Housing Authority pet rules may be treated like charges for other violations of the lease and Housing Authority tenancy rules.

Housing Authority Policy

A separate pet waste removal charge of $10.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

Such charges will be due and payable 14 calendar days after billing.

Charges for pet waste removal are not part of rent payable by the resident.

Chapter 11
COMMUNITY SERVICE

INTRODUCTION

This chapter explains HUD regulations requiring Housing Authorities to implement a community service program for all non-exempt adults living in public housing.

This chapter describes HUD regulations and Housing Authority policies related to these topics in two parts:

> Part I: Community Service Requirements. This part describes who is subject to the community service requirement, who is exempt, and HUD's definition of economic self-sufficiency.
>
> Part II: Housing Authority Implementation of Community Service. This part provides Housing Authority policy regarding Housing Authority implementation and program design.

PART I: COMMUNITY SERVICE REQUIREMENT

11-I.A. OVERVIEW

HUD regulations pertaining to the community service requirement are contained in 24 CFR 960 Subpart F (960.600 through 960.609). Housing Authorities and residents must comply with the community service requirement, effective with Housing Authority fiscal years that commenced on or after October 1, 2000. Per 903.7(l)(1)(iii), the Housing Authority Plan must contain a statement of the how the Housing Authority will comply with the community service requirement, including any cooperative agreement that the Housing Authority has entered into or plans to enter into.

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities [24 CFR 960.601(b)].

In administering community service requirements, the Housing Authority must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

11-I.B. REQUIREMENTS

Each adult resident of the Housing Authority, who is not exempt, must [24 CFR 960.603(a)]:

- Contribute 8 hours per month of community service; or
- Participate in an economic self-sufficiency program (as defined in the regulations) for 8 hours per month; or
- Perform 8 hours per month of combined activities (community service and economic self-sufficiency programs).

Housing Authority Policy

An individual may not skip a month and then double up the following month, unless special circumstances warrant it. The Housing Authority will make the determination of whether to permit a deviation from the schedule.

Individuals who have special circumstances which they believe will prevent them from completing the required community service hours for a given month, must notify the Housing Authority in writing within 5 business days of the circumstances becoming known. The Housing Authority will review the request and notify the individual, in writing, of its determination within 10 business days. The Housing Authority may require those individuals to provide documentation to support their claim.

Definitions

Exempt Individual [24 CFR 960.601(b)]

An *exempt individual* is an adult who:

- Is age 62 years or older

- Is blind or disabled (as defined under section 216[i][l] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the service provisions

- Is a primary caretaker of such an individual

- Is engaged in work activities

Housing Authority Policy

The Housing Authority will consider 30 hours per week as the minimum number of hours needed to qualify for a work activity exemption.

- Meets the requirements for being exempted from having to engage in a work activity under the state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the Housing Authority is located, including a state-administered welfare-to-work program; or

- Is in a family receiving assistance under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the Housing Authority is located, including a state-administered welfare-to-work program, and has not been found by the state or other administering entity to be in noncompliance with such program.

Community Service

Community service is volunteer work which includes, but is not limited to:

- Work at a local institution including but not limited to: school, child care center, hospital, hospice, recreation center, senior center, adult day care center, homeless shelter, indigent feeding program, cooperative food bank, etc.

- Work with a nonprofit organization that serves Housing Authority residents or their children such as: Boy Scouts, Girl Scouts, Boys or Girls Clubs, 4-H programs, PAL, Garden Center, community clean-up programs, beautification programs, other youth or senior organizations

- Work at the Housing Authority to help improve physical conditions

- Work at the Housing Authority to help with children's programs

- Work at the Housing Authority to help with senior programs

- Helping neighborhood groups with special projects

- Working through a resident organization to help other residents with problems, serving as an officer in a resident organization, serving on the resident advisory board

- Caring for the children of other residents so they may volunteer

NOTE: Political activity is excluded for purposes of eligible community service activities.

Economic Self-Sufficiency Program [24 CFR 5.603(b)]
For purposes of satisfying the community service requirement, an *economic self-sufficiency program* is defined by HUD as: Any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families.

These economic self-sufficiency programs can include job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeships (formal or informal), or any other program necessary to ready a participant to work (such as substance abuse or mental health treatment).

Work Activities [42 U.S.C. 607(d)]
As it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate
- Provision of child care services to an individual who is participating in a community service program

Notification Requirements [24 CFR 960.605(c)(2)]
The Housing Authority must give each family a written description of the community service requirement, the process for claiming status as an exempt person, and the process for Housing Authority verification of exempt status. The Housing Authority must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt.

Housing Authority Policy
The Housing Authority will provide the family with a copy of the Housing Authority's Community Service Policy at lease-up, lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request.

On an annual basis, at the time of lease renewal, the Housing Authority will notify the family in writing of the family members who are subject to the community service requirement and the family members who are exempt. If the family includes non-exempt individuals the notice will include a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform and the number of hours contributed. The form will also have a place for a signature by an appropriate official, who will certify to the activities and hours completed.

11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(c)(3)]
The Housing Authority must review and verify family compliance with service requirements annually at least thirty days before the end of the twelve month lease term. The policy for documentation and verification of compliance with service requirements may be found at Section 11-I.D., Documentation and Verification.

Housing Authority Policy
Where the lease term does not coincide with the effective date of the annual reexamination, the Housing Authority will change the effective date of the annual reexamination to coincide with the lease term. In making this change, the Housing Authority will ensure that the annual reexamination is conducted within 12 months of the last annual reexamination.

Annual Determination
Determination of Exemption Status
An exempt individual is excused from the community service requirement [24 CFR 960.603(a)].

Housing Authority Policy
At least 60 days prior to lease renewal, the Housing Authority will review and verify the exemption status of all adult family members. This verification will only be done on an annual basis unless the family reports a change or the Housing Authority has reason to believe that an individual's exemption status has changed. For individuals who are

exempt because they are 62 years of age and older, verification of exemption status will be done only at the initial examination.

Upon completion of the verification process, the Housing Authority will notify the family of its determination in accordance with the policy in Section 11-I.B., Notification Requirements.

Determination of Compliance

The Housing Authority must review resident family compliance with service requirements annually at least thirty days before the end of the twelve month lease term [24 CFR 960.605(c)(3)]. As part of this review, the Housing Authority must verify that any family member that is not exempt from the community service requirement has met his or her service obligation.

Housing Authority Policy

Approximately 60 days prior to the end of the lease term, the Housing Authority will provide written notice requiring the family to submit documentation that all subject family members have complied with the service requirement. The family will have 10 business days to submit the Housing Authority required documentation form(s).
If the family fails to submit the required documentation within the required timeframe, or Housing Authority approved extension, the subject family members will be considered noncompliant with community service requirements, and notices of noncompliance will be issued pursuant to the policies in Section 11-I.E., Noncompliance.

Change in Status Between Annual Determinations

Housing Authority Policy

Exempt to Non-Exempt Status

If an exempt individual becomes non-exempt during the twelve month lease term, it is the family's responsibility to report this change to the Housing Authority within 10 business days.

Within 10 business days of a family reporting such a change, or the Housing Authority determining such a change is necessary, the Housing Authority will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member may record the activities performed and number of hours contributed.

The effective date of the community service requirement will be the first of the month following 30 day notice.

Non-Exempt to Exempt Status

If a non-exempt person becomes exempt during the twelve month lease term, it is the family's responsibility to report this change to the Housing Authority within 10 business days. Any claim of exemption will be verified by the Housing

Authority in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

Within 10 business days of a family reporting such a change, or the Housing Authority determining such a change is necessary, the Housing Authority will provide the family written notice that the family member is no longer subject to the community service requirement, if the Housing Authority is able to verify the exemption.

The exemption will be effective immediately.

11-I.D. DOCUMENTATION AND VERIFICATION [24 CFR 960.605(c)(4)]

The Housing Authority must retain reasonable documentation of service requirement performance or exemption in participant files.

Documentation and Verification of Exemption Status

Housing Authority Policy

All family members who claim they are exempt from the community service requirement will be required to sign the Housing Authority's Community Service Exemption Certification form. The Housing Authority will provide a completed copy to the family and will keep a copy in the tenant file.

The Housing Authority will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7.

The Housing Authority makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with the Housing Authority's determination, s/he can dispute the decision through the Housing Authority's grievance procedures (see Chapter 14).

Documentation and Verification of Compliance

If qualifying community service activities are administered by an organization other than the Housing Authority, a family member who is required to fulfill a service requirement must provide certification to the Housing Authority, signed by the organization, that the family member has performed the qualifying activities [24 CFR 960.607].

Housing Authority Policy

If anyone in the family is subject to the community service requirement, the Housing Authority will provide the family with community service documentation forms at admission, at lease renewal, when a family member becomes subject to the community service requirement during the lease term, or upon request by the family.

Each individual who is subject to the requirement will be required to record their community service or self-sufficiency activities and the number of hours contributed on

the required form. The certification form will also include places for signatures and phone numbers of supervisors, instructors, and counselors certifying to the number of hours contributed.

Families will be required to submit the documentation to the Housing Authority, upon request by the Housing Authority.

If the Housing Authority has reasonable cause to believe that the certification provided by the family is false or fraudulent, the Housing Authority has the right to require third-party verification.

11-I.E. NONCOMPLIANCE

Initial Noncompliance

The lease specifies that it is renewed automatically for all purposes, unless the family fails to comply with the community service requirement. Violation of the service requirement is grounds for non-renewal of the lease at the end of the twelve month lease term, but not for termination of tenancy during the course of the twelve month lease term [24 CFR 960.603(b)].

If the tenant or another family member has violated the community service requirement, the Housing Authority may not renew the lease upon expiration of the twelve-month term of the lease, unless the tenant and any other noncompliant family member enter into a written agreement with the Housing Authority. Under this agreement the tenant or noncompliant family member must agree to cure the noncompliance by completing the additional hours of community service or economic self-sufficiency needed to make up the total number of hours required, over the twelve-month term of the new lease. In addition, all other members of the family who are subject to the service requirement must be currently complying with the service requirement or must no longer be residing in the unit [24 CFR 960.607(c)].

Notice of Initial Noncompliance [24 CFR 960.607(b)]

If the Housing Authority determines that there is a family member who is required to fulfill a service requirement, but who has failed to comply with this obligation (noncompliant resident), the Housing Authority must notify the tenant of this determination.

The notice to the tenant must briefly describe the noncompliance. The notice must state that the Housing Authority will not renew the lease at the end of the twelve-month lease term unless the tenant, and any other noncompliant resident, enter into a written agreement with the Housing Authority to cure the noncompliance, or the family provides written assurance satisfactory to the Housing Authority that the tenant or other noncompliant resident no longer resides in the unit. The notice must also state that the tenant may request a grievance hearing on the Housing Authority's determination, in accordance with the Housing Authority's grievance procedures, and that the tenant may exercise any available judicial remedy to seek timely redress for the Housing Authority's non-renewal of the lease because of the Housing Authority's determination.

Housing Authority Policy

The notice of initial noncompliance will be sent at least 45 days prior to the end of the lease term.

The family will have 10 business days from the date of the notice of noncompliance to enter into a written agreement to cure the noncompliance over the 12 month term of the new lease, provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the Housing Authority will agree to continued occupancy of the family.

Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the family member that previously resided with them.

If the family does not request a grievance hearing, or does not take either corrective action required by the notice of noncompliance within the required 10 business day timeframe, the Housing Authority will terminate tenancy in accordance with the policies in Chapter 13-IV.D.

Continued Noncompliance [24 CFR 960.607(b)]

If, after the 12 month cure period, the family member is still not compliant, the Housing Authority must terminate tenancy of the entire family, according to the Housing Authority's lease, unless the family provides documentation that the noncompliant resident no longer resides in the unit.

Housing Authority Policy

Notices of continued noncompliance will be sent at least 30 days prior to the end of the lease term and will also serve as the family's termination notice. The notice will meet the requirements for termination notices described in Chapter 13-IV.D, Form, Delivery, and Content of the Notice.

The family will have 10 business days from the date of the notice of non-compliance to provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the Housing Authority will agree to continued occupancy of the family.

Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the noncompliant family member that previously resided with them.

If the family does not request a grievance hearing, or provide such documentation within the required 10 business day timeframe, the family's lease and tenancy will automatically terminate at the end of the current lease term without further notice.

PART II: IMPLEMENTATION OF COMMUNITY SERVICE

11-II.A. OVERVIEW

Each Housing Authority must develop a policy for administration of the community service and economic self-sufficiency requirements for public housing. It is in the Housing Authority's best interests to develop a viable, effective community service program, to provide residents the opportunity to engage in the community and to develop competencies.

Housing Authority Program Design

The Housing Authority may make community service activities available through a contractor, or through partnerships with qualified organizations, including resident organizations, and community agencies or institutions [24 CFR 960.605(b)].

> Housing Authority Policy
>
> The Housing Authority will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments. To the greatest extent possible, the Housing Authority will provide names and contacts at agencies that can provide opportunities for residents, including persons with disabilities, to fulfill their community service obligations.
>
> Any written agreements or partnerships with contractors and/or qualified organizations, including resident organizations, are described in the Housing Authority Plan.

EXHIBIT 11-1: COMMUNITY SERVICE AND SELF-SUFFICIENCY POLICY

A. Background

The Quality Housing and Work Responsibility Act of 1998 requires that all non-exempt (see definitions) public housing adult residents (18 or older) contribute eight (8) hours per month of community service (volunteer work) or participate in eight (8) hours of training, counseling, classes or other activities that help an individual toward self-sufficiency and economic independence. This is a requirement of the public housing lease.

B. Definitions

Community Service – volunteer work which includes, but is not limited to:

- Work at a local institution, including but not limited to: school, child care center, hospital, hospice, recreation center, senior center, adult day care center, homeless shelter, indigent feeding program, cooperative food bank, etc.
- Work with a nonprofit organization such as: Parks and Recreation, United Way, Red Cross, Volunteers of America, Boy Scouts, Girl Scouts, Boys or Girls Clubs, 4-H Program, PAL, Garden Center, community clean-up programs, beautification programs, other counseling, aid, youth or senior organizations
- Helping neighborhood groups with special projects
- Working through a resident organization to help other residents with problems
- Serving as an officer in a resident organization
- Serving on the Resident Advisory Board
- Caring for children of other residents so they may volunteer

NOTE: Political activity is excluded.

Self-Sufficiency Activities – activities that include, but are not limited to:

- Job readiness programs
- Job training programs
- GED classes
- Substance abuse or mental health counseling
- English proficiency or literacy (reading) classes
- Apprenticeships
- Budgeting and credit counseling
- Any kind of class that helps a person toward economic independence
- Student status at any school, college or vocation school

Exempt Adult – an adult member of the family who meets any of the following criteria:

- Is 62 years of age or older
- Is blind or a person with disabilities (as defined under section 216[i][l] or 1614 of the Social Security Act), and who certifies that because of this disability he or she is unable to comply with the service provisions, or is the primary caretaker of such an individuals
- Is working at least 30 hours per week
- Meets the requirements for being exempted from having to engage in a work activity under TANF or any other State welfare program including a State-administered welfare-to-work program
- Is a member of a family receiving assistance, benefits or services under TANF or any

other State welfare program and has not been found to be in noncompliance with such program

C. Requirements of the Program

1. The eight (8) hours per month may be either volunteer work or self-sufficiency program activity, or a combination of the two.
2. At least eight (8) hours of activity must be performed each month. An individual may not skip a month and then double up the following month, unless special circumstances warrant special consideration. The housing authority will make the determination of whether to allow or disallow a deviation from the schedule based on a family's written request.
3. Family obligation:
   - At lease execution, all adult members (18 or older) of a public housing resident family must:
     - Sign a certification that they have received and read this policy and understand that if they are not exempt, failure to comply with the community service requirement will result in a non-renewal of their lease; and
     - Declare if they are exempt. If exempt, they must complete the Housing Authority's Exemption Form and provide documentation of the exemption.
   - Upon written notice from the Housing Authority, non-exempt family members must present complete documentation of activities performed during the applicable lease term. This documentation will include places for signatures of supervisors, instructors, or counselors, certifying to the number of hours contributed.
   - If a family member is found to be noncompliant at the end of the 12-month lease term, he or she, and the head of household, will be required to sign an agreement with the housing authority to make up the deficient hours over the next twelve (12) month period, as a condition of continued occupancy.
4. Change in exempt status:
   - If, during the twelve (12) month lease period, a non-exempt person becomes exempt, it is his or her responsibility to report this to the Housing Authority and provide documentation of exempt status.
   - If, during the twelve (12) month lease period, an exempt person becomes non-exempt, it is his or her responsibility to report this to the Housing Authority. Upon receipt of this information the Housing Authority will provide the person with the appropriate documentation form(s) and a list of agencies in the community that provide volunteer and/or training opportunities.

D. Authority Obligation

1. To the greatest extent possible and practicable, the Housing Authority will provide names and contacts at agencies that can provide opportunities for residents, including residents with disabilities, to fulfill their community service obligations.
2. The Housing Authority will provide the family with a copy of this policy, and all applicable exemption verification forms and community service documentation forms, at lease-up, lease renewal, when a family member becomes subject to the community service requirement during the lease term, and at any time upon the family's request.
3. Although exempt family members will be required to submit documentation to support their exemption, the Housing Authority will verify the exemption status in accordance with its verification policies. The Housing Authority will make the final determination as to whether or not a family member is exempt from the community service requirement.

Residents may use the Housing Authority's grievance procedure if they disagree with the Housing Authority's determination.

4. Noncompliance of family member:
   - At least thirty(30) days prior to the end of the 12-month lease term, the Housing Authority will begin reviewing the exempt or non-exempt status and compliance of family members;
   - If, at the end of the initial 12-month lease term under which a family member is subject to the community service requirement, the Housing Authority finds the family member to be noncompliant, the Housing Authority will not renew the lease unless:
     - The head of household and any other noncompliant resident enter into a written agreement with the Housing Authority, to make up the deficient hours over the next twelve (12) month period; or
     - The family provides written documentation satisfactory to the Housing Authority that the noncompliant family member no longer resides in the unit.
   - If, at the end of the next 12-month lease term, the family member is still not compliant, a 30-day notice to terminate the lease will be issued and the entire family will have to vacate, unless the family provides written documentation satisfactory to the Housing Authority that the noncompliant family member no longer resides in the unit;
   - The family may use the Housing Authority's grievance procedure to dispute the lease termination.

EXHIBIT 11-2: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(l) and Section 1416(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE

Social Security Act:
216(i)(1): Except for purposes of sections 202(d), 202(e), 202(f), 223, and 225, the term "disability" means (A) 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 has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.

Section 1416 (excerpt):
SEC. 1614. *[42 U.S.C. 1382c]* (a)(1) For purposes of this title, the term "aged, blind, or disabled individual" means an individual who—

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

(B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a

result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act), or

(ii) is a child who is a citizen of the United States and, who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States.

(2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) Except as provided in subparagraph (C), an individual shall be considered to be disabled for purposes of this title if he is unable 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 twelve months.

Community Service & Self-Sufficiency Requirement (CSSR) Resident Certification: To be completed by the individual requesting a CSSR exemption & verified by a third party.

If you wish to claim an exemption from the Community Service & Self-Sufficiency Requirement (CSSR), you will need to provide the Housing Authority of the County of San Joaquin (Housing Authority) with the appropriate documentation for the CSSR exemption you are applying for when applicable.

☐ Disabled: If you have already provided the Housing Authority with documentation of your disability status you do not need to provide it again. But if you have not previously provided the documentation of your disability status, or there is more than one adult in your household, you need to apply for this exemption to verify that you are the resident with the disability in your household.

☐ Work Exempt: If your are exempt from work activity under Part A, Title IV of the Social Security Act or California's welfare program including welfare-to-work, you will need to apply for that exemption.

☐ Parent or Legal Guardian with a Child under age thirteen (13) Living in the Home: If there are more than one adult in the household, you must provide proof that you are the parent or legal guardian of a child under age thirteen (13) living in your household. *(CalWork's participants: CSSR exemption will only be granted if family is in good standing with CalWork's welfare to work program)*

☐ On-the-Job Training: You are engaged in on-the-job training for a minimum of eight (8) hours.

☐ Economic Self-Sufficiency: You are enrolled in an Economic Self-Sufficiency Program (i.e. Employment Program) for a minimum of eight (8) hours per month.

☐ Vocational Education/Job Skills Training: You are enrolled in a Vocational Education/Job Skills training program for a minimum of eight (8) hours per month.

☐ High School/GED Program/Higher Education: You are enrolled in high school, a GED program, or higher education (i.e. College or University) for a minimum of eight (8) hours per month.

☐ Primary Caretaker of Someone Disabled or Elderly: You are the primary care taker of a disabled or elderly person for a minimum of eight (8) hours per month.

☐ Pregnant

☐ Providing Child Care for person performing Community Service: **You** are providing childcare for another resident performing community service.

☐ Pending Social Security Administration (SSA): You have a pending application for SSI. (This exemption can only be used once.)

☐ Person with SSA disputes: You are currently involved in a dispute with Social Security Administration regarding an application for assistance. (This exemption can only be used once.)

☐ Victims of Domestic Violence: You are a victim of domestic violence, and participation in this program would but you at risk.

☐ Sick or Suffering from a Temporary Disability: You are sick or suffering from a temporary disability expected to last sixty (60) days or more.

☐ Home Schooling: You are a parent or legal guardian home schooling a child under the age of eighteen (18).

☐ Military: You are an active duty reservist or member of the U.S. military.

☐ Recent Graduates: You are a graduate within the last six (6) months of an education or training program and actively searching for work. (Up to Six (6) month exemption from graduation date).

Chapter 12
TRANSFER POLICY

INTRODUCTION

This chapter explains the Housing Authority's transfer policy, based on HUD regulations, HUD guidance, and Housing Authority policy decisions.

This chapter describes HUD regulations and Housing Authority policies related to transfers in four parts:

> Part I: Emergency Transfers. This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs.
>
> Part II: Housing Authority Required Transfers. This part describes types of transfers that may be required by the Housing Authority, notice requirements, and payment of transfer costs.
>
> Part III: Transfers Requested by Residents. This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.
>
> Part IV: Transfer Processing. This part describes creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, deconcentration, transferring to another development and reexamination.

The Housing Authority may require the tenant to move from the unit under some circumstances. There are also emergency circumstances under which alternate accommodations for the tenant must be provided, that may or may not require a transfer.

The tenant may also request a transfer, such as a request for a new unit as a reasonable accommodation.

The Housing Authority must have specific policies in place to deal with acceptable transfer requests.

If any member of the Household transfers to a new dwelling unit after the Housing Authority initiates an eviction proceeding, then the Housing Authority may re-file the action or amend its pleading to request possession of the new dwelling unit, without waiver of the original violation.

PART I: EMERGENCY TRANSFERS

12-I.A. OVERVIEW

HUD categorizes certain actions as emergency transfers .The emergency transfer differs from a typical transfer in that it requires immediate action by the Housing Authority.

In the case of a genuine emergency, it may be unlikely that the Housing Authority will have the time or resources to immediately transfer a tenant. Due to the immediate need to vacate the unit, placing the tenant on a transfer waiting list would not be appropriate. Under such circumstances, if an appropriate unit is not immediately available, the Housing Authority should find alternate accommodations for the tenant until the emergency passes, or a permanent solution, i.e., return to the unit or transfer to another unit, is reached.

12-I.B. EMERGENCY TRANSFERS

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, the Housing Authority must offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

Housing Authority Policy

The following is considered an emergency circumstance warranting an immediate transfer of the tenant or family:

Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours. Examples of such unit or building conditions would include: a gas leak; no heat in the building during the winter; no water; toxic contamination; sewage problems and serious water leaks.

12-I.C. EMERGENCY TRANSFER PROCEDURES

Housing Authority Policy

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, the Housing Authority will provide temporary accommodations to the tenant by arranging for temporary lodging at a hotel or similar location. If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, the Housing Authority will transfer the resident to the first available and appropriate unit after the temporary relocation. Emergency transfers are mandatory for the tenant.

PART II: Housing Authority REQUIRED TRANSFERS

12-II.A. OVERVIEW

HUD regulations regarding transfers are minimal, leaving it up to the Housing Authority to develop reasonable transfer policies.

The Housing Authority may require that a resident transfer to another unit under some circumstances. For example, the Housing Authority may require a resident to transfer to make an accessible unit available to a disabled family. The Housing Authority may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, a Housing Authority may transfer residents in order to demolish or renovate the unit.
A transfer that is required by the Housing Authority is an adverse action, and is subject to the notice requirements for adverse actions [24 CFR 966.4(e)(8)(i)].

If the Household transfers to another dwelling unit, the lease shall terminate and a new written lease agreement shall be executed for the new dwelling unit. By transferring resident to another dwelling unit, however, the Housing Authority shall not waive its right to terminate the lease for that new unit or to evict the household from that new based upon conduct that occurred before the transfer (when resident resided at the residence to which this lease refers).

12-II.B. TYPES OF Housing Authority REQUIRED TRANSFERS

Housing Authority Policy

The types of transfers that may be required by the Housing Authority, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter.

Transfers required by the Housing Authority are mandatory for the tenant.

Transfers to Make an Accessible Unit Available

When a family is initially given an accessible unit, but does not require the accessible features, the Housing Authority may require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

Housing Authority Policy

When a non-accessible unit becomes available, the Housing Authority will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. The Housing Authority may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

Occupancy Standards Transfers
The Housing Authority may require a resident to move when a reexamination indicates that there has been a change in family composition, and the family is either overcrowded or over-housed according to Housing Authority policy [24 CFR 960.257(a)(4)]. On some occasions, the Housing Authority may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The public housing lease must include the tenant's agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

Housing Authority Policy
The Housing Authority will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied. For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

Overcrowded: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Section 5-I.B.

Over-housed: the family no longer qualifies for the bedroom size in which they are living based on the Housing Authority's occupancy standards as described in Section 5-I.B.

The Housing Authority may also transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on the Housing Authority's occupancy standards, when the Housing Authority determines there is a need for the transfer.

The Housing Authority may elect not to transfer an over-housed family in order to prevent vacancies.

A family that is required to move because of family size will be advised by the Housing Authority that a transfer is necessary and that the family has been placed on the transfer list.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) in accordance with the policies in Chapter5-I.C. will only be required to transfer if it is necessary to comply with the approved exception.

Demolition, Disposition, Revitalizations, or Rehabilitation Transfers
These transfers permit the Housing Authority to demolish, sell or do major capital or rehabilitation work at a building site .

Housing Authority Policy
The Housing Authority will relocate a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is

being disposed of or demolished. The Housing Authority's relocation plan may or may not require transferring affected families to other available public housing units.

If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the transfer list and receive priority.
In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under Relocation Act provisions, and may be allowed to return to their unit, depending on contractual and legal obligations, once revitalization or rehabilitation is complete.

12-II.C. ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]

A Housing Authority required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, the Housing Authority may not take action on the transfer until the conclusion of the grievance process.

PART III: TRANSFERS REQUESTED BY TENANTS

12-III.A. OVERVIEW

HUD provides the Housing Authority with discretion to consider transfer requests from tenants. The only requests that the Housing Authority is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of the Housing Authority. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by the Housing Authority.

Some transfers that are requested by tenants should be treated as higher priorities than others due to the more urgent need for the transfer.

12-III.B. TYPES OF RESIDENT REQUESTED TRANSFERS

Housing Authority Policy

The tenant must provide a request for transfer in writing that includes 3rd verification which verifies the reason for the request. The types of requests for transfers that the Housing Authority will consider are limited to requests for transfers to alleviate a serious or life threatening medical condition, transfers due to a threat of physical harm or criminal activity, reasonable accommodation, transfers to a different unit size as long as the family qualifies for the unit according to the Housing Authority's occupancy standards, and transfers to a location closer to employment. No other transfer requests will be considered by the Housing Authority.

The Housing Authority will consider the following as high priority transfer requests:

When a transfer is needed to alleviate verified medical problems of a serious or life-threatening nature

When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at the HOUSING AUTHORITY 's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, a hate crime, or domestic violence, dating violence, sexual assault, or stalking.

When a family requests a transfer as a reasonable accommodation. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first floor unit for a person with mobility impairment, or a transfer to a unit with accessible features

The Housing Authority will consider the following as regular priority transfer requests:

When a family requests a larger bedroom size unit even though the family does not meet the Housing Authority's definition of overcrowded, as long as the family meets the Housing Authority's occupancy standards for the requested size unit

When the head of household or spouse is employed 25 miles or more from the public housing unit, has no reliable transportation, and public transportation is not adequate

Transfers requested by the tenant are considered optional for the tenant.

12-III.C. ELIGIBILITY FOR TRANSFER

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, the Housing Authority may establish other standards for considering a transfer request.

Housing Authority Policy

Except where reasonable accommodation is being requested, the Housing Authority will only consider transfer requests from residents that meet the following requirements:

Have not engaged in criminal activity that threatens the health and safety or residents and staff

Owe no back rent or other charges, or have a pattern of late payment

Have no housekeeping lease violations or history of damaging property
Can get utilities turned on in the name of the head of household (applicable only to properties with tenant-paid utilities)

Exceptions to the good record requirement may be made when it is to the Housing Authority's advantage to make the transfer.

If a family requested to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two years from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation.

12-III.D. SECURITY DEPOSITS

Housing Authority Policy

When a family transfers from one unit to another, the Housing Authority will transfer their security deposit to the new unit. The tenant will be billed for any maintenance or others charges due for the "old" unit.

12-III.E. COST OF TRANSFER

The Housing Authority must pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident's disability [Notice PIH 2006-13].

Housing Authority Policy
The resident will bear all of the costs of transfer s/he requests. However, the Housing Authority will bear the transfer costs when the transfer is done as a reasonable accommodation

12-III.F. HANDLING OF REQUESTS

Housing Authority Policy
Residents requesting a transfer to another unit or development will be required to submit a written request for transfer.

In case of a reasonable accommodation transfer, the Housing Authority will require the resident to make the request in writing using a reasonable accommodation request form.

However, the Housing Authority may consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

The Housing Authority will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family.

If the family does not meet the "good record" requirements under Section 12-III.C., the manager will address the problem and, until resolved, the request for transfer will be denied.

The Housing Authority will respond within ten (10) business days of the submission of the family's request. If the Housing Authority denies the request for transfer, the family will be informed of its grievance rights.

PART IV: TRANSFER PROCESSING

12-IV.A. OVERVIEW

Generally, transfers should be placed on a transfer list and handled in the appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience disparate treatment.

12-IV.B. TRANSFER LIST

Housing Authority Policy

The Housing Authority will maintain a site-based transfer list to ensure that transfers are processed in the correct order and that procedures are uniform.

Emergency transfers will not automatically go on the transfer list. Instead emergency transfers will be handled immediately, on a case by case basis. If the emergency will not be finally resolved by a temporary accommodation, and the resident requires a permanent transfer, that transfer will be placed at the top of the transfer list.

Transfers will be processed in the following order:

1. Emergency transfers
2. Verified medical condition
3. Threat of harm or criminal activity
4. Reasonable accommodation
5. Transfer to make an accessible unit available
6. Demolition, renovation, etc.
7. Occupancy Standards
8. Other Housing Authority required transfers
9. Other tenant requested transfers

Within each category, transfers will be processed in order of the date the family was placed on the transfer list, starting with the earliest date.

Demolition and renovation transfers will gain the highest priority as necessary to allow the Housing Authority to meet the demolition or renovation schedule.

Transfers will take precedence over waiting list admissions.

12-IV.C. TRANSFER OFFER POLICY

Housing Authority Policy

Residents will receive one offer of a transfer.

When the transfer is required by the Housing Authority, refusal of that offer without good cause will result in lease termination.

When the transfer has been requested by the resident, refusal of that offer without good cause will result in the removal of the household from the transfer list and the family must wait six months to reapply for another transfer.

12-IV.D. GOOD CAUSE FOR UNIT REFUSAL

Housing Authority Policy

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

Inaccessibility to source of employment, education, or job training, children's day care, or an educational program for children with disabilities, so that accepting the unit offer would require the adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.

The family demonstrates to the Housing Authority's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.

The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

The Housing Authority will require verifiable 3rd party documentation of good cause for unit refusals.

12-IV.E. DECONCENTRATION

Housing Authority Policy

If subject to deconcentration requirements, the Housing Authority will consider its deconcentration goals when transfer units are offered. When feasible, families above the Established Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve the Housing Authority's deconcentration goals. A deconcentration offer will be considered a "bonus" offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer.

12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS

Housing Authority Policy

The reexamination date will be changed to the first of the month in which the transfer took place.

Chapter 13
LEASE TERMINATIONS

INTRODUCTION

Either party in a lease agreement may terminate the lease under certain circumstances. A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing.

Likewise, there are safeguards to protect HUD's interest in the public housing program, to assure that qualified families are provided decent, safe, and sanitary housing which is in good repair. The Housing Authority may terminate the lease because of the family's failure to comply with HUD regulations, for serious or repeated violations of the terms of the lease, and for other good cause. HUD regulations specify some reasons for which a Housing Authority can terminate a family's lease, and give Housing Authority the right to determine other reasons.

When determining Housing Authority policy on terminations, state and local landlord-tenant laws must be considered, since such laws could vary from one location to another. These variances may be either more or less restrictive than federal law or HUD regulation.

This chapter presents the policies that govern both the family's and Housing Authority's termination of the lease. It is presented in four parts:

Part I: Termination by Tenant. This part discusses the family's voluntary termination of the lease and the requirements the Housing Authority places upon families who wish to terminate their lease.

Part II: Termination by Housing Authority - Mandatory. This part describes the policies that govern how, and under what circumstances, a mandatory lease termination by the Housing Authority occurs. This part also includes non-renewal of the lease for noncompliance with community service requirements.

Part III: Termination by Housing Authority – Other Authorized Reasons. This part describes the Housing Authority's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes Housing Authorities to terminate. For some of these options HUD requires the Housing Authority to establish policies and lease provisions for termination, but termination is not mandatory. For other options the Housing Authority has full discretion whether to consider the options as just cause to terminate as long as the Housing Authority policies are reasonable, nondiscriminatory, and do not violate state or local landlord-tenant law. This part also discusses the alternatives that the Housing Authority may consider in lieu of termination, and the criteria the Housing Authority will use when deciding what actions to take.

Part IV: Notification Requirements. This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements

and Housing Authority policies regarding the timing and content of written notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.

PART I: TERMINATION BY TENANT

13-I.A. TENANT CHOOSES TO TERMINATE THE LEASE [24 CFR 966.4(k)(1)(ii) and 24 CFR 966.4(l)(1)]

The family may terminate the lease at any time, for any reason, by following the notification procedures as outlined in the lease. Such notice must be in writing and delivered to the project office or the Housing Authority central office or sent by pre-paid first-class mail, properly addressed.

> Housing Authority Policy
>
> If a family desires to move and terminate their tenancy with the Housing Authority, they must give at least 30 calendar days advance written notice to the Housing Authority of their intent to vacate. When a family must give less than 30 days notice due to circumstances beyond their control the Housing Authority, at its discretion, may waive the 30 day requirement.
>
> The notice of lease termination must be signed by the head of household, spouse, or co-head.

PART II: TERMINATION BY Housing Authority – MANDATORY

13-II.A. OVERVIEW

HUD requires the Housing Authority to terminate the lease in certain circumstances. In other circumstances HUD requires the Housing Authority to establish provisions for lease termination, but it is still a Housing Authority option to determine, on a case-by-case basis, whether termination is warranted. **For those tenant actions or failures to act where HUD requires termination, the Housing Authority has no such option.** In those cases, the family's lease must be terminated. This part describes situations in which HUD requires the Housing Authority to terminate the lease.

13-II.B. FAILURE TO PROVIDE CONSENT [24 CFR 960.259(a) and (b)]

The Housing Authority **must** terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination. See Chapter 7 for a complete discussion of consent requirements.

13-II.C. FAILURE TO DOCUMENT CITIZENSHIP [24 CFR 5.514(c) and (d) and 24 CFR 960.259(a)]

The Housing Authority must terminate the lease if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or (3) a family member, as determined by the Housing Authority, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3), such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

See Chapter 7 for a complete discussion of documentation requirements.

13-II.D. FAILURE TO PROVIDE SOCIAL SECURITY DOCUMENTATION [24 CFR 5.218(c) and 24 CFR 960.259(a)(3)]

The Housing Authority must terminate the lease if a resident family fails to provide the documentation or certification required for any family member who obtains a social security number, joins the family, or reaches 6 years of age. See Chapter 7 for a complete discussion of documentation and certification requirements.

13-II.E. FAILURE TO ACCEPT THE HOUSING AUTHORITY'S OFFER OF A LEASE REVISION [24 CFR 966.4(l)(2)(ii)(E)]

The Housing Authority must terminate the lease if the family fails to accept the Housing Authority's offer of a lease revision to an existing lease, provided the Housing Authority has done the following:

- The revision is on a form adopted by the Housing Authority in accordance with 24 CFR 966.3 pertaining to requirements for notice to tenants and resident organizations and their opportunity to present comments.

- The Housing Authority has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.

- The Housing Authority has specified in the offer a reasonable time limit within that period for acceptance by the family.

  See Chapter 8 for information pertaining to Housing Authority policies for offering lease revisions.

13-II.F. METHAMPHETAMINE CONVICTION [24 CFR 966.4(l)(5)(i)(A)]
The Housing Authority must immediately terminate the lease if the Housing Authority determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

See Part 13-III.B. below for the HUD definition of *premises.*

13-II.G. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (c)]
The Housing Authority is prohibited from renewing the lease at the end of the 12 month lease term when the family fails to comply with the community service requirements as described in Chapter 11.

PART III: TERMINATION BY Housing Authority – OTHER AUTHORIZED REASONS

13-III.A. OVERVIEW

Besides requiring Housing Authorities to terminate the lease under the circumstances described in Part II, HUD requires the Housing Authority to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations. While these provisions for lease termination must be in the lease agreement, HUD does not require Housing Authorities to terminate for such violations in all cases. The Housing Authority has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and the Housing Authority may, as an alternative to termination, require the exclusion of the culpable household member. The Housing Authority must make policy decisions concerning these options.

In addition, HUD authorizes Housing Authorities to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or that are for other good cause. The Housing Authority must develop policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of the Housing Authority lease. In the development of the terms of the lease, the Housing Authority must consider the limitations imposed by state and local landlord-tenant law, as well as HUD regulations and federal statutes. Because of variations in state and local landlord-tenant law, and because HUD affords Housing Authorities wide discretion in some areas, a broad range of policies could be acceptable.

The Housing Authority, with some restrictions, also has the option to terminate the tenancies of families who are over income.

The Housing Authority may consider alternatives to termination and must establish policies describing the criteria the Housing Authority will use when deciding what action to take, the types of evidence that will be acceptable, and the steps the Housing Authority must take when terminating a family's lease.

13-III.B. MANDATORY LEASE PROVISIONS [24 CFR 966.4(l)(5)]

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations. Although the provisions are required, HUD does not require Housing Authorities to terminate for such violations in all cases, therefore Housing Authority policies are needed.

Definitions **[24 CFR 5.100]**

The following definitions will be used for this and other parts of this chapter:

Covered person means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].

Drug-related criminal activity means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.

Guest means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

Household means the family and Housing Authority-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].

Other person under the tenant's control means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.

Premises means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.
Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

Drug Crime On or Off the Premises [24 CFR 966.4(l)(5)(i)(B)]
The lease must provide that drug-related criminal activity engaged in on or off the premises by the tenant, member of the tenant's household or guest, or any such activity engaged in on the premises by any other person under the tenant's control is grounds for termination.

> Housing Authority Policy
> The Housing Authority will terminate the lease for drug-related criminal activity engaged in on or off the premises by any tenant, member of the tenant's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control.
>
> The Housing Authority will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the drug-related criminal activity.
> In making its decision to terminate the lease, the Housing Authority will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F Upon consideration of such alternatives and factors, the Housing Authority may, on a case-by-case basis, choose not to terminate the lease.

Illegal Use of a Drug [24 CFR 966.4(l)(5)(i)(B)]
The lease must provide that a Housing Authority may evict a family when the Housing Authority determines that a household member is illegally using a drug or that a pattern of illegal use of a

drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

Housing Authority Policy
The Housing Authority will terminate the lease when the Housing Authority determines that a household member is illegally using a drug or the Housing Authority determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous six months.

The Housing Authority will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs.

In making its decision to terminate the lease, the Housing Authority will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F Upon consideration of such alternatives and factors, the Housing Authority may, on a case-by-case basis, choose not to terminate the lease.

Threat to Other Residents [24 CFR 966.4(l)(5)(ii)(A)]
The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including Housing Authority management staff residing on the premises) or by persons residing in the immediate vicinity of the premises are grounds for termination of tenancy.

Housing Authority Policy
The Housing Authority will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including Housing Authority management staff residing on the premises) or by persons residing in the immediate vicinity of the premises.

***Immediate vicinity* means within a three-block radius of the premises.**

The Housing Authority will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity. In making its decision to terminate the lease, the Housing Authority will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E. Upon consideration of such alternatives and factors, the Housing Authority may, on a case-by-case basis, choose not to terminate the lease.

Alcohol Abuse [24 CFR 966.4(l)(5)(vi)(A)]
Housing Authorities must establish standards that allow termination of tenancy if the Housing Authority determines that a household member has engaged in abuse or pattern of abuse of

alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Housing Authority Policy

The Housing Authority will terminate the lease if the Housing Authority determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous six months.

The Housing Authority will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the abuse of alcohol.

In making its decision to terminate the lease, the Housing Authority will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F Upon consideration of such alternatives and factors, the Housing Authority may, on a case-by-case basis, choose not to terminate the lease.

Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(l)(5)(vi)(B)]

Housing Authorities must establish standards that allow termination of tenancy if the Housing Authority determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

Housing Authority Policy

The Housing Authority will terminate the lease if the Housing Authority determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

The Housing Authority will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs or the abuse of alcohol, and any records or other documentation (or lack of records or documentation) supporting claims of rehabilitation of illegal drug users or alcohol abusers.

In making its decision to terminate the lease, the Housing Authority will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E. Upon consideration of such alternatives and factors, the Housing Authority may, on a case-by-case basis, choose not to terminate the lease.

Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions [24 CFR 966.4(l)(2)(i) and 24 CFR 966.4(f)]

HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of such regulatory obligations are considered to be serious or repeated violations, and grounds for termination.

Housing Authority Policy

The Housing Authority will terminate the lease for the following violations of tenant obligations under the lease:

Failure to make payments due under the lease, including nonpayment of rent (see Chapter 8 for details pertaining to lease requirements for payments due);

Repeated late payment of rent or other charges. Four late payments within a 12 month period shall constitute a repeated late payment.

Failure to fulfill the following household obligations:

Not to assign the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

Not to provide accommodations for boarders or lodgers

To use the dwelling unit solely as a private dwelling for the tenant and the tenant's household as identified in the lease, and not to use or permit its use for any other purpose

To abide by necessary and reasonable regulations promulgated by the Housing Authority for the benefit and well-being of the housing project and the tenants which shall be posted in the project office and incorporated by reference in the lease

To comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety

To keep the dwelling unit and such other areas as may be assigned to the tenant for the tenant's exclusive use in a clean and safe condition

To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner

To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators

To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or project

To pay reasonable charges (other than for normal wear and tear) for the repair of damages to the dwelling unit, or to the project (including damages to project buildings, facilities or common areas) caused by the tenant, a member of the household or a guest

To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition

In making its decision to terminate the lease, the Housing Authority will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E. Upon consideration of such alternatives and factors, the Housing Authority may, on a case-by-case basis, choose not to terminate the lease.

13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION [24 CFR 966.4(l)(2) and (5)(ii)(B)]

HUD authorizes Housing Authorities to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as "other good cause".

Other Good Cause [24 CFR 966.4(l)(2)(ii)(B) and (C)]

HUD regulations state that the Housing Authority may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit the Housing Authority to only those examples.

Housing Authority Policy

The Housing Authority will terminate the lease for the following reasons.

Fugitive Felon or Parole Violator. If a tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violating a condition of probation or parole imposed under federal or state law.

Persons subject to sex offender registration requirement. If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program.

Discovery after admission of facts that made the tenant ineligible

Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with reexamination of income

Failure to furnish such information and certifications regarding family composition and income as may be necessary for the Housing Authority to make determinations with respect to rent, eligibility, and the appropriateness of dwelling size

Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by the Housing Authority that such a dwelling unit is available

Failure to permit access to the unit by the Housing Authority after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists

Failure to promptly inform the Housing Authority of the birth, adoption or court-awarded custody of a child. In such a case, promptly means within 10 business days of the event.

Failure to abide by the provisions of the Housing Authority pet policy

If the family has breached the terms of a repayment agreement entered into with the Housing Authority

If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

If a household member has engaged in or threatened violent or abusive behavior toward Housing Authority personnel.

> *Abusive or violent behavior towards Housing Authority personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
>
> *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate the lease, the Housing Authority will consider alternatives as described in Section 13-III.D and other factors described in Section 13-III.E. Upon consideration of such alternatives and factors, the Housing Authority may, on a case-by-case basis, choose not to terminate the lease.

Family Absence from Unit [24 CFR 982.551(i)]

It is reasonable that the family may be absent from the public housing unit for brief periods. However, the Housing Authority needs a policy on how long the family may be absent from the unit. Absence in this context means that no member of the family is residing in the unit.

Housing Authority Policy

The family must supply any information or certification requested by the Housing Authority to verify that the family is living in the unit, or relating to family absence from the unit, including any Housing Authority-requested information or certification on the purposes of family absences. The family must cooperate with the Housing Authority for this purpose.

The family must promptly notify the Housing Authority when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. In such a case promptly means within 10 business days of the start of the extended absence.

If a family is absent from the public housing unit for more than 180 consecutive days, and the family does not adequately verify that they are living in the unit, the Housing Authority will terminate the lease for other good cause.

Abandonment. If the family appears to have vacated the unit without giving proper notice, the Housing Authority will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, the Housing Authority will secure the unit immediately to prevent vandalism and other criminal activity.

Over-Income Families [24 CFR 960.261 and FR 11/26/04, p. 68786]

Subject to certain restrictions, HUD authorizes Housing Authorities to evict or terminate the tenancies of families because they are over income. Unless required to do so by local law, the Housing Authority may not evict or terminate the tenancy of a family solely because the family is over income if: (1) the family has a valid contract of participation in the Family Self-Sufficiency (FSS) program, or (2) the family is currently receiving the earned income disallowance. This rule does not require Housing Authorities to evict over-income residents, but rather gives Housing Authorities the discretion to do so thereby making units available for applicants who are income-eligible.

Housing Authority Policy

The Housing Authority may evict or terminate the tenancies of families solely because they are over income.

13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member [24 CFR 966.4(l)(5)(vii)(C)]

As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides that the Housing Authority may consider exclusion of the culpable household member. Such an alternative can be used, by Housing Authority policy, for any other reason where such a solution appears viable.

Housing Authority Policy

The Housing Authority may consider requiring the tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present written 3rd party written documentation of the former household member's current address.

Repayment of Family Debts

Housing Authority Policy

If a family owes amounts to the Housing Authority, as a condition of continued occupancy, the Housing Authority will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the Housing Authority of the amount owed. See Chapter 16 for policies on repayment agreements.

13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY

A Housing Authority that has grounds to terminate a tenancy is not required to do so, except as explained in Part II of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.

Evidence [24 CFR 982.553(c)]

For criminal activity, HUD permits the Housing Authority to terminate the lease if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted, and without satisfying the standard of proof used for a criminal conviction.

Housing Authority Policy

The Housing Authority will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

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

Consideration of Circumstances [24 CFR 966.4(l)(5)(vii)(B)]

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that the Housing Authority may consider all circumstances relevant to a particular case in order to determine whether or not to terminate the lease.

Such relevant circumstances can also be considered when terminating the lease for any other reason.

Housing Authority Policy

The Housing Authority will consider the following factors before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

The seriousness of the offending action, especially with respect to how it would affect other residents

The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor or a person with disabilities

The effects that the eviction will have on other family members who were not involved in the action or failure to act

The effect on the community of the termination, or of the Housing Authority's failure to terminate the tenancy

The effect of the Housing Authority's decision on the integrity of the public housing program

The demand for housing by eligible families who will adhere to lease responsibilities

The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action

The length of time since the violation occurred, the family's recent history, and the likelihood of favorable conduct in the future

In the case of program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family.

Consideration of Rehabilitation [24 CFR 966.4(l)(5)(vii)(D)]
HUD authorizes Housing Authorities to take into consideration whether a household member who had used illegal drugs or abused alcohol and is no longer engaging in such use or abuse is participating in or has successfully completed a supervised drug or alcohol rehabilitation program.

Housing Authority Policy
In determining whether to terminate the lease for illegal drug use or a pattern of illegal drug use, or for abuse or a pattern of abuse of alcohol, by a household member who is no longer engaging in such use or abuse, the Housing Authority will consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully.

For this purpose the Housing Authority will require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

Reasonable Accommodation [24 CFR 966.7]
If the family includes a person with disabilities, the Housing Authority's decision to terminate the family's lease is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

> Housing Authority Policy
> If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, the Housing Authority will determine whether the behavior is related to the disability. If so, upon the family's request, the Housing Authority will determine whether alternative measures are appropriate as a reasonable accommodation. The Housing Authority will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed lease termination. See Chapter 2 for a discussion of reasonable accommodation.

Nondiscrimination Limitation [24 CFR 966.4(l)(5)(vii)(F)]
The Housing Authority's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

13-III.F. PROHIBITION AGAINST TERMINATING TENANCY OF VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING [Pub.L. 109-162 and 109-271]

The Violence against Women Reauthorization Act of 2005 (VAWA), provides that "criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate family member of the tenant's family is the victim or threatened victim of that abuse."
VAWA further provides that incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed either as serious or repeated violations of the lease by the victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence.

Definitions
For the definitions of *domestic violence*, *dating violence*, *stalking*, and *immediate family member*, see section 3-III.F.

VAWA and Other Laws [Pub.L. 109-162]
VAWA does not supersede any other federal, state, or local law that provides greater protection to victims of domestic violence, dating violence, or stalking.
Moreover, VAWA does not limit the Housing Authority's duty to honor court orders issued to protect a victim or to address the distribution of property when a family breaks up.

Limits on VAWA Protections [Pub.L. 109-162]
While VAWA prohibits a Housing Authority from using domestic violence, dating violence, or stalking as the cause for a termination or eviction action against a public housing tenant who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit a Housing Authority's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic

violence, dating violence, or stalking providing that the PHA does not subject the victim to a more demanding standard than other tenants.

- VAWA does not limit a Housing Authority's authority to terminate the tenancy of any public housing tenant if the Housing Authority can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated.

Housing Authority Policy
In determining whether a public housing tenant who is a victim of domestic violence, dating violence, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the Housing Authority will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, or stalking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within a short period of time
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location

If the tenant wishes to contest the Housing Authority's determination that he or she is an actual and imminent threat to other tenants or employees, the tenant may do so as part of the grievance hearing or in a court proceeding.

Victim Notification [Notice PIH 2006-42]
VAWA requires Housing Authorities to notify tenants of their rights under VAWA and to inform them about the existence of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking. (For general VAWA notification policies, see section 16-VII.) Notice PIH 2006-42 identifies two ways that a PHA may fulfill this requirement in the event of a termination or start of an eviction proceeding:

- It may enclose the form with the termination or eviction notice and direct the family to complete, sign, and return the form, if applicable, by a specified date.
- It may include language discussing the protections provided by VAWA in the termination or eviction notice and request that a tenant come to the PHA office and pick up the form if the tenant believes the VAWA protections apply.

Notice PIH 2006-42 points out that mailing the certification form in response to an incident could place the victim at risk, since the abuser may be monitoring the mail. In such cases, the notice recommends that Housing Authorities work with tenants to make other delivery arrangements.

Housing Authority Policy
The Housing Authority will follow the lease termination notice policy in section 13-IV.D. If the Housing Authority has reason to suspect that the notice might place a victim of domestic violence at risk, it will attempt to deliver the notice by hand directly to the victim. The Housing

Authority will use the same caution if it decides to deliver VAWA information to a victim at any other time following an incident of domestic violence.

Victim Documentation [Notice PIH 2006-42]
VAWA authorizes Housing Authorities responding to incidents of actual or threatened domestic violence,dating violence, or stalking to request in writing that a tenant complete, sign, and submit a HUD approved certification form (form HUD-50066).
In lieu of a certification form, or in addition to the certification form, a tenant may provide one of the following:

- A federal, state, tribal, territorial, or local police or court record documenting the domestic violence, dating violence, or stalking
- Documentation signed by an employee, agent, or volunteer of a victim service provider; an attorney; or a medical professional from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking, or the effects of such abuse, in which the professional attests under penalty of perjury to the professional's belief that the incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation

A Housing Authority is not required to demand that an individual produce official documentation or physical proof of an individual's status as a victim of domestic violence, dating violence, or stalking in order to receive the protections of VAWA. A Housing Authority may, at its discretion, provide assistance to an individual based solely upon the individual's statement or other corroborating evidence.

VAWA specifies that a victim of domestic violence, dating violence, or stalking must provide documentation of abuse within 14 business days after receipt of a written request for such documentation by a Housing Authority. If the victim does not provide the documentation within that time frame, or any extension approved by the Housing Authority, the victim forfeits the protections against termination afforded by VAWA, and the Housing Authority is free to evict or terminate the assistance of the victim in accordance with otherwise applicable law and lease provisions.

Housing Authority Policy
When a tenant family is facing lease termination because of the actions of a tenant, household member, guest, or other person under the tenant's control and a tenant or immediate family member of the tenant's family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking, the Housing Authority will require request in writing that the individual to submit documentation affirming that claim. The written request will include explicit instructions on where, when, and to whom the documentation must be submitted. It will also state the consequences for failure to submit the documentation by the deadline.
The documentation must include two elements will consist of a completed and signed form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking. In lieu of the certification form, the PHA will accept either of the following forms of documentation:

- A police or court record documenting the actual or threatened abuse

- Documentation by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice.
The individual claiming victim status must submit the requested documentation within 14 business days after receipt of the Housing Authority's written request or must request an extension within that time frame. The Housing Authority may, at its discretion, extend the deadline for 10 business days.
If the individual provides the requested documentation within 14 business days, or any Housing Authority-approved extension, the Housing Authority will reconsider its termination decision in light of the documentation.

If the individual does not provide the requested documentation within 14 business days, or any Housing Authority-approved extension, the Housing Authority will proceed with termination of the family's lease in accordance with applicable local, state, and federal law and the policies in this ACOP

Terminating or Evicting a Perpetrator of Domestic Violence
Although VAWA provides protection from termination for victims of domestic violence, it does not provide protection for perpetrators. In fact, VAWA gives the Housing Authority the explicit authority to bifurcate a lease, or to remove a household member from a lease, "in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant." Specific lease language affirming this authority is not necessary. Further, the authority supersedes any local, state, or other federal law to the contrary. However, if the Housing Authority chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of assistance [Pub.L. 109-271]. This means that the Housing Authority must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [3/16/07 *Federal Register* notice on the applicability of VAWA to HUD programs].

<u>Housing Authority Policy</u>
The Housing Authority will bifurcate a family's lease and terminate the tenancy of a family member if the Housing Authority determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, non-culpable family members.

In making its decision, the Housing Authority will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to the Housing Authority by the victim in accordance with this section. The Housing Authority will also consider the factors in section 13.III.E. Upon such consideration, the Housing Authority may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.
If the Housing Authority does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If necessary, the Housing Authority will also take steps to ensure that the remaining family members have a safe place to live during the termination process. For example, the Housing Authority may offer the remaining family members another public housing unit, if available; it may help them relocate to a confidential location; or it may refer them to a victim service provider or other agency with shelter facilities.

Housing Authority Confidentiality Requirements [Pub.L. 109-162]
All information provided to the Housing Authority regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared data base nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

Housing Authority Policy
If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the Housing Authority will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

13-IV.A. OVERVIEW

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR 5.903(e)(ii) and 24 CFR 960.259]

HUD authorizes Housing Authorities to conduct criminal records checks on public housing residents for lease enforcement and eviction. Housing Authority policy determines when the Housing Authority will conduct such checks.

> Housing Authority Policy
>
> The Housing Authority will conduct criminal records checks when it has come to the attention of the Housing Authority, either from local law enforcement or by other means, that an individual has engaged in the destruction of property, engaged in violent activity against another person, or has interfered with the right to peaceful enjoyment of the premises of other residents. Such checks will also include sex offender registration information. In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

The Housing Authority may not pass along to the tenant the costs of a criminal records check.

13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY [24 CFR 5.903(f), 24 CFR 5.905(d) and 24 CFR 966.4(l)(5)(iv)]

In conducting criminal records checks, if the Housing Authority uses the authority of 24 CFR 5.903 and 5.905 to obtain such information, certain protections must be afforded the tenant before any adverse action is taken. In such cases if the Housing Authority obtains criminal records information from a state or local agency showing that a household member has been convicted of a crime, or is subject to a sex offender registration requirement, relevant to lease enforcement or eviction, the Housing Authority must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

> Housing Authority Policy
>
> In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, the Housing Authority will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

The family will be given 10 business days from the date of the Housing Authority notice, to dispute the accuracy and relevance of the information. If the family does not contact the Housing Authority to dispute the information within that 10 business day period, the Housing Authority will proceed with the termination action.

13-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(l)(3)]

Form, Delivery, and Content of the Notice

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine Housing Authority documents directly relevant to the termination or eviction. If the Housing Authority does not make the documents available for examination upon request by the tenant, the Housing Authority may not proceed with the eviction [24 CFR 996.4(m)].

When the Housing Authority is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of their right to request a hearing in accordance with the Housing Authority's grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed.

When the Housing Authority is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens health, safety or right to peaceful enjoyment or for drug-related criminal activity, the notice of lease termination must state that the tenant is not entitled to a grievance hearing on the termination. It must specify the judicial eviction procedure to be used by the Housing Authority for eviction of the tenant, and state that HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations. The notice must also state whether the eviction is for a criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the Housing Authority, or for a drug-related criminal activity on or off the premises.

<u>Housing Authority Policy</u>

The Housing Authority will attempt to deliver notices of lease termination directly to the tenant or an adult member of the household. (For terminations related to domestic violence, see also the policy under "Victim Notification" in section 13-III.F.) If such attempt fails, the notice will be sent by first-class mail the same day.

All notices of lease termination will include a statement of the protection against termination provided by the Violence against Women Reauthorization Act of 2005 (VAWA) for victims of domestic violence, dating violence, or stalking. They will also include a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking. Any family member who claims that the cause for termination involves (a) criminal acts of physical violence against family members or others or (b) incidents of domestic violence, dating violence, or stalking of which a family member is the victim will be given the opportunity to provide documentation in accordance with the

policies in Section 13-III.F.

Timing of the Notice [24 CFR 966.4(l)(3)(i)]
The Housing Authority must give written notice of lease termination of:

- 7 calendar days in the case of drug or criminal activity
- 14 calendar days in the case of failure to pay rent
- A reasonable period of time considering the seriousness of the situation (but not to exceed 30 calendar days)

  If the health or safety of other residents, Housing Authority employees, or persons residing in the immediate vicinity of the premises is threatened

  If any member of the household has engaged in any drug-related criminal activity or violent criminal activity

  If any member of the household has been convicted of a felony

- 30 calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply

Housing Authority Policy
The Housing Authority will give written notice of 14 calendar days for nonpayment of rent. For all other lease terminations the Housing Authority will give 30 days written notice or, if state or local law allows less than 30 days, such shorter notice will be given.

The Notice to Vacate that may be required under state or local law may be combined with or run concurrently with the notice of lease termination.

Notice of Non-renewal Due to Community Service Noncompliance [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]
When the Housing Authority finds that a family is in noncompliance with the community service requirement, the tenant and any other noncompliant resident must be notified in writing of this determination. Notices of noncompliance will be issued in accordance with the requirements and policies in Section 11-I.E.

Housing Authority Policy
If after receiving a notice of initial noncompliance the family does not request a grievance hearing, or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial noncompliance by signing an agreement, and is still in noncompliance after being provided the 12-month opportunity to cure, the family will be issued a notice of continued noncompliance. The notice of continued noncompliance will

be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy.

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]
In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the following that apply: the family's eligibility for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and the family's right to request an informal hearing with the Housing Authority either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14 for the Housing Authority's informal hearing procedures.

13-IV.E. EVICTION [24 CFR 966.4(l)(4) and 966.4(m)]

Eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The Housing Authority may only evict the tenant from the unit by instituting a court action, unless the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties.

Housing Authority Policy

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, the Housing Authority will follow state and local landlord-tenant law in filing an eviction action with the local court that has jurisdiction in such cases.

If the eviction action is finalized in court and the family remains in occupancy beyond the deadline to vacate given by the court, the Housing Authority will seek the assistance of the court to remove the family from the premises as per state and local law.

The Housing Authority may not proceed with an eviction action if the Housing Authority has not made available the documents to be used in the case against the family, and has not afforded the family the opportunity to examine and copy such documents in accordance with the provisions of 24 CFR 966.4(l)(3) and (m).

13-IV.F. NOTIFICATION TO POST OFFICE [24CFR 966.4(l)(5)(iii)(B)]

When the Housing Authority evicts an individual or family for criminal activity, including drug-related criminal activity, the Housing Authority must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

13-IV.G. RECORD KEEPING

For more information concerning general record keeping, see Chapter 16.

Housing Authority Policy

A written record of every termination and/or eviction will be maintained by the Housing Authority at the development where the family was residing, and will contain the following information:

Name of resident, number and identification of unit occupied

Date of the notice of lease termination and any other notices required by state or local law; these notices may be on the same form and will run concurrently Specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the notices described in detail (other than any criminal history reports obtained solely through the authorization provided in 24 CFR 5.903 and 5.905)

Date and method of notifying the resident

Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions

Chapter 14
GRIEVANCES AND APPEALS

INTRODUCTION

This chapter discusses grievances and appeals pertaining to Housing Authority actions or failures to act that adversely affect public housing applicants or residents. The policies are discussed in the following three parts:

> Part I: Informal Hearings for Public Housing Applicants. This part outlines the requirements and procedures for informal hearings for public housing applicants.
>
> Part II: Informal Hearings with Regard to Noncitizens. This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicant and tenant grievances.
>
> Part III: Grievance Procedures for Public Housing Residents. This part outlines the requirements and procedures for handling grievances for public housing residents.

Note that this chapter is not the Housing Authority's grievance procedure. The grievance procedure is a document separate from the ACOP. This chapter of the ACOP provides the policies that drive the grievance procedure.

PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

14-I.A. OVERVIEW

When the Housing Authority makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal hearing. HUD regulations do not provide a structure for or requirements regarding informal hearings for applicants (except with regard to citizenship status, to be covered in Part II). This part discusses the Housing Authority policies necessary to respond to applicant appeals through the informal hearing process.

14-I.B. INFORMAL HEARING PROCESS [24 CFR 960.208(a)].

Informal hearings are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program, but is not yet a tenant in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project [24 CFR 960.208(a)]. Applicants to public housing are not entitled to the same hearing process afforded tenants in the Housing Authority grievance procedure [24 CFR 966.53(a)].

Informal hearings provide the applicant a means to hear the details of the reasons for rejection, and an opportunity to present evidence to the contrary if available, and to claim mitigating circumstances if possible.

Use of Informal Hearing Process

While the Housing Authority must offer the opportunity of an informal hearing to applicants who have been determined as ineligible for admission, the Housing Authority could make the informal hearing process available to applicants who wish to dispute other Housing Authority actions that adversely affect them.

> Housing Authority Policy
>
> The Housing Authority will only offer informal hearings to applicants for the purpose of disputing denials of admission.

Notice of Denial [24 CFR 960.208(a)]

The Housing Authority must give an applicant prompt notice of a decision denying eligibility for admission. The notice must contain a brief statement of the reasons for the Housing Authority decision, and must also state that the applicant may request an informal hearing to dispute the decision. The notice must describe how to obtain the informal hearing.

Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial. See Section 3-III.F. for details concerning this requirement.

Scheduling an Informal Hearing

Housing Authority Policy
A request for an informal hearing must be made in writing and delivered to the Housing Authority either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the Housing Authority's notification of denial of admission.

The Housing Authority must schedule and send written notice of the informal hearing within 10 business days of the family's request.

Conducting an Informal Hearing

Housing Authority Policy
The informal hearing will be conducted by a person other than the one who made the decision under review at a supervisory level, or a hearing officer.

The applicant will be provided an opportunity to present written or oral objections to the decision of the Housing Authority.

The person conducting the informal hearing will make a recommendation to the Housing Authority, but the Housing Authority is responsible for making the final decision as to whether admission should be granted or denied.

Informal Hearing Decision

Housing Authority Policy
The Housing Authority will notify the applicant of the Housing Authority's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the Housing Authority will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice
The validity of grounds for denial of admission. If the grounds for denial are not specified in the regulations or in Housing Authority policy, then the decision to deny assistance will be overturned. See Chapter 3 for a detailed discussion of the grounds for applicant denial.

The validity of the evidence. The Housing Authority will evaluate whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and the denial is required by HUD, the Housing Authority will uphold the decision to deny admission.

If the facts prove the grounds for denial, and the denial is discretionary, the Housing Authority will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

The Housing Authority will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed, with return receipt requested, within 10 business days of the informal hearing, to the applicant and his or her representative, if any.

If the informal hearing decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal hearing, the denial of admission will stand and the family will be so notified.

Reasonable Accommodation for Persons with Disabilities [24 CFR 966.7]
Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and the Housing Authority must consider such accommodations. The Housing Authority must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. See Chapter 2 for more detail pertaining to reasonable accommodation requests.

PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

14-II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the Housing Authority hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the Housing Authority informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 13, the notice of denial or termination of assistance for noncitizens must advise the family of any of the following that apply:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a tenant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the Housing Authority either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)]

When the Housing Authority receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the Housing Authority must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the Housing Authority with a copy of the written request for appeal and proof of mailing.

Housing Authority Policy
The Housing Authority will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide the Housing Authority with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the Housing Authority, of its decision. When the USCIS notifies the Housing Authority of the decision, the Housing Authority must notify the family of its right to request an informal hearing.

Housing Authority Policy
The Housing Authority will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]
After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that the Housing Authority provide a hearing. The request for a hearing must be made either within 30 days of receipt of the Housing Authority notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer
The Housing Authority must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence
The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the Housing Authority pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

Housing Authority Policy
The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of Housing Authority documents no later than 2 business days prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the Housing Authority, and to confront and cross-examine all witnesses on whose testimony or information the Housing Authority relies.

Representation and Interpretive Services
The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the Housing Authority, as may be agreed upon by the two parties. If the family does not arrange for their own interpreter, the Housing Authority is still obligated to provide oral translation services in accordance with its LEP Plan.

Recording of the Hearing
The family is entitled to have the hearing recorded by audiotape. The Housing Authority may, but is not required to provide a transcript of the hearing.

> Housing Authority Policy
> The Housing Authority will not provide a transcript of an audio taped informal hearing.

Hearing Decision
The Housing Authority must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The notice must state the basis for the decision.

Retention of Documents [24 CFR 5.514(h)]
The Housing Authority must retain for a minimum of 5 years the following documents that may have been submitted to the Housing Authority by the family, or provided to the Housing Authority as part of the USCIS appeal or the Housing Authority informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]
After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, a resident family may request that the Housing Authority provide a hearing. The request for a

hearing must be made either within 30 days of receipt of the Housing Authority notice of termination, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status is the same as for any grievance under the grievance procedures for resident families found in Part III below.

PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

14-III.A. REQUIREMENTS [24 CFR 966.52]

Housing Authorities must have a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any Housing Authority action or failure to act involving the lease or Housing Authority policies which adversely affect their rights, duties, welfare, or status.

> Housing Authority Policy
> The Housing Authority grievance procedure will be incorporated by reference in the tenant lease.

The Housing Authority must provide at least 30 days notice to tenants and resident organizations setting forth proposed changes in the Housing Authority grievance procedure, and providing an opportunity to present written comments. Comments submitted must be considered by the Housing Authority before adoption of any grievance procedure changes by the Housing Authority.

> Housing Authority Policy
> Residents and resident organizations will have 30 calendar days from the date they are notified by the Housing Authority of any proposed changes in the Housing Authority grievance procedure, to submit written comments to the Housing Authority.

The Housing Authority must furnish a copy of the grievance procedure to each tenant.

14-III.B. DEFINITIONS [24 CFR 966.53; 24 CFR 966.51(a)(2)(i)]

There are several terms used by HUD with regard to public housing grievance procedures, which take on specific meanings different from their common usage. These terms are as follows:

- **Grievance** – any dispute which a tenant may have with respect to Housing Authority action or failure to act in accordance with the individual tenant's lease or Housing Authority regulations which adversely affect the individual tenant's rights, duties, welfare or status

- **Complainant** – any tenant whose grievance is presented to the Housing Authority or at the project management office

- **Due Process Determination** – a determination by HUD that law of the jurisdiction requires that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit

- **Elements of Due Process** – an eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:
  - Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction
  - Right of the tenant to be represented by counsel

- Opportunity for the tenant to refute the evidence presented by the Housing Authority including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have
- A decision on the merits

- **Hearing Officer** – a person selected in accordance with HUD regulations to hear grievances and render a decision with respect thereto

- **Tenant** – the adult person (or persons) (other than a live-in aide)
  - Who resides in the unit, and who executed the lease with the Housing Authority as lessee of the dwelling unit, or, if no such person now resides in the unit,
  - Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit

- **Resident Organization** – includes a resident management corporation

14-III.C. APPLICABILITY [24 CFR 966.51]

Potential grievances could address most aspects of a Housing Authority's operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual tenant issues relating to the Housing Authority. It is not applicable to disputes between tenants not involving the Housing Authority. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum for initiating or negotiating policy changes of the Housing Authority.

If HUD has issued a due process determination, a Housing Authority may exclude from the Housing Authority grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

- **Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the Housing Authority**

- **Any violent or drug-related criminal activity on or off such premises**

- **Any criminal activity that resulted in felony conviction of a household member**

In states without due process determinations, Housing Authorities must grant opportunity for grievance hearings for all lease terminations, regardless of cause, but may use expedited grievance procedures, as described in Section 14-III.E. below, to deal with the first two of the above three categories of lease terminations.

If HUD has issued a due process determination, the Housing Authority may evict through the state/local judicial eviction procedures. In this case, the Housing Authority is not required to provide the opportunity for a hearing under the Housing Authority's grievance procedure as described above.

Housing Authority Policy

The Housing Authority is located in a due process state. Therefore, the Housing Authority will not offer grievance hearings for lease terminations involving criminal activity that resulted in a felony conviction of a household member or that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the Housing Authority, or for drug-related criminal activity on or off the premises.

14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE [24 CFR 966.54]

HUD regulations state that any grievance must be personally presented, either orally or in writing, to the Housing Authority office or to the office of the project in which the complainant resides so that the grievance may be discussed informally and settled without a hearing.

Housing Authority Policy

The Housing Authority will accept requests for an informal settlement of a grievance either orally or in writing, to the Housing Authority office within 10 business days of the grievable event. Within 10 business days of receipt of the request the Housing Authority will arrange a meeting with the tenant at a mutually agreeable time and confirm such meeting in writing to the tenant.

If a tenant fails to attend the scheduled meeting without prior notice, the Housing Authority will reschedule the appointment only if the tenant can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

HUD regulations require that a summary of such discussion will be prepared within a reasonable time and one copy will be given to the tenant and one retained in the Housing Authority's tenant file.

The summary must specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and will specify the procedures by which a hearing may be obtained if the complainant is not satisfied.

Housing Authority Policy

The Housing Authority will prepare a summary of the informal settlement within 10 business days; one copy to be given to the tenant and one copy to be retained in the Housing Authority's tenant file.

For Housing Authorities who have the option to establish an expedited grievance procedure, and who exercise this option, the informal settlement of grievances is not applicable to those grievances for which the expedited grievance procedure applies.

14-III.E. PROCEDURES TO OBTAIN A HEARING [24 CFR 966.55]

Requests for Hearing and Failure to Request [24 CFR 966.55(a), (c), and (d)]

All grievances must be presented in accordance with the informal procedures prescribed above as a condition prior to a grievance hearing. However, if the complainant can show good cause for failure to proceed with the informal settlement process to the hearing officer, the hearing officer may waive this provision [24 CFR 966.55(d)].

The complainant must submit the request in writing for a grievance hearing within a reasonable time after receipt of the summary of informal discussion [24 CFR 966.55(a)]. The request must specify the reasons for the grievance and the action or relief sought.

> Housing Authority Policy
> The resident must submit a written request for a grievance hearing to the Housing Authority within 10 business days of the tenant's receipt of the summary of the informal settlement.

If the complainant does not request a hearing, the Housing Authority's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest the Housing Authority's action in disposing of the complaint in an appropriate judicial proceeding [24 CFR 966.55(c)].

Scheduling of Hearings [24 CFR 966.55(f)]

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled by the hearing officer promptly for a time and place reasonably convenient to both the complainant and the Housing Authority. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate Housing Authority official.

> Housing Authority Policy
> Within 10 business days of receiving a written request for a hearing, the hearing officer will schedule and send written notice of the hearing to both the complainant and the Housing Authority.

The Housing Authority may wish to permit the tenant to request to reschedule a hearing for good cause.

> Housing Authority Policy
> The tenant may request to reschedule a hearing once for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made in writing at least 24 hours prior to the

hearing date. The Housing Authority will request 3rd party verification of the "good cause" prior to rescheduling the hearing.

14-III.F. SELECTION OF HEARING OFFICER [24 CFR 966.55(b)]

The grievance hearing must be conducted by an impartial person or persons appointed by the Housing Authority, other than the person who made or approved the Housing Authority action under review, or a subordinate of such person.

Housing Authority Policy

Housing Authority grievance hearings will be conducted by a single hearing officer and not a panel. The Housing Authority has designated the following to server as hearing officers:

- Housing Authority Staff at a Supervisory or Management Level
- Independent third party hired as a Hearing Officer

Housing Authority Policy

The Housing Authority will appoint a person who has been selected in the manner required under the grievance procedure. Efforts will be made to assure that the person selected is not a friend, nor enemy, of the complainant and that they do not have a personal stake in the matter under dispute or will otherwise have an appearance of a lack of impartiality.

14-III.G. PROCEDURES GOVERNING THE HEARING [24 CFR 966.56]

Rights of Complainant [24 CFR 966.56(b)]

The complainant will be afforded a fair hearing. Which includes:

- The opportunity to examine before the grievance hearing any Housing Authority documents, including records and regulations that are directly relevant to the hearing. The tenant must be allowed to copy any such document at the tenant's expense. If the Housing Authority does not make the document available for examination upon request by the complainant, the Housing Authority may not rely on such document at the grievance hearing.

  Housing Authority Policy

  The tenant will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of Housing Authority documents no later than two business days prior to the hearing.

- The right to be represented by counsel or other person chosen as the tenant's representative and to have such person make statements on the tenant's behalf.

Housing Authority Policy
Hearings may be attended by the following applicable persons:

A Housing Authority representative(s) and any witnesses for the Housing Authority

The tenant and any witnesses for the tenant

The tenant's counsel or other representative

Any other person approved by the Housing Authority as a reasonable accommodation for a person with a disability

- The right to a private hearing unless the complainant requests a public hearing.

- The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by the Housing Authority or project management, and to confront and cross-examine all witnesses upon whose testimony or information the Housing Authority or project management relies.

- A decision based solely and exclusively upon the facts presented at the hearing.

Decision without Hearing [24 CFR 966.56(c)]
The hearing officer may render a decision without proceeding with the hearing if the hearing officer determines that the issue has been previously decided in another proceeding.

Failure to Appear [24 CFR 966.56(d)]
If the complainant or the Housing Authority fails to appear at a scheduled hearing, the hearing officer may make a determination to postpone the hearing for not to exceed five business days or may make a determination that the party has waived his/her right to a hearing. Both the complainant and the Housing Authority must be notified of the determination by the hearing officer: Provided, a determination that the complainant has waived his/her right to a hearing will not constitute a waiver of any right the complainant may have to contest the Housing Authority's disposition of the grievance in an appropriate judicial proceeding.

There may be times when a complainant does not appear due to unforeseen circumstances which are out of their control and are no fault of their own.

Housing Authority Policy
If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 30 minutes. If the tenant appears within 30 minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within 30 minutes of the scheduled time, they will be considered to have failed to appear.

If the tenant fails to appear and was unable to reschedule the hearing in advance, the tenant must contact the Housing Authority within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the tenant can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities.

"Good cause" is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.

General Procedures [24 CFR 966.56(e), (f), and (g)]
At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the Housing Authority must sustain the burden of justifying the Housing Authority action or failure to act against which the complaint is directed.

The hearing must be conducted informally by the hearing officer. The Housing Authority and the tenant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint and question any witnesses. In general, all evidence is admissible and may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

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

Oral evidence: the testimony of witnesses

Documentary evidence: a writing which is relevant to the case, for example, a letter written to the Housing Authority. Writings include all forms of recorded communication or representation, including letters, emails, words, pictures, sounds, videotapes or symbols or combinations thereof.

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

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

If the Housing Authority fails to comply with the discovery requirements (providing the tenant with the opportunity to examine Housing Authority documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of the Housing Authority to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

The hearing officer must require the Housing Authority, the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate [24 CFR 966.56(f)].

The complainant or the Housing Authority may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript [24 CFR 966.56(g)].

Housing Authority Policy
If the complainant would like the Housing Authority to record the proceedings by audiotape, the request must be made to the Housing Authority at least two business days prior to the hearing.

The Housing Authority will consider that an audio tape recording of the proceedings is a transcript.

Accommodations of Persons with Disabilities [24 CFR 966.56(h)]
The Housing Authority must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the tenant is visually impaired, any notice to the tenant which is required in the grievance process must be in an accessible format. Chapter 2 for a thorough discussion of the Housing Authority's responsibilities pertaining to reasonable accommodation.

14-III.H. DECISION OF THE HEARING OFFICER/ [24 CFR 966.57 (a)(b)(c)
The hearing officer must issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the decision must be sent to the tenant and the Housing Authority. The Housing Authority must retain a copy of the decision in the tenant's folder. A copy of the decision, with all names and identifying references deleted, must also be maintained on file by the Housing Authority and made available for inspection by a prospective complainant, his/her representative, or the hearing officer [24 CFR 966.57(a)].

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

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

Discovery: The hearing officer will determine if the family was given the opportunity to examine any relevant documents in accordance with Housing Authority policy.

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

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

The hearing officer will issue a written decision to the family and the Housing Authority no later than 10 business days after the hearing. The report will contain the following information:

Hearing information:

Name of the complainant
Date, time and place of the hearing
Name of the hearing officer
Name of the Housing Authority representative(s)
Name of family representative (if any)
Names of witnesses (if any)

Background: A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, who held it, and a summary of the results of the informal settlement. Also includes the date the complainant requested the grievance hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the Housing Authority's decision.

Order: The hearing report will include a statement of whether the Housing Authority's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the Housing Authority to change the decision in accordance with the hearing officer's determination. In the case of termination of tenancy, the hearing officer will instruct the Housing Authority to restore the family's status.

Procedures for Further Hearing

Housing Authority Policy

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 Housing Authority will take effect and another hearing will not be granted.

Final Decision [24 CFR 966.57(b)]

The decision of the hearing officer is binding on the Housing Authority which must take the action, or refrain from taking the action cited in the decision unless the Housing Authority Board of Commissioners determines within a reasonable time, and notifies the complainant that:

- The grievance does not concern Housing Authority action or failure to act in accordance with or involving the complainant's lease on Housing Authority policies which adversely affect the complainant's rights, duties, welfare, or status; or

- The decision of the hearing officer is contrary to Federal, state, or local law, HUD regulations or requirements of the annual contributions contract between HUD and the Housing Authority

A decision by the hearing officer in favor of the Housing Authority or which denies the relief requested by the complainant in whole or in part must not constitute a waiver of any rights the complainant may have to a subsequent trial or judicial review in court [24 CFR 966.57(c)].

Chapter 15
PROGRAM INTEGRITY

INTRODUCTION

The Housing Authority is committed to ensuring that funds made available to the Housing Authority are spent in accordance with HUD requirements.

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

> Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents Housing Authority policies related to preventing, detecting, and investigating errors and program abuse.
>
> Part II: Corrective Measures and Penalties. This part describes the corrective measures the Housing Authority must and may take when errors or program abuses are found.

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

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

Housing Authority Policy

The Housing Authority anticipates that the vast majority of families and Housing Authority employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

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

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

The Housing Authority will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. The Housing Authority will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.

The Housing Authority will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

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

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

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

For purposes of this chapter the term *error* refers to an unintentional error or omission.

P*rogram abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

15-I.B. DETECTING ERRORS AND PROGRAM ABUSE

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

Quality Control and Analysis of Data

Housing Authority Policy

The Housing Authority will employ a variety of methods to detect errors and program abuse, including:

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

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

The Housing Authority will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

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

Housing Authority Policy

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

Individual Reporting of Possible Errors and Program Abuse

Housing Authority Policy

The Housing Authority will encourage staff, residents, and the public to report possible program abuse.

15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the Housing Authority Will Investigate

Housing Authority Policy

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

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

Consent to Release of Information [24 CFR 960.259]

The Housing Authority may investigate possible instances of error or abuse using all available Housing Authority and public records. If necessary, the Housing Authority will require applicant/resident families to give consent to the release of additional information.

Analysis and Findings

Housing Authority Policy

The Housing Authority will base its evaluation on a preponderance of the evidence collected during its investigation.

For each investigation the Housing Authority will determine

(1) Whether an error or program abuse has occurred,

(2) Whether any amount of money is owed the Housing Authority, and

(3) What corrective measures or penalties will be assessed.

Consideration of Remedies

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

Housing Authority Policy

In the case of family-caused errors or program abuse, the Housing Authority will take into consideration

(1) The seriousness of the offense and the extent of participation or culpability of individual family members,

(2) Any special circumstances surrounding the case,

(3) Any mitigating circumstances related to the disability of a family member,

(4) The effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

Housing Authority Policy

The Housing Authority will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include

(1) a description of the error or program abuse,

(2) the basis on which the Housing Authority determined the error or program abuses,

(3) the remedies to be employed, and

(4) the family's right to appeal the results through an informal hearing or grievance hearing (Chapter 14).

PART II: CORRECTIVE MEASURES AND PENALTIES

15-II.A. UNDER- OR OVERPAYMENT

An under- or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect rental determination is an overpayment or underpayment, the Housing Authority must promptly correct the tenant rent and any utility reimbursement prospectively.

> Housing Authority Policy
> Increases in the tenant rent will be implemented only after the family has received 30 days notice.
>
> Any decreases in tenant rent will become effective the first of the month following the discovery of the error.

Reimbursement

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

15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members. An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the Housing Authority to use incorrect information provided by a third party.

Family Reimbursement to Housing Authority

> Housing Authority Policy
> In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. The Housing Authority may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the amount owed, the Housing Authority will terminate the family's lease in accordance with the policies in Chapter 13.

Housing Authority Reimbursement to Family

> Housing Authority Policy
> The Housing Authority will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

Prohibited Actions
An applicant or resident in the public housing program must not knowingly:

- Make a false statement to the Housing Authority [Title 18 U.S.C. Section 1001].

- Provide incomplete or false information to the Housing Authority [24 CFR 960.259(a)(4)].

- Commit fraud, or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l)(2)(iii)(C)].

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

Offering bribes or illegal gratuities to the Housing Authority Board of Commissioners, employees, contractors, or other Housing Authority representatives

Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to the Housing Authority on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents
Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

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

Penalties for Program Abuse
In the case of program abuse caused by a family the Housing Authority may, at its discretion, impose any of the following remedies.

- The Housing Authority will require the family to repay any amounts owed to the program (Section15-II.B., Family Reimbursement to Housing Authority).

- The Housing Authority will require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit, Chapter 3 (for applicants) and Chapter 13 (for residents).

- The Housing Authority will deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13..

- The Housing Authority will refer the family for state or federal criminal prosecution as described in section 15-II.D.

15-II.C. Housing Authority-CAUSED ERRORS OR PROGRAM ABUSE

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

Housing Authority-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

Repayment to the Housing Authority

The family is not required to repay an underpayment of rent if the error or program abuse is caused by Housing Authority staff.

Housing Authority Reimbursement to Family

Housing Authority Policy

The Housing Authority will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error or staff program abuse.

Prohibited Activities

Housing Authority Policy

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

Failing to comply with any public housing program requirements for personal gain

Failing to comply with any public housing program requirements as a result of a conflict of interest relationship with any applicant or resident

Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to the Housing Authority

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of Housing Authority activities, policies, or practices

Misappropriating or misusing public housing funds

Destroying, concealing, removing, or inappropriately using any records related to the public housing program

Committing any other corrupt or criminal act in connection with any federal housing program

15-II.D. CRIMINAL PROSECUTION

Housing Authority Policy

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

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

15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES

Housing Authorities who enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100 percent of program funds that the Housing Authority recovers [Notice PIH 2005-7 (HA)].

If the Housing Authority does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through the Housing Authority's grievance process.

Chapter 16
PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in six parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of Housing Authority-furnished utilities.

Part II: Establishing Flat Rents and Public Housing Maximum Rents. This part describes the requirements and policies related to establishing and updating flat rent amounts and public housing maximum rents.

Part III: Repayment of Family Debts. This part contains policies for recovery of monies that have been underpaid by families, and describes the circumstances under which the Housing Authority will offer repayment agreements to families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part IV: Public Housing Assessment System (PHAS). This part describes the PHAS indicators, how Housing Authorities are scored under PHAS, and how those scores affect a Housing Authority.

Part V: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the Housing Authority will follow.

Part VI: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the Housing Authority's reporting responsibilities related to children with environmental intervention blood lead levels that are living in public housing.

PART I: SETTING UTILITY ALLOWANCES [24 CFR 965 Subpart E]

16-I.A. OVERVIEW

Housing Authorities must establish allowances for Housing Authority-furnished utilities for all check metered utilities and for resident-purchased utilities for all utilities purchased directly by residents from a utility supplier [24 CFR 965.502(a)].

Housing Authorities must also establish surcharges for excess consumption of Housing Authority-furnished utilities [24 CFR 965.506].

The Housing Authority must maintain a record that documents the basis on which utility allowances and scheduled surcharges are established and revised, and the record must be made available for inspection by residents [24 CFR 965.502(b)].

16-I.B UTILITY ALLOWANCES

The Housing Authority must establish separate allowances for each utility and for each category of dwelling units the Housing Authority determines to be reasonably comparable as to factors affecting utility usage [24 CFR 965.503].

The objective of a Housing Authority in establishing utility allowances for each dwelling unit category and unit size is to approximate a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment [24 CFR 965.505].

Utilities include gas, electricity, and fuel for heating, water, sewerage, and solid waste disposal for a dwelling unit. In addition, if the Housing Authority does not furnish a range and refrigerator, the family must be granted a utility allowance for the range and refrigerator they provide [24 CFR 965.505].

Costs for telephone, cable/satellite TV, and internet services are not considered utilities .

Utility allowance amounts will vary by the rates in effect, size and type of unit, climatic location and sitting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by residential demographic characteristics affecting home energy usage .

Air-Conditioning

"If a Housing Authority installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units. The design of systems that offer each resident the option to choose air conditioning shall include retail meters or check meters, and residents shall pay for the energy used in its operation. For systems that offer residents the option to choose air conditioning but cannot be check metered, residents are to be surcharged in accordance with 965.506. If an air conditioning system does not provide for resident option, residents are not to be charged, and these systems should be avoided whenever possible." [24 CFR 965.505(e)].

Housing Authority Policy
The Housing Authority has installed air-conditioning.

Utility Allowance Revisions [24 CFR 965.507]
The Housing Authority must review at least annually the basis on which utility allowances have been established and must revise the allowances if necessary in order to adhere to the standards for establishing utility allowances that are contained in 24 CFR 965.505.

The Housing Authority may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change, and is required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which the allowance was based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account became effective.

Housing Authority Policy
Between annual reviews of utility allowances, the Housing Authority will only revise its utility allowances due to a rate change, when required to by the regulation.

16-I.C. SURCHARGES FOR Housing Authority-FURNISHED UTILITIES [24 CFR 965.506]
For dwelling units subject to allowances for Housing Authority-furnished utilities where check meters have been installed, the Housing Authority must establish surcharges for utility consumption in excess of the allowances. Surcharges may be computed on a straight per unit of purchase basis or for stated blocks of excess consumption, and must be based on the Housing Authority's average utility rate. The basis for calculating the surcharges must be described in the Housing Authority's schedule of allowances. Changes in the amount of surcharges based directly on changes in the Housing Authority's average utility rate are not subject to the advance notice requirements discussed under 16-I.D.

Housing Authority Policy
The Housing Authority does have Housing Authority-furnished utilities.

16-I.D. NOTICE REQUIREMENTS [965.502]
The Housing Authority must give notice to all residents of proposed allowances and scheduled surcharges, and revisions thereof. The notice must be given in the manner provided in the lease and must:

- Be provided at least 60 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

- Describe the basis for determination of the allowances, scheduled surcharges, or revisions, including a statement of the specific items of equipment and function

whose utility consumption requirements were included in determining the amounts of the allowances and schedule of surcharges.

- Notify residents of the place where the Housing Authority's documentation on which allowances and surcharges are based is available for inspection.

- Provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

16-I.E. REASONABLE ACCOMMODATION [24 CFR 965.508]

On request from a family that includes a disabled or elderly person, the Housing Authority must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family..

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability..

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

PART II: ESTABLISHING FLAT RENTS AND PUBLIC HOUSING MAXIMUM RENTS

16-II.A. OVERVIEW

Flat rents are designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Public housing maximum rents are needed to prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigrations status [24 CFR 5.504].

This part discusses how the Housing Authority establishes and updates flat rents and public housing maximum rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships, and public housing maximum rents are discussed in Chapter 6.

16-II.B. FLAT RENTS [24 CFR 960.253(b)]

Establishing Flat Rents

Flat rents for public housing units are based on the market rent charged for comparable units in the private unassisted rental market. The flat rent should be equal to the estimated rent for which the Housing Authority could promptly lease the public housing unit after preparation for occupancy.

The Housing Authority must use a reasonable method to determine flat rents. In determining flat rents, Housing Authorities must consider the following:

- Location
- Quality
- Unit size
- Unit type
- Age of property
- Amenities at the property and in immediate neighborhood
- Housing services provided
- Maintenance provided by the Housing Authority
- Utilities provided by the Housing Authority

Review of Flat Rents

The Housing Authority must ensure that flat rents continue to mirror market rent values [24 CFR 960.253(b)].

> Housing Authority Policy
> The Housing Authority will review flat rents on an annual basis, and adjust them as necessary to ensure that flat rents continue to mirror market rent values.

Posting of Flat Rents

Housing Authority Policy
The Housing Authority will publicly post the schedule of flat rents in a conspicuous manner in the applicable Housing Authority or project office.

Documentation of Flat Rents [24 CFR 960.253(b)(5)]
The Housing Authority must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by the Housing Authority in accordance with this method.

16-II.C. PUBLIC HOUSING MAXIMUM RENTS

Establishing Public Housing Maximum Rents
Housing Authorities are prohibited from making financial assistance available to persons who are not citizens or nationals of the United States, and to those who do not have eligible immigration status [24 CFR 5.500]. Therefore, in order to assist mixed families, Housing Authorities must prorate assistance. Public housing maximum rents are needed in order to calculate the tenant rent for a mixed family.

The public housing maximum rent is based on value of the 95th percentile of the total tenant payment (TTP) for each tenant within the Housing Authority. Housing Authorities may calculate a maximum rent on either a Housing Authority- or project wide basis. A separate maximum rent can be provided for each separate project or projects may be combined into logical groups, if appropriate. HUD recommends that a single project basis be avoided for a project unless at least 50 dwelling units are involved.

Housing Authorities may use the “direct comparison” or the “unit distribution” method for establishing the public housing maximum rents for each unit size. .

Review of Public Housing Maximum Rents

Housing Authority Policy
The Housing Authority will recalculate the public housing maximum rents on an annual basis.

Posting of Public Housing Maximum Rents

Housing Authority Policy
The Housing Authority will publicly post the schedule of public housing maximum rents in a conspicuous manner in the applicable Housing Authority or project office.

Documentation of Public Housing Maximum Rents

Housing Authority Policy

The Housing Authority will maintain records that document how the Housing Authority determined the 95th percentile of TTP, whether the maximum rent was determined Housing Authority-wide, project-wide, or with groupings of projects, and the methodology used to determine maximum rents for each unit size.

PART III: FAMILY DEBTS TO THE HOUSING AUHTORITY

16-III.A. OVERVIEW

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

Housing Authority Policy

When an action or inaction of a resident family results in the underpayment of rent or other amounts, the Housing Authority holds the family liable to return any underpayments to the Housing Authority.

The Housing Authority will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments. The term r*epayment agreement* refers to a formal document signed by a tenant and provided to the Housing Authority in which a tenant acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

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

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

16-III.B. REPAYMENT POLICY

Family Debts to the Housing Authority

Housing Authority Policy

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

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the Housing Authority will terminate the family's tenancy in accordance with the policies in Chapter 13. The Housing Authority will also pursue other modes of collection.

Repayment Agreement Guidelines

Down Payment Requirement

Housing Authority Policy

Prior to the execution of a repayment agreement, the family must pay a minimum of twenty-five percent (25%) of the balance owed to the Housing Authority.

Payment Thresholds

Housing Authority Policy
All amounts must be repaid within 12 months. Exceptions can be made for mitigating circumstances with the approval of the Public Housing Asset Manager. The Deputy Executive Director may extend the 12 months as needed. .

Execution of the Agreement

Housing Authority Policy
The head of household and spouse/co-head (if applicable) must sign the repayment agreement.

Due Dates

Housing Authority Policy
All payments are due by the close of business on the 7th calendar day of the month.

Non-Payment

Housing Authority Policy
If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the Housing Authority, the Housing Authority will send the family a delinquency notice giving the family 3 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the Housing Authority will terminate tenancy in accordance with the policies in Chapter 13.

If a family receives four (4) delinquency notices for unexcused late payments in a 12 month period, the repayment agreement will be considered in default, and the Housing Authority will terminate tenancy in accordance with the policies in Chapter 13.

No Offer of Repayment Agreement

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

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

16-IV.A. OVERVIEW

The purpose of the Public Housing Assessment System (PHAS) is to improve the delivery of services in public housing and enhance trust in the public housing system among Housing Authorities, public housing residents, HUD and the general public by providing a management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations.

16-IV.B. PHAS INDICATORS [24 CFR 902 Subparts A, B, C, D, and E]

The table below lists each of the PHAS indicators, the points possible under each indicator, and a brief description of each indicator. A Housing Authority's performance is based on a combination of all four indicators.

Indicator 1: Physical condition of the Housing Authority's properties **Maximum Score: 30** • The objective of this indicator is to determine the level to which a Housing Authority is maintaining its public housing in accordance with the standard of decent, safe, sanitary, and in good repair. • To determine the physical condition of a Housing Authority's properties, inspections are performed of the following five major areas of public housing: site, building exterior, building systems, dwelling units, and common areas. The inspections are performed by an independent inspector arranged by HUD, and include a statistically valid sample of the units in the Housing Authority's public housing portfolio.
Indicator 2: Financial condition of a Housing Authority **Maximum Score: 30** • The objective of this indicator is to measure the financial condition of a Housing Authority for the purpose of evaluating whether it has sufficient financial resources and is capable of managing those financial resources effectively to support the provision of housing that is decent, safe, sanitary, and in good repair. • A Housing Authority's financial condition is determined by measuring the Housing Authority's entity-wide performance in each of the following components: current ratio, number of months expendable fund balance, tenant receivable outstanding, occupancy loss, expense management/utility consumption, and net income or loss divided by the expendable fund balance.

Indicator 3: Management operations of a Housing Authority **Maximum Score: 30** • The objective of this indicator is to measure certain key management operations and responsibilities of a Housing Authority for the purpose of assessing the Housing Authority's management operations capabilities. • A Housing Authority's management operations are assessed based on the following sub-indicators: vacant unit turnaround time, capital fund, work orders, Housing Authority annual inspection of units and systems, security, and economic self-sufficiency.
Indicator 4: Resident service and satisfaction **Maximum Score: 10** • The objective of this indicator is to measure the level of resident satisfaction with living conditions at the Housing Authority. • The Housing Authority's score for this indicator is based on the results of resident surveys and the level of implementation and follow-up or corrective actions the Housing Authority takes based on the results of the survey.

16-IV.C. PHAS SCORING [24 CFR 902.63 and 902.67]

HUD's Real Estate Assessment Center (REAC) issues overall PHAS scores, which are based on the scores of the four PHAS indicators, and the components under each indicator. PHAS scores translate into a designation for each Housing Authority as high performing, standard, or troubled. A high performer is a Housing Authority that achieves a score of at least 60 percent of the points available under each of the four indicators, and achieves an overall PHAS score of 90 or greater. A standard performer is a Housing Authority that has an overall PHAS score between 60 and 89, and does not achieve less than 60 percent of the total points available under one of the following Indicators: 1, 2, or 3.

A troubled performer is a Housing Authority that achieves an overall PHAS score of less than 60, or achieves less than 60 percent of the total points available under more than one of the following indicators: 1, 2, or 3.

These designations can affect a Housing Authority in several ways:

- High-performing Housing Authorities are eligible for incentives including relief from specific HUD requirements and bonus points in funding competitions [24 CFR 902.71].

- Housing Authorities that are standard performers may be required to submit an improvement plan to eliminate deficiencies in the Housing Authority's performance [24 CFR 902.73(a)].

- Housing Authorities with an overall rating of "troubled" are subject to additional HUD oversight, and are required to enter into a memorandum of agreement (MOA) with HUD to improve Housing Authority performance [24 CFR 902.75].

•

- Housing Authorities that fail to execute or meet MOA requirements may be referred to the Departmental Enforcement Center [24 CFR 902.77].

Housing Authorities must post a notice of its final PHAS score and status in appropriate conspicuous and accessible locations in its offices within two weeks of receipt of its final score and status.

PART V: RECORD KEEPING

16-V.A. OVERVIEW

The Housing Authority must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the Housing Authority must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16-V.B. RECORD RETENTION

Housing Authority Policy

During the term of each public housing tenancy, and for at least four(4) years thereafter, the Housing Authority will keep all documents related to a family's eligibility, tenancy, and termination.

In addition, the Housing Authority will keep the following records for at least four(4) years:

An application from each ineligible family and notice that the applicant is not eligible

Lead-based paint records as required by 24 CFR 35, Subpart B

Documentation supporting the establishment of flat rents and the public housing maximum rent

Documentation supporting the establishment of utility allowances and surcharges

Documentation supporting PHAS scores

Accounts and other records supporting Housing Authority budget and financial statements for the program

Other records as determined by the Housing Authority or as required by HUD

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

16-V.C. RECORDS MANAGEMENT

Housing Authorities must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

Housing Authority Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized Housing Authority staff.

Housing Authority staff will not discuss personal family information 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.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the Housing Authority may release the information collected.

Upfront Income Verification (UIV) Records

Housing Authorities that access UIV data through HUD's Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data*.

Housing Authority Policy

Prior to utilizing HUD's EIV system, the Housing Authority will adopt and implement EIV security procedures required by HUD.

Criminal Records

The Housing Authority may only disclose the criminal conviction records which the Housing Authority receives from a law enforcement agency to officers or employees of the Housing Authority, or to authorized representatives of the Housing Authority who have a job-related need to have access to the information [24 CFR 5.903(e)].

The Housing Authority must establish and implement a system of records management that ensures that any criminal record received by the Housing Authority from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the Housing Authority action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The Housing Authority must establish and implement a system of records management that ensures that any sex offender registration information received by the Housing Authority from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the Housing Authority action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a Housing Authority other than under 24 CFR 5.905.

Medical/Disability Records

Housing Authorities are not permitted to inquire about the nature or extent of a person's disability. The Housing Authority may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the Housing Authority receives a verification document that provides such information, the Housing Authority should not place this information in the tenant file. The Housing Authority may destroy the document.

PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VI.A. REPORTING REQUIREMENTS [24 CFR 35.1130(e)]

The Housing Authority has certain responsibilities relative to children with environmental intervention blood lead levels that are living in public housing.

The Housing Authority must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional. The Housing Authority must also report each known case of a child with an environmental intervention blood lead level to the HUD field office.

Housing Authority Policy

The Housing Authority will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

The Housing Authority will provide written notice of each known case of a child with an environmental intervention blood level to the HUD field office within 5 business days of receiving the information.

PART VII: NOTIFICATION TO APPLICANTS AND TENANTS REGARDING PROTECTIONS UNDER THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005 (VAWA)

16-VII.A. OVERVIEW

The Violence against Women Reauthorization Act of 2005 (VAWA) requires Housing Authorities to inform public housing tenants of their rights under this law, including their right to confidentiality and the limits thereof. Since VAWA provides protections for applicants as well as tenants, Housing Authorities may elect to provide the same information to applicants.
This part describes the steps that the Housing Authority will take to ensure that all actual and potential beneficiaries of its public housing program are notified about their rights under VAWA.

16-VII.B. VAWA NOTIFICATION

Housing Authority Policy

The Housing Authority will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.

- A summary of the rights and protections provided by VAWA to public housing applicants and residents who are or have been victims of domestic violence, dating violence, or stalking (see sample notice in Exhibit 16-1)

- The definitions of *domestic violence*, *dating violence*, and *stalking* provided in VAWA (included in Exhibit 16-1)

- An explanation of the documentation that the PHA may require from an individual who claims the protections provided by VAWA (included in Exhibit 16-1)
- A copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking
- A statement of the Housing Authority's obligation to keep confidential any information that it receives from a victim unless (a) the Housing Authority has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information (included in Exhibit 16-1)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibit 16-1)
Contact information for local victim advocacy groups or service providers
© Copyright 2006 2008 Nan McKay & Associates, Inc. ACOP 10/1/069/1/08
Unlimited copies may be made for internal use.

16-VII.AC. NOTIFICATION TO APPLICANTS

Housing Authority Policy

The Housing Authority will provide all applicants with notification of their protections and rights under VAWA at the time they request an application for housing assistance.
The notice will explain the protections afforded under the law, inform each applicant of Housing Authority confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The Housing Authority will also include in all notices of denial a statement explaining the protection against denial provided by VAWA (see section 3-III.F).

16-VII.BD. NOTIFICATION TO TENANTS [Pub.L. 109-162]

VAWA requires Housing Authorities to notify tenants assisted under public housing of their rights under this law, including their right to confidentiality and the limits thereof.

Housing Authority Policy.

The Housing Authority will provide all tenants with notification of their protections and rights under VAWA at the time of admission and at annual reexamination. The notice will explain the protections afforded under the law, inform the tenant of Housing Authority confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.
The Housing Authority will also include in all lease termination notices a statement explaining the protection against termination or eviction provided by VAWA (see Section 13-IV.D).
© Copyright 2006 2008 Nan McKay & Associates, Inc. ACOP 10/1/069/1/08
Unlimited copies may be made for internal use.

EXHIBIT 16-1: SAMPLE NOTICE TO PUBLIC HOUSING APPLICANTS AND RESIDENTS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

This sample notice was adapted from a notice prepared by the National Housing Law Project.

A federal law that went into effect in 2006 protects individuals who are victims of domestic violence, dating violence, and stalking. The name of the law is the Violence against Women Act, or "VAWA." This notice explains your rights under VAWA.

Protections for Victims

If you are eligible for public housing, the housing authority cannot refuse to admit you to the public housing program solely because you are a victim of domestic violence, dating violence, or stalking.

If you are the victim of domestic violence, dating violence, or stalking, the housing authority cannot evict you based on acts or threats of violence committed against you. Also, criminal acts directly related to the domestic violence, dating violence, or stalking that are caused by a member of your household or a guest can't be the reason for evicting you if you were the victim of the abuse.

Reasons You Can Be Evicted

The housing authority can still evict you if the housing authority can show there is an *actual* and *imminent* (immediate) threat to other tenants or housing authority staff if you are not evicted. Also, the housing authority can evict you for serious or repeated lease violations that are not related to the domestic violence, dating violence, or stalking against you. The housing authority cannot hold you to a more demanding set of rules than it applies to tenants who are not victims.

Removing the Abuser from the Household

The housing authority may split the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the public housing unit. If the housing authority chooses to remove the abuser, it may not take away the remaining tenants' rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, the housing authority must follow federal, state, and local eviction procedures.

© Copyright 2006 2008 Nan McKay & Associates, Inc. ACOP 10/1/069/1/08
Unlimited copies may be made for internal use.

Proving that You Are a Victim of Domestic Violence, Dating Violence, or Stalking

The housing authority can ask you to prove or "certify" that you are a victim of domestic violence, dating violence, or stalking. In cases of termination or eviction, the housing authority must give you at least 14 business days (i.e. Saturdays, Sundays, and holidays do not count) to provide this proof. The housing authority is free to extend the deadline. There are three ways you can prove that you are a victim:

- Complete the certification form given to you by the housing authority. The form will ask for your name, the name of your abuser, the abuser's relationship to you, the date, time, and location of the incident of violence, and a description of the violence.
- Provide a statement from a victim service provider, attorney, or medical professional who

has helped you address incidents of domestic violence, dating violence, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both you and the professional must sign the statement, and both of you must state that you are signing "under penalty of perjury."
- Provide a police or court record, such as a protective order.

If you fail to provide one of these documents within the required time, the housing authority may evict you.

Confidentiality
The housing authority must keep confidential any information you provide about the violence against you, unless:
- You give written permission to the housing authority to release the information.
- The housing authority needs to use the information in an eviction proceeding, such as to evict your abuser.
- A law requires the housing authority to release the information.

If release of the information would put your safety at risk, you should inform the housing authority.

VAWA and Other Laws
VAWA does not limit the housing authority's duty to honor court orders about access to or control of a public housing unit. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.
VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, or stalking.

For Additional Information
If you have any questions regarding VAWA, please contact _____ at _____.
For help and advice on escaping an abusive relationship, call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).
©

Definitions
For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines ***domestic violence*** to include felony or misdemeanor crimes of violence committed by any of the following:

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

- Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

VAWA defines ***dating violence*** as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines ***stalking*** as (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person OR (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person AND (B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person, (ii) a member of the immediate family of that person, or (iii) the spouse or intimate partner of that person.

Chapter 17

FAMILY SELF-SUFFICIENCY

[24 CFR 984.103,984.304,984.305]

INTRODUCTION

The purpose of the Family Self-Sufficiency (FSS) program is to promote the development of local strategies to coordinate the use of the Housing Choice Voucher and Public Housing programs with public and private resources to enable families to achieve economic independence and self-sufficiency.

A. HISTORICAL PROGRAM REQUIREMENTS [24 CFR 984.105]

Beginning in Fiscal Year (FY) 1993, all Housing Authorities receiving new increments of Section 8 certificates and vouchers or funds for new public housing rental units had to implement an FSS program unless granted an exception by HUD. For the Public Housing and Housing Choice Voucher programs, the minimum FSS program size that must be established and operated is cumulative and is based on the number of new units funded in FY 1993 and subsequent years plus the number of any FY 1991 and 1992 FSS Incentive Award Units.

B. ACTION PLAN [24CFR 984.201]

The HA has a HUD-approved Action Plan that complies with the requirements of this plan. The Action Plan describes the policies and procedures of the PHA for operation of a local FSS program. The Action Plan was developed by the PHA in consultation with the Executive Director and the Program Coordinating Committee for the FSS program. Following HUD's initial approval of the Action Plan, no further approval of the Action Plan is required unless the PHA proposes to make policy changes or increase the size of the mandatory FSS programs.

PROGRAM COORDINATING COMMITTEE [24 CFR 984.202]

The HA must establish a Program Coordinating Committee (PCC) whose functions are to assist the HA in securing commitments of public and private resources for the operation of the FSS program within the HA's jurisdiction, including assisting with the Action Plan. Memberships for the PCC are defined in the Action Plan.

C. FAMILY SELECTION PROCEDURES [24 CFR 984.203]

Any family receiving housing assistance through the Public Housing or the Housing Choice Voucher Program may volunteer for FSS without consideration of race, color, religion, sex, disability, familial status or national origin. A family may participate in the FSS program only once.

E. SUPPORTIVE SERVICES [24 CFR 984.204]

The HA may, subject to the approval of HUD, make available common areas in public housing to provide supportive services under the FSS program

F. CONTRACT OF PARTICIPATION [24 CFR 984.303]

Families selected to participate in the FSS program must enter into a contract of participation with the HA. The contract must be signed by the head of the family. The contract includes the terms and conditions of the FSS program, including the responsibilities of the family and the HA. The contract term is five years; but the family may request an extension for up to two years. This request must be in writing and should include a description of the need for the extension. The extension may be granted by the HA provided there is good cause.

The contract is accompanied by the Individual Training and Services Plan (ITSP), which outlines specific interim and final goals and deadlines established by the family and approved by the HA which measures the family's progress toward fulfilling its obligations under the contract of participation. The HA must establish a specific goal for families receiving welfare assistance to become free of such assistance and remain free at least one year before the expiration of the term of the contract. The head of the family is required to seek and maintain suitable employment during the term of the contract. The family and the HA may mutually agree to modify the contract with respect to the individual training and services plan, the contract term, and designation of the head of the family.

The contract is considered complete and the family is considered a successful graduate from the program if the family has fulfilled all obligations on or before the expiration of the contract term, or 30 percent of the monthly adjusted income of the FSS family equals or exceeds the existing housing fair market rent for the size of the unit for which the family qualifies.

The contract will be automatically terminated if the family's Housing Choice Voucher or public housing assistance is terminated. The contract may be terminated if the family and HA consent to do so, the family fails to meet their obligations under the contract, the family withdraws from the FSS program, such other act as is deemed inconsistent with the purpose of the FSS program, or operation of the law.

G. ESCROW ACCOUNT

The HA will deposit FSS account funds for participating families, in a single account, according to increases in earned income resulting in an increase in the family's share of rent. The HA must make a report, at least annually, to the family on the status of the account. The HA will perform an escrow calculation on the HUD Escrow Calculation worksheet at each annual reexamination or interim examination to determine if the family is entitled to an escrow deposit.

The HA will not make any additional payments to the FSS escrow account when the family has completed the contract or when the contract is terminated.

H. ESCROW DISBURSEMENT

When the family successfully completes their contract, the head of the family shall be paid the amount in the FSS account. The family must submit a certification to the HA that no member of the FSS family is a recipient of welfare assistance. The HA will conduct a 3rd party verification to confirm that the family is free of welfare assistance.

If the HA determines that the family has fulfilled certain interim goals and needs some additional funds for purposes of completion of higher education, job training, improve credit, or to meet start up expenses involved in creation of a small business, the HA may permit the family to use

some of the funds from the escrow account. The family must provide receipts to the HA to confirm payment.

The escrow account will be forfeited if the contract is terminated or the contract is completed but the family is receiving welfare assistance at the time the contract expires.

.

I. REQUIREMENT TO ATTEND

All ITSP members will be required to attend the scheduled annual and interim appointments. If the ITSP member is unable to attend the appointment, they may request to reschedule the appointment.

If the ITSP member does not appear for the scheduled appointment, and has not rescheduled or made prior arrangements with the Housing Authority**,** the Housing Authority will reschedule a second appointment.

If the ITSP member fails to appear for the second appointment, and has not rescheduled or made prior arrangements, the Housing Authority will send the ITSP member a notice of termination from participating in the FSS program. The head of the family may continue participating in the FSS program unless they are the ITSP member who failed to appear from the above mentioned appointments.

Exceptions to these policies may be made by the Director of Rental Assistance or his/her designee, if the family is able to document an emergency situation that prevented them from canceling or attending the appointment or if requested as a reasonable accommodation for a person with a disability.

J. APPEAL PROCESS

If an applicant is denied admission into the FSS Program, if an FSS family is terminated based on his/her failure to meet the contract obligations, or if the family is denied a contract extension, he/she can appeal the decision in writing within ten (10) business days to request an appeal hearing. An appeal hearing will be scheduled within ten (10) business days after the receipt of the written request.

An employee of the Housing Authority directly or indirectly ~~not~~ involved in the administration of the FSS Program or other public official will conduct the hearing. The person conducting the hearing will not be directly involved in the day to day operation of the Housing Authority's FSS Program. The FSS Coordinator will be available for questions during the appeal hearing. At the hearing, the family will have the opportunity to question the basis for the FSS Coordinator's determination. The family will be notified in writing of the decision of the appeal within ten (10) business days of the appeal hearing.

K. REINSTATEMENT POLICY

Persons who wish to leave the FSS Program may do so at any time. Reinstatement of that person will not be permitted unless an unexpected hardship has occurred. Exceptions will be reviewed by the Director of Rental Assistance or a Supervisor.

Persons who are terminated for non-compliance will not be permitted to come back onto the FSS program.

Chapter 18
HOMEOWNERSHIP PROGRAM [24 CFR 906]

18.0 INTRODUCTION [24 CFR Part 906]

The Quality Housing and Work Responsibility Act (QHWRA) permits the Housing Authority through Section 32 of the U.S. Housing Act of 1937, to make public housing dwelling units available for purchase by low-income families as their principal residence. Under Section 32, a Housing Authority may (1) sell all or a portion of a public housing development to eligible public or non-public housing residents, or (2) provide Capital Fund assistance to public housing families to purchase homes, and (3) provide Capital Fund assistance to acquire homes that will be sold to low-income families. Section 32 generates an exception, allowing the Public Housing Capital Fund to be used to acquire units for sale that will not be put under public housing ACC contracts. This does not apply to the use of the Capital Fund by the Housing Authority to build or substantially rehabilitate units that are not public housing for sale under Section 32. Although public housing units that are newly constructed or substantially rehabilitated may be sold under Section 32, such construction and rehabilitation by the Housing Authority is not covered under this section, but rather is governed by the public housing development and modernization regulations. The final Section 32 rule replaces the Section 5(h) rule.

18.1 PROGRAM SUMMARY [24 CFR 906.5]

A. Eligible Program Activities. The Housing Authority will implement a Section 32 program and will use their funds to provide the following services:

1. **Subsidy to public housing residents** (using Capital Funds or program income) or other low income families (using only program income) in the forms of (a) down payment or closing cost assistance, (b) subordinate mortgages, and/or (c) below-market financing;

2. **Acquisition of existing homes** (or homes built for the Housing Authority by a third party 24 CFR 906.41(2)) using Capital Funds for the purpose of sale to income-eligible purchasers without adding these units to the Annual Contributions Contract (ACC);

3. **Sale of public housing rental (ACC) units** to income-eligible purchasers; and

4. **Operation of a lease-purchase program**.

B. Key Program Features

1. **Housing Authority must use Davis-Bacon wages for all construction activity.** Except in specific cases of non-routine maintenance, Davis-Bacon prevailing wage rates apply to all construction activities under the program.

2. **Section 32 can be implemented in conjunction with the Section 8(y) program**. The Section 8(y) program is described separately in the Housing Authority Section 8 Administration Plan. See the Housing Choice Voucher (Section 8) homeownership

program in the Housing Authority Administrative Plan for details regarding implementation of a voucher homeownership program. 8(y) can only be used in connection with units that are not currently under ACC or that are released from the ACC as a result of the sale of the unit. Lease to purchase programs would not be eligible for 8(y) during the lease .

3. **Non-purchasing public housing residents may be displaced**. In selling a public housing unit under a homeownership program, the Housing Authority or Purchase and Resale Entity (PRE) must initially offer the unit to the resident occupying the unit if they meet the eligibility requirements. The current residents of the public housing units have the option of applying to the program in order to purchase their unit, relocating to another comparable unit, or receiving tenant-based assistance. The Housing Authority must provide the resident with notice 90 days prior to the date of the sale of their unit, counseling, relocation expenses, and comparable replacement housing options. The right of first refusal does not extend to residents in nonpublic housing units.

4. **Marketing Strategy**—The homeownership plan permits the purchase of vacant units by persons not currently in public housing, receiving Section 8, or on the existing Housing Authority waiting list, the "S32HOP" must include an affirmative fair housing marketing strategy that reaches out to members of underrepresented groups. **24 CFR 906.39(d) (See Chapter 2.1 Marketing & Outreach)**

18.2 ELIGIBILITY REQUIREMENTS OVERVIEW [24 CFR 906.11 & 906.13]

A. Eligibility Requirements

1. **Eligible purchasers may earn up to, but not exceed 80% of Area Median Family Income (AMI).** Except in the case of a Housing Authority's offer of first refusal to a resident occupying the unit, the Housing Authority must certify that the applicants' income is not over 80% of AMI at the time the contract to purchase the property is executed.

2. **The Housing Authority may sell units to a PRE**. The Housing Authority must demonstrate that the PRE has the necessary legal capacity and practical capability to carry out its responsibilities under the program and sell the units within five years from the date of acquisition; otherwise the PRE must transfer ownership of the units back to the Housing Authority. The Housing Authority's homeownership program also will contain a written agreement and the applicable legal documentation that specifies the respective rights and obligations of the Housing Authority and the PRE.

3. **Affordability standards must be met for the purchaser.** On an average monthly basis, the estimate of the sum of the applicant's payments for mortgage principal and interest, insurance, real estate taxes, utilities, maintenance and other recurring homeownership costs will not exceed the sum of 35% of the applicant's adjusted income and any subsidy that will be available for such payments.

4. **Principal residence requirement**. The dwelling unit sold to an eligible family must be used as the principal residence of the family.

5. **Housing Authority will require purchasers to pay a minimum down payment**. Each household purchasing housing must use its own resources to contribute an amount of the down payment that is not less than one percent of the purchase price of the housing.

6. **Other eligibility restrictions.** The Housing Authority will establish additional limitations for households to purchase housing. Such requirements are to include employment, no past criminal activity, participation in homeownership counseling programs, or other requirements.

B. Recapture and Anti-Speculation Restrictions

1. **Anti-speculation.** The Housing Authority policy provides for retaining all or a portion of the gain from appreciation generated by the resale of the property to the extent that there are net proceeds if the house is sold within five years after purchase. The Housing Authority may not recapture gains from appreciation if the home is resold over five years from the initial purchase. Gains from appreciation is defined as financial gain solely attributable to the home's appreciation over time and not attributable to below-market financing or government-provided assistance (recapture of that subsidy is discussed in recapture below). The anti-speculation provision must be recorded as a deed restriction or a restrictive covenant. The recapture amount can be one that the Housing Authority considers appropriate under the guidelines in this section.

2. **Recapture of subsidy**. The Housing Authority policy is to recapture upon resale government-provided assistance and/or below-market financing made to the purchaser to the extent that there are net proceeds. This includes the Housing Authority down payment, closing cost assistance, subordinate mortgage financing, or below-market financing (i.e., sale the unit for less than appraised value of the home). The Housing Authority may recapture a portion or its entire subsidy provided to the purchaser even for a period of longer than five years.

3. **Resale.** Section 32 regulations do not require the Housing Authority to implement a resale provision limiting resale to low-income buyers.

18.3 GENERAL PROVISIONS

All Housing Authority public housing residents are eligible applicants in the Section 32 Homeownership Option Program ("S32HOP"). Housing Authority public housing units occupied by residents will first offer the unit to the resident occupying the unit. If the public housing resident is not interested in purchasing the unit or are not eligible, are entitled to a 90-day notice, counseling, relocation expenses, and comparable housing. Participants in the Family Self Sufficiency ("FSS") program shall receive a priority for participation in the Section 32 Homeownership Option Program ("S32HOP").

Eligible applicants for the "S32HOP" must:

- Complete an initial Public Housing lease term (See Appendix II) of at least one year,

- Not owe the Housing Authority or any other Housing Authority an outstanding debt
- Meet the eligibility criteria set forth herein.

A. Family Eligibility Requirements

Participation in the Section 32 Homeownership Option program "S32HOP" is voluntary. Each "S32HOP" participant must meet the general requirements for admission to the Public Housing Program as set forth in this Housing Authority Admissions & Continued Occupancy Plan (ACOP). Such public housing family also must be "eligible" to participate in the home ownership program "S32HOP". The additional eligibility requirements for participation in "S32HOP" include that the family must:

1. Be Income-eligible even though they have owned a home

2. Meet a minimum income requirement without counting income from "welfare assistance" sources with the exception of elderly and disabled households

3. Meet the requisite employment criteria requirements with the exception of elderly and disabled households

4. Have completed an initial lease term of one year in the Housing Authority public housing

5. Have fully repaid any outstanding debt owed to the Housing Authority or any other Housing Authority

6. Have not defaulted on a mortgage securing debt to purchase a home under the home ownership option "S32HOP"

7. Preference for Family Self Sufficiency ("FSS") participants

8. Not have any member who has a present ownership interest in a residence at the commencement of home ownership assistance except for cooperative members who have acquired cooperative membership shares prior to commencement of "S32HOP" assistance

B. Minimum Income Requirement [24 CFR 906.15 (a)]

Public or non-public housing residents earning up to 80% AMI are eligible to purchase a home. There is an exception to this low-income restriction for current public housing residents offered the right of first refusal. The applicants monthly payments for mortgage, Property taxes and insurance (PITI), maintenance, and other regularly recurring homeownership costs (e.g., condominium fees) may not exceed 35% of the applicants adjusted income as defined in 24 CFR 913 plus any other subsidy used for monthly payments.

C. Employment Requirements

With the exception of disabled and elderly households, each family must demonstrate the following:

- That one or more adult members of the family who will own the home at commencement of home ownership assistance is employed full-time (not less than an average of 30 hours per week)

- Has been continuously employed for one year prior to commencement of homeownership assistance for the family

The Housing Authority Chief Executive Officer may also consider whether and to what extent an employment interruption is considered permissible in satisfying the employment requirement. The Chief Executive Officer may also consider successive employment during the one-year period and self-employment in a business.

D. Completion of Initial Lease Term.

Applicants and new participants in the Housing Authority public housing program shall not be eligible for participation in the "S32HOP" until completion of an initial Housing Authority public housing program's one year lease term and the participant's first annual re-certification in the Housing Authority public housing program. Nothing in this provision will preclude families that have completed an initial lease term in another jurisdiction from participating in the "S32HOP".

E. Repayment of Any Housing Authority Debts

Participants in the Housing Authority public housing program shall be ineligible for participation in the "S32HOP" in the event any debt or portion of a debt remains owed to Housing Authority or any other Housing Authority. Nothing in this provision will preclude families that have fully repaid such debt(s) from participating in the "S32HOP".

F. Prior Mortgage Defaults

The family will be ineligible to participate in the "S32HOP" if an adult member of the family previously defaulted on a mortgage obtained through the "S32HOP".

G. Preference for Participation in the FSS Program

Applicants for the home ownership program are not required to participate in the Housing Authority Family Self Sufficiency ("FSS") program in order to participate in the "S32HOP". However, "FSS" participants shall have a preference for participation in the "S32HOP"..

18.4 FAMILY PARTICIPATION REQUIREMENTS

A. Once a family is determined to be eligible to participate in the program; it must comply with the following additional requirements:

1. Complete a homeownership counseling program approved by the Housing Authority prior to commencement of homeownership assistance;
2. Locate the home it proposes to purchase within a specified time;
3. Submit a sales agreement containing specific components to the Housing Authority for approval;
4. Allow the Housing Authority to inspect the proposed unit to assure that the unit meets appropriate housing quality standards;
5. Obtain an independent inspection covering major" building systems";
6. Obtain Housing Authority approval of the proposed mortgage (which must comply with generally accepted mortgage underwriting requirements); and
7. Enter into a written agreement with the Housing Authority to comply with all of its obligations under the Public Housing Program.

B. Homeownership Counseling Program [24 CFR 906.9]

A family's participation in the homeownership program is conditional based on the family attending and successfully completing a homeownership and housing counseling program provided or approved by Housing Authority prior to commencement of homeownership assistance. The home ownership and counseling program will cover the following topics:

- Home maintenance
- Budgeting and money management
- Credit counseling
- Negotiating purchase price
- Securing mortgage financing
- Locating a home
- The advantages of purchasing and locating homes in areas that do not have a high concentration of low-income families

The Housing Authority omitted suggested topics regarding fair housing, RESPA obligations and predatory lending issues. These topics should also be included in the home ownership counseling program. The counseling agency providing the counseling program shall either be approved by HUD or the program shall be consistent with the home ownership counseling provided under HUD's Housing Counseling program. The Housing Authority may require families to participate in a Housing Authority approved home ownership-counseling program on a continuing basis.

C. Locating and Purchasing a Home

Upon approval for the Section 32 Homeownership Option Program, a family shall have 180 days to locate a home to purchase. A home shall be considered located if the family submits a proposed sales agreement with the requisite components to the Housing Authority. During an eligible participant's search for a home to purchase, their Public Housing shall continue pursuant to this Admission and Continued Occupancy Plan. If a Public Housing participant family is unable to locate a home within the time approved by the Housing Authority, their Public Housing shall continue pursuant to this Admission and Continued Occupancy Plan.

D. Type of Home
"S32HOP" may be used to purchase the following types of homes within the County of San Joaquin:

- New or existing single-family home
- Condominium
- Planned use development
- Cooperatives
- Lofts
- Live/work units
- A manufactured home to be situated on a privately owned lot or on a leased pad in a mobile home park.

The home must already exist, or be under construction at the time the Housing Authority determines the family eligible for homeownership assistance (to purchase the unit [24 CFR 906.8]).

E. Purchasing a Home
Once a home is located and a sales agreement approved by the Housing Authority is signed by the family, the family shall have up to 3 months, or such other time as is approved by the Housing Authority's Chief Executive Officer or set forth in the Housing Authority-approved sales agreement, to purchase the home.

F. Failure to Complete Purchase
If a Public Housing participant is unable to purchase the home within the three month period permitted by the Housing Authority, the Housing Authority shall continue the family's participation in the Public Housing Program. The family may not re-apply for the Section 32 Homeownership Option Program until it has completed an additional year of participation in the Public Housing Program following the initial determination of its eligibility for the homeownership option.

G. Sales Agreement
Prior to execution of the offer to purchase or sales agreement, the family must provide the financing terms to the Housing Authority for approval. The sales agreement must:

- Specify the price and other terms of sale by the seller to the purchaser

- Provide for a Housing Quality Standards (HQS) inspection by the Housing Authority

- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser

- State that the purchaser is not obligated to purchase unless such inspections are satisfactory to the Housing Authority

- Provide that the purchaser is not obligated to pay for any necessary repairs without approval by the Housing Authority

- Provide that the purchaser is not obligated to purchase if the mortgage financing terms are not approved by the Housing Authority

- Contain a seller certification that the seller is not debarred, suspended, or subject to a limited denial of participation,

To assure the home complies with Housing Quality Standards "HQS" of the "S32HOP", homeownership assistance payments may not commence until the Housing Authority first inspects and passes the home.

H. Independent Initial Inspection Conducted.

The family must select an independent inspector who is qualified to report on property conditions, including major building systems and components. The independent inspection report must be provided to the Housing Authority for approval. The Housing Authority may disapprove the unit due to information contained in the report or for failure to meet federal housing quality standards. The Housing Authority will not pay for the independent inspection. The independent inspection report must cover major building systems and components including foundation and structure:

- Housing interior and exterior
- Roofing
- Plumbing
- Electrical
- Heating systems

I. Financing Requirements

The proposed financing terms must be submitted to and approved by the Housing Authority or their designee prior to close of escrow. The Housing Authority will determine the affordability of the family's proposed financing. In making such determination. The Housing Authority or their designee may take into account other family expenses, including but not limited to child care, un-reimbursed medical expenses, education and training expenses. Certain types of financing, including but not limited to, balloon payment mortgages, unless convertible to a variable rate mortgage, are prohibited and will not be approved by Housing Authority or their designee. Seller-financing mortgages shall be considered by Housing Authority or their designee on a case-by-case basis. If a mortgage is not FHA-insured, Housing Authority or their designee will require the lender to comply with generally accepted mortgage underwriting standards consistent with those of HUD/ FOA, Ginnie Mae, Fannie Mae, Freddie Mac, California Housing Finance Agency (CHFA), USDA Rural Housing Services, the Federal Home Loan Bank, or other private lending institution.

J. Compliance with Family Obligations

The family must execute a "Statement of Homeowner Obligations" and agree, to comply with all family obligations under the Housing Authority Public Housing program and the "S32HOP" policies. These obligations include:

- Attending ongoing home ownership counseling, if required by the Housing Authority

- Complying with the mortgage terms;

- Not selling or transferring the home to anyone other than a member of the assisted family who resides in the home while receiving homeownership assistance. Upon death of a family member who holds title to the home or ownership of cooperative membership shares for the home, homeownership assistance may continue pending settlement of the decedent's estate, notwithstanding transfer of title by operation of law to the decedent's executor or legal representative, so long as the home is solely occupied by remaining family members.

- Not obtaining a present ownership interest in another residence while receiving home ownership assistance;

- Supplying all required information to the Housing Authority, including but not limited to annual verification of household income, notice of change in homeownership expenses, notice of move-out, refinancing, notice of transfer of any interest in the home and notice of mortgage default.

17.5 TERMINATION OF SECTION 32 HOMEOWNERSHIP OPTION PROGRAM (S32HOP)

A. Grounds for Termination of S32HOP participation:

Failure to Comply with Family Obligations under Public Housing Program or Housing Authority's Homeownership Policies. A family's homeownership assistance may be terminated if the family:

- Fails to comply with its obligations under the Housing Authority public housing program. The Housing Authority Section 32 home ownership policies including but not limited to failure to provide the family's household income and home ownership expenses on an annual basis;

- Defaults on the mortgage. If required, the family must attend and complete ongoing homeownership and housing counseling classes.

- Fails to comply with the terms of any mortgage incurred to purchase and/or refinance the home.

- Fails to provide the Housing Authority with written notice of any sale or transfer of any interest in the home or plan to move out of the home. Except as otherwise provided in this section, the family may not convey or transfer the home to any entity or person other than a member of the assisted family while receiving homeownership assistance.

- Fails to provide the Housing Authority any other notices which may be required pursuant to the Housing Authority Section 32 homeownership policies.

B. Occupancy of Home.

Homeownership assistance will only be provided while the family resides in the home. If the family moves out of the home, the Housing Authority will not continue homeownership assistance commencing with the month after the family moves out. Neither the family nor the lender is obligated to reimburse the Housing Authority for home ownership assistance paid for the month the family moves out.

C. Procedure for Termination of Home Ownership Program.

A participant in the "S32HOP" shall be entitled to the same termination notice and informal hearing procedures as set forth in the Housing Authority Admissions & Continued Occupancy Plan (ACOP).

D. Maximum Term of Homeownership Assistance

Except in the case of elderly or disabled families, the maximum term of homeownership assistance is:

a) 15 years, if the initial mortgage term is 20 years or longer, or
b) 10 years in all other cases.

Families that qualify as elderly at the commencement of homeownership assistance are not subject to a maximum term limitation. If a disabled or elderly family ceases to qualify as disabled or elderly, the appropriate maximum term becomes applicable from the date homeownership assistance commenced; provided, however, that such family shall be eligible for at least 6 additional months of homeownership assistance after the maximum term becomes applicable. The time limit applies to any member of the household who has an ownership interest in the unit during any time that homeownership payments are made, or is a spouse of any member of the household who has an ownership interest.

17.6 CONTINUED PARTICIPATION IN PUBLIC HOUSING PROGRAM

A. Default on FHA-Insured Mortgage

If the family defaults on an FHA-insured mortgage, the Housing Authority may permit the family to move to Public Housing, pursuant to this Admissions & Continued Occupancy Plan (ACOP) guidelines, if the family demonstrates that it has (a) conveyed title to the home to HUD or its designee, as required by HUD; and (b) moved from the home within the period established or approved by HUD.

B. Default on Non-FHA-Insured Mortgage

Families have the option to sell the home and may return to Public Housing assistance, pursuant to this Admission and Continued Occupancy Plan, if at any time the family determines that it is unable to meet its responsibilities as a homeowner. If the family defaults on a mortgage that is not FHA-insured, the Housing Authority may permit the family to move to Public Housing, pursuant to this Admission and Continued Occupancy Plan, if the family demonstrates that it has (a) conveyed title to the home to the lender, to Housing Authority or to its designee, as may be permitted or required by the lender; and (b) moved from the home within the period established or approved by the lender and/or the Housing Authority.

17.7 WAIVER OR MODIFICATION OF HOMEOWNERSHIP POLICIES

The Housing Authority Chief Executive Officer shall have the discretion to waive or modify any provision of the Section 32 Homeownership Option Program or policies not governed by statute or regulation for good cause or to comply with changes in HUD regulations or directives.

17.8 Statement to Affirmatively Further Fair Housing in the Public Housing Family Self Sufficiency Program

To ensure access to a fair and effective administrative process, all complaints of discrimination will be referred to *San Joaquin Fair Housing*. Signage informing community members of their rights and responsibilities under fair housing laws will be posted at all Public Housing sites, and the Administrative Building. The Housing Authority of the County of San Joaquin (HACSJ) will work towards educating all residents and program participants about their right to fair housing.

The following steps will be taken to affirmatively further fair housing in the Public Housing Family Self Sufficiency (FSS) program:

1. The HACSJ will advertise for the FSS Coordinator positions in all local newspapers, the internet, and local employment development agencies. The Human Resources Department will keep records of position advertisements.

2. The HACSJ will market the FSS program to all Public Housing residents and HCVP participants through mass mailing, including persons with disabilities and persons with limited English proficiency. The HACSJ conducts a one-on-one orientation to all new Public Housing residents. The orientation includes an introduction to the FSS program and a brochure is distributed to each new resident. A signed "Acknowledgement of Receipt" form will be kept in each tenant file.

3. All Housing Authority mailings will be made available in an accessible format upon request, as a reasonable accommodation. Reasonable accommodation will be made for persons with a disability that requires an advocate or accessible offices. A designee will be allowed to provide some information, but only with the permission of the person with the disability.

4. The HACSJ will provide referrals to participants with concerns of housing discrimination to San Joaquin Fair Housing. The HACSJ will also include Fair Housing information slides to the FSS Orientation presentation. An orientation sign-in attendance sheet is kept on file.

5. The HACSJ will include the toll-free Housing Discrimination Hotline number 1(800)669-9777 in a handout to all FSS orientation attendees, and during FSS progress appointments. A signed acknowledgement receipt will be placed in each participants file.

6. The HACSJ conducts periodic meetings with participating owners to improve owner relations and to recruit new owners to expand housing choice to program participants. In addition, The FSS Coordinators conduct quarterly meetings with the Program Coordinating Committee to link the program participants to the necessary services. Attendance sheets are kept on file.

7. A copy of the family's 50058 is kept in each participant's file for record keeping purposes.

Appendix I
ACOP 2006 – ACRONYMS

ACOP – Admissions & Continued Occupancy Policy

AIDS - Acquired Immuno Deficiency Syndrome

CDBG - Community Development Block Grant

EID - Earned Income Disallowance

EIR - Established Income Range

EITC - Earned income tax credit

EIV - Enterprise Income Verification

FAQs – Frequently Asked Questions

FTS - Full-time Student

IRS - Internal Revenue Service

LEP - Limited English Proficiency Persons

PASS - Plan to Attain Self-Sufficiency

HOUSING AUTHORITY S - Public Housing Assessment System

PIH – Public and Indian Housing

S32HOP – Section 32 Homeownership Program

SSA - Social Security Administration

SWICAs - State Wage Information Collection Agencies

TANF - Temporary Assistance for Needy Families

TASS - Tenant Assessment Subsystem

TSAP - Tenant Selection and Assignment Plan

TTP - Total Tenant Payment

UFAS - Uniform Federal Accessibility Standards

UIV - Up-front Income Verification

UPCS - Uniform Physical Condition Standards

USCIS - U.S. Citizenship and Immigration Services

VG - Verification Guidance

Appendix II

Resident Dwelling Lease Agreement

THIS AGREEMENT is executed between the Housing Authority of the County of San Joaquin (herein called "HOUSING AUTHORITY"), and _____ (herein called the "Tenant"), and becomes effective as of this date: _____

1. **UNIT:** That the Housing Authority, relying upon the representations of Tenant as to Tenant's income, household composition and housing need, leases to Tenant, (upon Terms and Conditions set forth in Lease agreement) the dwelling unit LOCATED at _____ (and hereinafter called the "premises") to be occupied exclusively as a private residence by Tenant and household. The Tenant Application Number is: . _____[966.4 (a)]

2. **HOUSEHOLD COMPOSITION:** The Tenant's household is composed of the individuals listed below. (Other than the Head or Spouse each household member should be listed by age, oldest to youngest. [966.4 (a)(2)] All members of the household over age 18 shall execute the lease.

Name	Relationship	Age & Birth date	Social Security #
1.	Head	___/ /	_ _ _ - _ _ - _ _ _ _
2		___/ /	_ _ _ - _ _ - _ _ _ _
3		___/ /	_ _ _ - _ _ - _ _ _ _
4		___/ /	_ _ _ - _ _ - _ _ _ _
5		___/ /	_ _ _ - _ _ - _ _ _ _
6		___/ /	_ _ _ - _ _ - _ _ _ _
7		___/ /	_ _ _ - _ _ - _ _ _ _
8		___/ /	_ _ _ - _ _ - _ _ _ _

3. **TERMS OF LEASE**: This lease shall be for a period of twelve months.

4. **RENEWAL OF LEASE**: Lease shall be renewed for successive terms of twelve months after finalization of continued eligibility annual re-certification at which the monthly rental rate will be determined. As a further condition, to the renewal of lease, resident must comply with the Community Services Requirements as more fully described herein. There is an exception to the automatic renewal of the lease for noncompliance with community service monthly requirements. Rent is payable in advance on the first day of each calendar month unless terminated by either party as herein provided.

5. **RENTAL PAYMENTS**:

☐ **This is the flat rent for the Premises**

☐ **This rent is based on the income and other information reported by the Resident**

a. Initial rent (prorated for partial month) shall be $._____ for the period beginning ___/___/___ and ending at midnight on ___/___/___.

b. Thereafter, the monthly rental amount is $_____ subject to the utility cost provisions in Paragraph 8, Page 2 and shall be due and payable in advance on or before the first day of each month, beginning on the month following the date of this Lease.

c. LATE FEE – A late fee of $25.00 (will be charged if rent is not paid by the 7th calendar day of each month. RESIDENT agrees that this Late Fee, which shall be considered "additional rent", does not establish a grace period, is reasonable and is to reimburse MANAGEMENT for the administrative costs and expenses when the rent is not received on or before the first of each calendar month. As

required by law, RESIDENT is hereby notified that a negative credit report reflecting upon the RESIDENT'S credit record may be submitted to a credit reporting agency if RESIDENT fails to pay rent on time at Managements discretion.

d. In the event this Lease is terminated by RESIDENT as set forth any rents paid or due shall be pro-rated daily after the date of expiration of the thirty (30) day notice period. In the event RESIDENT vacates without notice, he/she shall be charged with rent for the thirty (30) days after MANAGEMENT learns of the vacate. Rental credits or charges shall be based upon a uniform thirty (30) day month. This rent will remain in effect unless adjusted in accordance with the provisions of this lease.

e. IT IS EXPRESSLY UNDERSTOOD AND AGREED that in the event the RESIDENT is transferring from another MANAGEMENT –operated dwelling unit, payment of any unpaid balance due under the previous lease shall become a part of the consideration for this Lease.

6. **SECURITY DEPOSIT**:

a. Upon signing of this lease agreement, and in addition to the monthly rental payments required in Paragraph 5, the RESIDENT agrees to pay MANAGEMENT the sum of $_____ as a security deposit. Upon termination of this lease, RESIDENT may request a move-out inspection if that request is made in writing and within 48 hours of the termination. The security deposit money may be applied by MANAGEMENT at the termination of this Lease toward:

(1) The cost of repairing any damage to the premises beyond ordinary wear and tear of the premises; and

(2) The cost of cleaning of the premises; and

(3) Any rent or other charges owed by RESIDENT.

b. The security deposit may not be used to pay rent or other charges while RESIDENT occupies the dwelling unit.

c. MANAGEMENT shall hold the security deposit in trust for RESIDENT during the term of this Lease. RESIDENT agrees that MANAGEMENT may use any interest earned on the security deposit for RESIDENT services and activities and RESIDENT agrees to waive any right to claim a refund of such interest.

7. **UTILITIES AND APPLIANCES:** Housing Authority-Supplied Utilities [966.4 (b)(1)] If indicated by an (X) below, Housing Authority provides the indicated utility as part of the rent for the premises:

( ) Electricity ( ) Natural Gas ( ) Heating Fuel (X) Water (X) Sewerage (X) Other:

If indicated by an (X) below, Housing Authority shall provide the following appliances for the premises:

(X) Cooking Range ( ) Refrigerator

8. **CHARGES FOR EXCESS UTILITIES**

a. <u>In accordance with the Schedule of Utility Allowances in the STATEMENT OF POLICIES posted in MANAGEMENT'S office, RESIDENT agrees to pay for the excess use of utilities of such allowances. Excess utility bills shall become due and payable 14 days from written notice by MANAGEMENT</u> to the RESIDENT or upon completion of the Grievance process, if timely requested. Said Notice shall provide that the RESIDENT has the right to ask for an explanation of the charges and, if RESIDENT does not agree with the explanation, the RESIDENT shall have the right to request a hearing under MANAGEMENT'S Grievance Procedure.

Excess Utility bills shall be included with the rental statements and shall constitute additional rent which are payable on the 7th calendar day of the following month upon receipt of statement from Management.

b. RESIDENT agrees to maintain all other listed utility services which are not provided by MANAGEMENT during the entire term of this Lease. RESIDENT agrees to promptly pay for all such utilities furnished to the premises.

9. **TERMS AND CONDITIONS**: The following terms and conditions of occupancy are made a part of the Lease.

a. Use and Occupancy of Dwelling: Tenant shall have the right to exclusive use and occupancy of the dwelling unit for Tenant and other household members listed on the lease. This provision permits reasonable accommodation of Tenant's guests or visitors for a period not exceeding fourteen (14) days each year. Permission may be granted, upon written request to the Manager, for an extension of this provision. [966.4 (d)(1)]

b. Ability to comply with Lease terms: If, during the term of this Lease, Tenant, by reason of physical or mental impairment is no longer able to comply with the material provisions of this lease, and cannot make arrangements for someone to aid him/her in complying with the lease, and Housing Authority cannot make any reasonable accommodation that would enable Tenant to comply with the lease THEN; Housing Authority will assist Tenant, or designated member(s) of Tenant's family, to find more suitable housing and move Tenant from the dwelling unit. If there are no family members who can or will take responsibility for moving Tenant, Housing Authority will work with appropriate agencies to secure suitable housing and will terminate the Lease. [8.3] At the time of admission, all Tenants must identify the family member(s) to be contacted if they become unable to comply with lease terms.

c. Re-determination of Rent, Dwelling Size, and Eligibility. The rent amount as fixed in of the Lease Agreement is due each month until changed as described below.

(1) The status of each family is to be re-examined at least once a year. Tenants paying Flat Rent shall have their incomes reexamined every three years. Tenant shall certify to compliance with the 8 hour per month community service requirement, if applicable. [960.209]

(2) Tenant promises to supply Housing Authority, when requested, with accurate information about family composition, age of family members, income and source of income of all family members, assets, community service activities, and related information necessary to determine eligibility, annual income, adjusted income, and rent. [966.4 (c)(2)] Failure to supply such information when requested is a serious violation of the terms of the lease and Housing Authority may terminate the lease. All information must be verified. Tenant agrees to comply with Housing Authority requests for verification by signing releases for third-party sources, presenting documents for review, or providing other suitable forms of verification. [966.4 (c)(2)] Housing Authority shall give Tenant reasonable notice of what actions Tenant must take, and of the date by which any such action must be taken for compliance under this section. This information will be used by Housing Authority to decide whether the amount of the rent should be changed, and whether the dwelling size is still appropriate for Tenant's needs.

This determination will be made in accordance with the Admissions and Continued Occupancy Policy, which is publicly posted in the Development Office.

(3) Rent will not change during the period between regular re-examinations, UNLESS during such period: [960.209 (b)]

(a) Tenant can verify a change in his/her circumstances (such as decline in or loss of income) that would justify a reduction in rent, except that rent shall

not be reduced because a tenant's TANF grant is reduced because Tenant committed welfare fraud or failed to comply with a welfare department economic self sufficiency requirement.

If a reduction is granted, Tenant must report subsequent increases in income within 10 days of the occurrence, until the next scheduled re-examination. (Failure to report within the 10 days may result in a retroactive rent charge.)

(b) If it is found that Tenant has misrepresented the facts upon which the rent is based so that the rent Tenant is paying is less than the rent that he/she should have been charged. Housing Authority then may apply an increase in rent retroactive to the first of the month following the month in which the misrepresentation occurred.

(c) Rent formulas or procedures are changed by Federal law or regulation.

d. All changes in family composition must be reported to the Public Housing Asset Manager within 10 days of the occurrence. Failure to report within the 10 days may result in a retroactive rent charge. [966.4 (c) (2)]

e. Rent Adjustments: Tenant will be notified in writing of any rent adjustment due to the situations described above; All notices will state the effective date of the rent adjustment.

(1) In the case of a rent decrease, the adjustment will become effective on the first day of the month following the reported change in circumstances, provided Tenant reported the change in a timely manner, as specified above.

(2) In the case of a rent increase, when an increase in income occurs after a prior rent reduction and is reported within 10 calendar days of the occurrence, the increase will become effective the first day of the 2nd month following the month in which the change was reported.

(3) In the case of a rent increase due to misrepresentation, failure to report a change in family composition, or failure to report an increase in income (after a reduction in rent per the fixed rent policy), Housing Authority shall apply the increase in rent retroactive to the first of the month following the month in which the misrepresentation occurred.

f. Transfers [966.4 (c)(3)]:

(1) Tenant agrees that if Housing Authority determines that the size or design of the dwelling unit is no longer appropriate to Tenant's needs, Housing Authority shall send Tenant written notice. Tenant further agrees to accept a new lease for a different dwelling unit of the appropriate size or design.

(2) Housing Authority may move a Tenant into another unit if it is determined necessary to rehabilitate or demolish Tenant's unit.

(3) If a Tenant makes a written request for special unit features in support of a documented disability, Housing Authority shall modify Tenant's existing unit. If the cost and extent of the modifications needed are tantamount to those required for a fully accessible unit, Housing Authority may transfer Tenant to another unit with the features requested at Housing Authority's expense.

(4) A tenant without disabilities that is housed in a unit with special features must transfer to a unit without such features should a Tenant with disabilities need the unit.

(5) In the case of involuntary transfers, Tenant shall be required to move into the dwelling unit made available by Housing Authority. Tenant shall be given 7 calendar days time in which to move following delivery of a transfer notice. If Tenant refuses to move, Housing Authority may terminate the Lease. [966.4 (c)(3)]

(6) Involuntary transfers are subject to the Grievance Procedure, and no such transfers may be made until either the time to request a Grievance has expired or the procedure has been completed. [966.4 (c)(4)]

(7) Housing Authority will consider any Tenant requests for transfers in accordance with the transfer priorities established in the Admissions and Occupancy Policies.

(8) Housing Authority Obligations [966.4 (e)]: Housing Authority shall be obligated:

(a). To maintain the dwelling unit and the project in decent, safe and sanitary condition; [966.4(e)(1)]

(b). To comply with the requirements of applicable building codes, housing codes, and HUD regulations materially affecting health and safety; [966.4 (e)(2)]

(c). To make necessary repairs to the dwelling unit; [966.4 (e)(3)]

(d). To keep project building, facilities, and common areas, not otherwise assigned to Tenant for maintenance and upkeep, in a clean and safe condition; [966.4 (e)(4)]

(e). To maintain in good and safe working order and condition electrical, plumbing, sanitary, heating, ventilating, and other facilities and appliances,; [966.4 (e)(5)]

(f) To provide and maintain appropriate receptacles and facilities (except container for the exclusive use of an individual tenant family) for the deposit of garbage, rubbish, and other waste removed from the premise by Tenant as required by this Lease; [966.4 (e)(6)]

(g). To supply running water and reasonable amounts of hot water and reasonable amount of heat at appropriate times of the year according to local custom and usage; EXCEPT where the building that includes the dwelling unit is not required to be equipped for that purpose, or where heat or hot water is generated by an installation within the exclusive control of Tenant and supplied by a direct utility connection; [966.4 (e)(7)]

(h). To notify Tenant of the specific grounds for any proposed adverse action by Housing Authority. (Such adverse action includes, but is not limited to: a proposed lease termination, transfer of Tenant to another unit, change in amount of rent, or imposition of charges for maintenance and repair, or for excess consumption of utilities.) When Housing Authority is required to afford Tenant the opportunity for a hearing under the Housing Authority grievance procedure for a grievance concerning a proposed adverse action:

(i) The Notice of the proposed adverse action shall inform Tenant of the right to request such hearing. In the case of lease termination, a notice of lease termination that complies with 966.4(l)(3) shall constitute adequate notice of proposed adverse action.

(ii) In the case of a proposed adverse action other than a proposed lease termination, Housing Authority shall not take the proposed action until time

to request such a hearing has expired or (if hearing was timely requested) the grievance process has been completed. [966.4 (e)(8)]

10. **TENANT'S OBLIGATIONS**: Tenant shall be obligated:

    a. Not to assign the Lease, nor sublease the dwelling unit. [966.4 (f)(1)]

    b. Not to give accommodation to boarders or lodgers; [966.4 f)(2)]

    c. Not to give accommodation to long term guests (in excess of 14 days) without the advance written consent of Housing Authority.

    d. To use the dwelling unit solely as a private dwelling for Tenant and Tenant's household as identified in the Lease, and not to use or permit its use for any other purpose. [966.4 (f)(3)] This provision does not exclude the care of foster children or live-in care of a member of Tenant's family, provided the accommodation of such persons conforms to Housing Authority's Occupancy standards, and so long as Housing Authority has granted prior written approval for the foster child(ren), or live-in aide to reside in the unit. [966.4 (d)((3)(i)]

    e. To abide by necessary and reasonable regulations promulgated by Housing Authority for the benefit and well-being of the housing project and Tenants. These regulations shall be posted in a conspicuous manner in the project office and incorporated by reference in this Lease. Violation of such regulations constitutes a violation of the Lease. [966.4 (f)(4)]

    f. To comply with the requirements of applicable state and local building or housing codes, materially affecting health and/or safety of Tenant and household. [966.4(f)(5)]

    g. To keep the dwelling unit and other such areas as may be assigned to Tenant for exclusive use in a clean and safe condition. [966.4(f)(6)] This includes keeping front and rear entrances and walkways for the exclusive use of Tenant, free from hazards and trash and keeping the yard free of debris and litter. Exceptions to this requirement may be made for Tenants who have no household members able to perform such tasks because of age or disability. [966.4 (g)]

    h. To dispose of all garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner only in containers approved or provided by Housing Authority. [§ 966.4(f)(7)] To refrain from, and cause members of Tenant's household or guest to refrain from, littering or leaving trash and debris in common areas.

    i. To use only in reasonable manner all electrical, sanitary, heating, ventilating, air-conditioning, and other facilities and appurtenances

        (1) Not disturb other residents' peaceful enjoyment of their accommodations; and

        (2) Be conducive to maintaining all Housing Authority projects in a decent, safe, and sanitary condition.
        [966.4 (f)(11)]

    j. To assure that Tenant, any member of the household, a guest, or another person under Tenant's control, shall not engage in:

        (1) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of Housing Authority's public housing premises by other residents or employees of Housing Authority, or;

        (2) Any drug-related criminal activity. Any criminal activity in violation of the preceding sentence shall be cause for termination of tenancy, and for eviction from the unit. (For the

purposes of this lease, the term drug-related criminal activity means the illegal possession, manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use, of a controlled substance as defined in Section 102 of the Controlled Substances Act.) [966.4 (f)(12)]

(3) To make no alterations or repairs or redecorations to the interior of the dwelling unit or to the equipment, nor to install additional equipment or major appliances without written consent of Housing Authority. To make no changes to locks or install new locks on exterior doors without Housing Authority's written approval. To use no nails, tacks, screws, brackets, or fasteners on any part of the dwelling unit (a reasonable number of picture hangers excepted) without authorization by Housing Authority.

(4) To give prompt prior notice to Housing Authority, in accordance with this Lease to Tenant's leaving dwelling unit unoccupied for any period exceeding two calendar weeks.

(5) To act in a cooperative manner with neighbors and Housing Authority Staff. To refrain from and cause
members of Tenant's household or guests to refrain from acting or speaking in an abusive or threatening manner toward neighbors and Housing Authority staff.

(6) Not to display, use, or possess or allow members of Tenant's household or guests to display, use or possess any illegal firearms anywhere on the property of Housing Authority.

(7) To take reasonable precautions to prevent fires and to refrain from storing or keeping highly volatile or flammable materials upon the premises.

(8) To avoid obstructing sidewalks, areaways, or passages, and to avoid using these for purposes other than going in and out of the dwelling unit.

(9) To refrain from erecting or hanging radio or television antennas on or from any part of the dwelling unit, except that roof antennas may be installed in accordance with regulations set forth by Housing Authority with the written approval of Housing Authority.

(10) To refrain from placing signs of any type in or about the dwelling except those allowed under applicable zoning ordinances and then only after having received written permission of Housing Authority.

(11) To refrain from, and cause members of Tenant's household to refrain from keeping, maintaining, harboring, or boarding any animal of any nature in the dwelling unit except in accordance with the Housing Authority's pet policy, unless a verified disability warrants the possession of a service animal or companion animal.

(12) To remove from Housing Authority property any vehicles without valid registration and inspection stickers. To refrain from parking any vehicles in any right-of-way or fire lane designated and marked by Housing Authority. Any inoperable or unlicensed vehicle as described above will be removed from Housing Authority property at Tenant's expense. Automobile repairs are not permitted on project site.

(13) To remove any personal property left on Housing Authority property when Tenant leaves, abandons or
surrenders the dwelling unit. Property left for more than 30 days shall be considered abandoned and will be disposed of by Housing Authority. Costs for storage and disposal shall be assessed against the former tenant.

(14) To use reasonable care to keep his dwelling unit in such condition as to ensure proper health and sanitation standards for Tenant, household members and neighbors. TENANT SHALL

NOTIFY THE AUTHORITY PROMPTLY OF KNOWN NEED FOR REPAIRS TO HIS DWELLING UNIT, and of known unsafe or unsanitary conditions in the dwelling unit or in common areas and grounds of the Project. Tenant's failure to report the need for repairs in a timely manner shall be considered to contribute to any damage that occurs.

(15) Not to commit any fraud in connection with any Federal housing assistance program, and

(16) Not to receive assistance for occupancy of any other unit assisted under any Federal housing assistance program during the term of the lease.

(17) To pay promptly any utility bills for utilities supplied to Tenant by a direct connection to the utility company, and to avoid disconnection of utility service for such utilities.

(18) For each adult in the Tenant household to perform at least 8 hours per month of qualifying community service (as specified by the Housing Authority) unless the requirement is waived due to age, disability, or the fact that an adult is excused from this requirement because he/she is working, attending an educational institution, or participating in some other qualified training program.

k. Abide by all House Rules

11. **DEFECTS HAZARDOUS TO LIFE, HEALTH OR SAFETY**: In the event that the dwelling unit is damaged to the extent that conditions are created that are hazardous to the life, health, or safety of the occupants: [966.4 (h)]

a. Housing Authority Responsibilities:

(1) Housing Authority shall be responsible for repair of the unit within a reasonable period of time or 24 hours for health and safety repairs after receiving notice from Tenant, provided, if the damage was caused by Tenant, household members, or guests, the reasonable cost of the repairs shall be charged to Tenant.
[966.4 (h)(2)]

(2) Housing Authority shall offer Tenant a replacement dwelling unit, if available, if necessary repairs cannot be made within a reasonable time. Housing Authority is not required to offer Tenant a replacement unit if Tenant, household members, or guests caused the hazardous condition. [966.4 (h)(3)]

(3) Tenant shall accept any replacement unit offered by Housing Authority.

(4) In the event Housing Authority, as described above cannot make repairs, and alternative accommodations are unavailable, then rent shall abate in proportion to the seriousness of the damage and loss in value as a dwelling. No abatement of rent shall occur if Tenant rejects alternative accommodations or if Tenant, household members, or guests caused the damage. [966.4 (h)(4)]

(5) If Housing Authority determines that the dwelling unit is uninhabitable because of imminent danger to the life, health, and safety of Tenant, and Tenant refuses alternative accommodations, this Lease shall be terminated, and any rent paid will be refunded to Tenant.

b. Tenant Responsibilities:

(1) Tenant shall immediately notify the Project Manager of the damage and intent to abate rent, when the damage is or becomes sufficiently severe that Tenant believes he/she is justified in abating rent.

(2) Tenant agrees to continue to pay full rent, less the abated portion agreed upon by Housing Authority, during the time in which the defect remains uncorrected.

12. **MOVE-IN AND MOVE-OUT INSPECTIONS (Please Refer to Development Rules)**

a. Move-in Inspection: Housing Authority and Tenant or representative shall inspect the dwelling unit prior to occupancy by Tenant. Housing Authority will give Tenant a written statement of the condition of the dwelling unit, both inside and outside, and note any equipment provided with the unit. The statement shall be signed by Housing Authority and Tenant and a copy of the statement retained in Tenant's folder. [966.4 (i)] Housing Authority will correct any deficiencies noted on the inspection report, at no charge to Tenant.

b. Move-out Inspection -- Housing Authority will inspect the unit at the time Tenant vacates and give Tenant a written statement of the charges, if any, for which Tenant is responsible. Tenant and/or representative may join in such inspection, unless Tenant vacates without notice to Housing Authority. [966.4(i)]

13. **ENTRY OF PREMISES DURING TENANCY**

a. Tenant Responsibilities

(1) Tenant agrees that the duly authorized agent, employee, or contractor of Housing Authority will be permitted to enter Tenant's dwelling during reasonable business hours for the purpose of performing routine maintenance, making improvements or repairs, inspecting the unit, or showing the unit for releasing. [966.4 (j)(1)]

(2) When Tenant calls to request maintenance on the unit, Housing Authority shall attempt to provide such maintenance at a time convenient to Tenant. If Tenant is absent from the dwelling unit when Housing Authority comes to perform maintenance, Tenant's request for maintenance shall constitute permission to enter.

b. Housing Authority's Responsibilities

(1) Housing Authority shall give Tenant at least 48 hours written notice that Housing Authority intends to enter the unit. Housing Authority may enter only at reasonable times. [966.4 (j)(1)]

(2) Housing Authority may enter Tenant's dwelling unit at any time without advance notification when there is reasonable cause to believe that an emergency exists. [966.4 (j)(2)]

(3) If Tenant and all adult members of the household are absent from the dwelling unit at the time of entry, Housing Authority shall leave in the dwelling unit a written statement specifying the date, time and purpose of entry prior to leaving the dwelling unit. [966.4 (j)(3)]

14. **NOTICE PROCEDURES**

a. Tenant Responsibility

(1) Any notice to Housing Authority must be in writing, delivered to the Project Office or to Housing Authority's central office, or sent by prepaid first-class mail, properly addressed. [966.4 (k)(1)(ii)]

b. Housing Authority Responsibility

(1) Notice to Tenant must be in writing, delivered to Tenant or to any adult member of the household residing in the dwelling unit, or sent by first-class mail addressed to Tenant. [966.4 (k)(1)(i)]

(2) Unopened, canceled, first class mail returned by the Post Office shall be sufficient evidence that notice was given.

(3) If Tenant is disabled and requests a reasonable accommodation, all notices will be made available in an accessible format. [966.4 (k)(2)]

15. **TERMINATION OF THE LEASE**: In terminating the Lease, the following procedures shall be followed by Housing Authority and Tenant:

a. This Lease may be terminated only for serious or repeated violations of material terms of the Lease, such as failure to make payments due under the lease or to fulfill Tenant obligations set forth in this Lease, or for other good cause. [966.4 (l)(2)] Such serious or repeated violation of terms shall include but not be limited to:

(1) The failure to pay rent or other payments when due; [966.4 (l)(2)]

(2) Repeated late payment, which shall be defined as failure to pay the amount of rent or other charges due by the seventh of the month. Four such late payments within a 12 month period shall constitute a repeated late payment; [966.4 (l)(2)]

(3) Failure to pay utility bills when Tenant is responsible for paying such bills directly to the supplier of utilities; [966.4 (l)(2)]

(4) Misrepresentation of family income, assets, or composition; [966.4 (c)(2)]

(5) Failure to supply, in a timely fashion, any certification, release, information, or documentation on Family income or composition needed to process annual reexaminations or interim re-determinations. [966.4 (c)(2)].

(6) Serious or repeated damage to the dwelling unit, creation of physical hazards in the unit, common areas, grounds, or parking areas of any project site; [966.4 (l)(2)]

(7) Criminal activity by Tenant, household member, guest, or other person under Tenant's control, including criminal activity that threatens the health, safety or right to peaceful enjoyment of Housing Authority's public housing premises by other residents, or any drug-related criminal activity. [966.4 (l)(2)]

(8) Offensive weapons or illegal drugs seized in a Housing Authority unit by a law enforcement officer; [966.4 (l)(2)]

(9) Any fire on Housing Authority premises caused by carelessness or unattended cooking. [966.4 (l)(2)]

(10) This Lease may be terminated by RESDIENT at any time by giving thirty (30) days written notice. Resident agrees to move promptly and leave unit in a clean and good condition (except for reasonable wear and tear) and to return the keys to MANAGEMENT when he/she vacates. Rent will continue until the keys are returned to Management office.

(11) The Lease shall terminate upon the death of the RESIDENT. In the event there is a surviving adult RESIDENT, MANAGEMENT may, if it so elects enter into a new lease with said surviving RESIDENT. In the event, there is no surviving RESIDENT, MANAGEMENT may, if it so elects, enter into a lease with a person, who is a member of the household, if said person otherwise, meets the requirements for occupancy as contained in the State of Policy of MANGEMENT. A live-in aide is not considered a member of the household.

Should the circumstance arise the there is no longer a living adult in the unit, MANAGEMENT may, at its discretion, admit a relative or guardian to live in the unit and assume the obligation of the Lease as Head of Household.

(12) The Lease may be terminated by MANGEMENT at any time by giving written notice pursuant to Paragraph 18 and Section 1162 of the Code of Civil Procedure. The Lease shall automatically terminate at, and the RESIDENT shall vacate the premises no later than, the time of expiration of the period hereinafter set forth. Such notice terminating said Lease and RESIDENT'S tenancy thereinafter may only be given for reasonable cause such as , but not limited to the reasons stated below:

(a) Grounds for termination if RESIDENT member of the RESIDENT'S household or guest is subject to a lifetime registration requirement under any State sex offenders registration program

(b) Grounds for termination if RESIDENT member of the RESIDENT'S household or guest is a "Fleeing Felon" or is harboring a "Fleeing Felon". The term "Fleeing Felon" shall include, but is not limited to, a person who seeks to avoid prosecution, custody, or confinement after conviction for a felony or violating a condition of probation or parole imposed under Federal or State Law.

(c) For persons determined to be registered with probation/parole department at the leased address without prior authorization by management for immediate termination of tenancy.

b. Housing Authority shall give written notice of the proposed termination of the Lease of:

(1) 14 days in the case of failure to pay rent;

(2) A reasonable time, but not to exceed thirty days, considering the seriousness of the situation (but not to exceed 30 days) when the health or safety of other tenants or Housing Authority staff is threatened;

(3) 30 days in any other case. [966.4 (l)(3)(i)(A), (B) & (C)]

c. The notice of termination:

(1) The notice of termination to Tenant shall state specific reasons for the termination, shall inform Tenant of his/her right to make such reply as he/she may wish, and Tenant's right to examine Housing Authority documents directly relevant to the termination or eviction. [966.4 (l)(3)(ii)]

(2) When Housing Authority is required to offer Tenant the opportunity for a grievance hearing, the notice shall also inform Tenant of the right to request such a hearing in accordance with Housing Authority's grievance procedures. [966.4 (l)(3)(ii)]

(3) Any notice to vacate (or quit) that is required by State or local law may be combined with, or run concurrently with the notice of lease termination under this section. [966.4 (l)(3)(iii)] The Notice to Vacate must be in writing, and specify that if Tenant fails to quit the premises within the applicable statutory period, appropriate action will be brought against Tenant, and Tenant may be required to pay the costs of court and attorney's fees.

(4) When Housing Authority is required to offer Tenant the opportunity for a grievance hearing concerning

the lease termination under Housing Authority's grievance procedure, the tenancy shall not terminate (even if any Notice to Vacate under State of local law has expired) until the period to request a hearing has expired, or (if a hearing is requested) the grievance process has been completed. [966.4 (l)(3)(iv)]

(5) When Housing Authority is not required to offer Tenant the opportunity for a hearing under the grievance procedure and Housing Authority has decided to exclude such grievance for Housing Authority grievance procedure, the notice of lease termination shall (a) state that Tenant is not entitled to a grievance hearing on the termination; (b) specifies the judicial eviction procedure to be used by Housing Authority for eviction and state that HUD has determined that this eviction procedure provides the opportunity for a hearing in a court that contains the basic elements of due process as defined in HUD regulations; and (c) state whether the eviction is for a criminal activity that threatens health or safety of residents or staff or for drug-related criminal activity. [966.4 (l)(3)(v)]

(7) Housing Authority may evict Tenant from the unit only by bringing a court action. [966.4 (l)(4)]

(8) Tenant may terminate this Lease at any time by giving thirty days written notice as described in this Lease.

(9) In deciding to evict for criminal activity, Housing Authority shall have discretion to consider (or not to consider) all of the circumstances of the case, including the seriousness of the offense, the extent of participation by or awareness of family members, and the effects that the eviction would have both on family members not involved in the proscribed activity and on the family's neighbors. In appropriate cases, Housing Authority may permit continued occupancy by remaining family members and may impose a condition that family members who engaged in the proscribed activity will neither reside in nor visit the unit. Housing Authority may require a family member who has engaged in the illegal use of drugs to present credible evidence of successful completion of a treatment program as a condition to being allowed to reside in the unit. [966.4 (l)(5)]

(10) When a Housing Authority evicts a Tenant from a dwelling unit for criminal activity Housing Authority shall notify he local post office serving that dwelling unit that such individual or family is no longer residing in the unit so the post office will stop mail delivery for such persons and they will have no reason to return to the unit. [966.4 (l)(5)(ii))]

16. **WAIVER**: No delay or failure by Housing Authority in exercising any right under this lease agreement, and no partial or single exercise of any such right shall constitute a waiver (post or prospective) of that or any other right, unless otherwise expressly provided herein.

17. **HOUSEKEEPING STANDARDS**: In an effort to improve the livability and conditions of the apartments owned and managed by Housing Authority, uniform standards for resident housekeeping have been developed for all tenant families.

    a. Housing Authority Responsibility: The standards that follow will be applied fairly and uniformly to all Tenants. Housing Authority will inspect each unit at least annually, to determine compliance with the standards. Upon completion of an inspection Housing Authority will notify Tenant in writing if he/she fails to comply with the standards. Housing Authority will advise Tenant of the specific correction(s) required establishing compliance, and indicating that training is available. Within a reasonable period of time, Housing Authority will schedule a second inspection. Failure of a second inspection will constitute a violation of the lease terms.

    b. Tenant responsibility: Tenant is required to abide by the standards set forth below. Failure to abide by the Housekeeping Standards that results in the creation or maintenance of a threat to health or safety is a violation of the lease terms and can result in eviction.

c. Housekeeping Standards: Inside the Apartment

(1) General:

(a) Walls: should be clean, free of dirt, grease, holes, cobwebs, and fingerprints.

(b) Floors: should be clean, clear, dry and free of hazards.

(c) Ceilings: should be clean and free of cobwebs.

(d) Windows: should be clean, not blocked by furniture and not nailed shut. Shades or blinds should be intact.

(e) Woodwork: should be clean, free of dust, gouges, or scratches.

(f) Doors: should be clean, free of grease and fingerprints. Doorstops should be present.

(g) Locks should work.

(h) Heating units: should be dusted and access uncluttered.

(i) Trash: shall be disposed of properly and not left in the unit.

(j) Entire unit should be free of rodent or insect infestation.

(2) Kitchen:

(a) Stove: should be clean and free of food and grease.

(b) Refrigerator: should be clean. Freezer door should close properly and freezer has no more than one inch of ice.

(c) Cabinets: should be clean and neat. Cabinet surfaces and countertop should be free of grease and spilled food. Cabinets should not be overloaded. Storage under the sink should be limited to small or lightweight items to permit access for repairs. Heavy pots and pans should not be stored under the sink.

(d) Exhaust Fan: should be free of grease and dust.

(e) Sink: should be clean, free of grease and garbage. Dirty dishes should be washed and put away in a timely manner.

(f) Food storage areas: should be neat and clean without spilled food.

(g) Trash/garbage: should be stored in a covered container until removed to the disposal area.

(3) Bathroom:

(a) Toilet and tank: should be clean and odor free.

(b) Tub and shower: should be clean and free of excessive mildew and mold. Where applicable, shower curtains should be in place, and of adequate length.

(c) Lavatory: should be clean.

(d) Exhaust fans: should be free of dust.

(e) Floor should be clean and dry.

(4) Storage Areas:

(a) Linen closet: should be neat and clean.

(b) Other closets: should be neat and clean. No highly volatile or flammable materials should be stored in the unit.

(c) Other storage areas: should be clean, neat and free of hazards.

d. Housekeeping Standards: Outside the Apartment

The following standards apply to family and scattered site development only; some standards apply only when the area noted is for the exclusive use of Tenant:

(1) Yards: should be free of debris, trash, and abandoned cars. Exterior walls should be free of graffiti.

(2) Porches (front and rear): should be clean and free of hazards. Any items stored on the porch shall not impede access to the unit.

(3) Steps (front and rear): should be clean, and free of hazards.

(4) Sidewalks: should be clean and free of hazards.

(5) Storm doors: should be clean, with glass or screens intact.

(6) Parking lots/spaces: should be free of abandoned cars. Only minor car repairs are allowed in the lots/spaces.

(10) Utility room: should be free of debris, motor vehicle parts, and flammable materials.

Tenant agrees that all the provisions of this lease have read and are understood and further agrees to be bound by its provisions and conditions as written.

I/We, the resident(s) whose signature(s) appear(s) immediately below, have read and do understand and hereby agree to the provisions of this lease and the conditions of occupancy set forth in this lease; and I/We hereby further agree that failure to observe and follow said lease provisions and conditions of occupancy will be just and proper cause for the termination and cancellation of this lease by management. I/We hereby further agree that upon expiration of the time limit contained in any written notice of cancellation from Management Representative, I/We will vacate the premises covered by this lease, without disturbance or delay. I/We also understand that this Lease contains a provision for the renewal of successive terms twelve months, unless terminated by thirty (30) days' prior written notice by resident, or thirty (30) days' prior written notice by management (or as otherwise stated herein).

Executed in Duplicate

HOUSING AUTHORITY OF THE COUNTY
OF SAN JOAQUIN

By_____ Date _____

_____
Title

RESIDENT(S)

_____ Date _____

_____ Date _____

Printed Name

_____

_____

Appendix III

House Rules

The purpose of these rules is to allow each resident to enjoy his or her unit and to better ensure the safety of residents and the appearance of the community. As a resident in a Development, you necessarily assume certain responsibilities that go along with the many benefits of the Community lifestyle. Basically, these are common rules of etiquette designed to make the community more enjoyable for all residents. Management reserves the right to take the necessary steps to enforce the House Rules. *Any violation of the rules will be grounds for termination of tenancy.*

Tenant Initial(s)

_____ **Disturbances:** Social and friendly gatherings of residents and their guests are welcomed and encouraged, provided that such gatherings do not become boisterous, obscene or generally objectionable to the other residents. Public drunkenness or drunkenness that disturbs other residents will not be tolerated. Residents are entirely responsible for the conduct of their guests in the unit or outside in the common areas. Keep stereos, radios, televisions, and all audio devices at minimum levels so that neighbors are not disturbed. Nothing should be done in or about the Development that will interfere with the rights, comfort or convenience of other residents.

There is to be **no** late night public drinking or partying on the grounds of the development. Any noise that can be heard outside is to cease by 10:00 p.m. (check with code enforcement for each site) and the level of noise prior to this should not be disturbing to any of the other Tenants.

_____ **Drug/Criminal Activity:** Resident must not be involved with any illegal or criminal activity. Residents must not be involved with any drug-related criminal activity on or off the premises including, but not limited to the following: the growing, manufacturing, producing, or selling of marijuana, met amphetamine or any illegal narcotic at the dwelling unit or premises.

_____ **Guests:** Residents are responsible for the guests' behavior in the unit and on the premises.

Disorderly guests will be requested to leave the premises by Management and residents will be responsible for any damage caused by their guests. Per your signed lease, guests are allowed to stay **no more than 14 days.**

Should you have difficulty in controlling their behavior then we suggest that you do not invite them back to visit as problems arising from the conduct of these guests could constitute a lease violation and subsequent notice to vacate.

_____ **Children:** Children **must be** adequately supervised at all times, so as not to disturb other tenants. All children **must be** supervised when playing in the "Common Areas". As a member of your household, your children will also be responsible to follow the House Rules

_____ **Community Appearance:** Since this Housing Development is your home, we ask that you treat it in that way. We are proud of our community and want and need your pride in the Development as well. In this way, it will be an attractive and safe place in which to live and entertain your guests. We ask that you abide by the following policies to maintain an attractive community and a safe environment and to protect the property:

_____ Window coverings are to be attractive to the surrounding. Sheets, blankets, aluminum foil, heavy paper, and other such items are not acceptable window coverings.

_____ Sidewalks, entrances, passages, courts, vestibules, stairways, corridors, and halls should not be obstructed or encumbered or used for any purpose other than entering and leaving your apartment.

_____ All common areas should be kept clear of furniture, bicycles, toys, and any other personal property and kept in a neat and clean manor.

_____ No sign, advertisement, notice or other lettering should be exhibited, inscribed, painted or affixed by any resident on any part of the outside or inside of the apartment or building without the prior written consent of management.

_____ No radio, television, or satellite aerials or wires should be erected in or about any part of your unit without prior completion of the request form and prior approval of management.

_____ Trees and shrubbery are a vital and valuable part of the community, and you will be liable for damages or any mutilation or defacing for which you, your children, or your guests are responsible.

_____ Holiday decorations (i.e. Christmas Lights, lawn ornaments, wreaths, etc.) can only be displayed 30 days prior and 30 days after the date of the Holiday. Any decorations not removed at that time will be removed by the management at the tenants expense utilizing the current approved maintenance hourly rate

_____ Any expense incurred by the management as a result of mistreatment of the unit or common areas will, insofar as necessary, be assessed against the residents responsible.

_____ Trampolines are not allowed in the Development. IF you have a trampoline you will be served a lease violation.

_____ Lawns are to mowed and kept tidy at all times. Lawns that are not properly maintained (i.e. lawns not mowed) will be mowed by management at the tenant's expense utilizing the current approved maintenance hourly rate.

_____ **Keys and Locks:** We supply a set of keys to the unit. All keys are to be returned to our office upon vacating the apartment. Residents are not permitted to alter any lock or install a new lock, knocker or other attachment on the door.

_____ **Swimming Pools:** Tenants must sign and agree to the "Addendum to Lease for Pool" before setting up a swimming pool. Swimming pools are limited to ten (10) inches high by six (6) feet across and must be located in a back yard with a locked gate. Tenant must provide proof of current renters insurance including subsequent renewals which includes coverage for damage and accidents. The yard and pool must be maintained in a neat and tidy manner.

_____ **Pets:** Limit one pet per dwelling unit. The pet must be approved in advance by Management. The pet owner must submit and enter into a Pet Consent Agreement with Management before the pet is brought into the premises, if applicable. Keeping unapproved pet is a violation of the House Rules and grounds for termination of your lease. Aide animals are not subject to this rule. Residents with animal must pay a pet security deposit of $300.

Your pet can not weight more than 20 pounds. All fish tanks must be 10 gallons or less.

At no times are your guests allowed to bring their "pets" with them to visit, nor are you allowed to watch someone's pet on your property. Failure to abide by these may be cause for termination of your tenancy

_____ **Automobiles:** Automobiles must be parked on the street or in parking spaces provided by the development. Please park in a manner that allows other cars easy access in and out. Do not "double park". Park only in designated areas, never in fire lanes. Cars that are parked in restricted areas will be towed away at the owner's expense.

You, any other household members, or your guests are not allowed to park on the lawn in either your yard or any common areas. You will be issued a lease violation and fined $25 for the first offense and $50 for subsequent offenses. Excessive lease violations could lead to termination of your lease.

Only those individuals who are "Handicapped" use the space provided for "Handicapped Parking". Those who violate the parking guidelines will have their vehicle towed away at their own expense and subject to a lease violation.

All cars must be licensed and drivable. They should not be "stored" in parking areas. Vehicles found on the premises in a "non-operable" condition, with flat tires or on jacks, supports or bare wheels, will be removed at the owner's expense. Expired licenses indicate a "stored" condition, and the vehicle will be removed.

We also ask that residents not perform any major repairs on their cars at the development. Changing of a battery, tire, air filter, or other minor repair not lasting more than 4 hours will be allowed. **Note: Changing oil is not permitted at any time and constitutes a lease violation.** Please, always properly dispose of refuse.

_____ **Trash Disposal and Refuse:** For Trash **must** be bagged and tied or wrapped and should be placed **only in your** unit numbered trash receptacle that you are provided. Follow the guidelines that were given to you at Move-In.

_____ **Screens:** Any lease holder or resident who removes a screen from a window except in an extreme emergency, such as fire, will receive a substantial charge for re-installation and if necessary the cost of a new screen. This will be considered a lease violation.

_____ **Waterbeds:** Waterbeds are NOT ALLOWED in any unit unless arrangements are made in advance and Management has given WRITTEN APPROVAL and a copy of the tenant's waterbed insurance is provided to management.

_____ **Plumbing:** Plumbing facilities must be used only for the purpose for which they were designed and constructed. Do not drop/flush sanitary napkins, rags, matches, cigarettes, coarse paper, or kitchen refuse in the toilet bowl. All resident-caused plumbing stoppage is the tenant's responsibility and any resulting costs will be charged to the tenant.

_____ **Damage to Unit:** Tenants will be required to pay for all damage to apartments cause by their negligence. Management reserves the right to enter the apartments at all reasonable hours to protect the premises and contents from damage and to make repairs. A 24 hour notice is required except in emergency situations.

_____ **Painting:** Painting of any portion of the unit is not permitted.

_____ **Fire Department Regulations and Fire Precautions:** Please report any fires to the Fire Department and the office immediately. Always give an accurate and understandable address to aid fire units in locating the fire. Storage of kerosene, gasoline or other flammable or explosive agents is prohibited. Fire regulations prohibit residents from installing burglar gates, or grill cooking on the porches.

The best way to stop fire is to prevent it before it starts:

- Store all items safely.
- Empty waste and trash containers daily.
- Dispose of newspapers and magazines regularly.
- Store all matches in tightly closed metal containers.
- Clean grease and spilled food daily from cooking range and oven.
- Store cooking grease containers away from range.
- Never wear flimsy clothing or plastic aprons when cooking.
- Keep curtains, towels, potholders, and other flammable items away from cooking range top.
- Please refrain from smoking in bed.
- Have plenty of ashtrays for smokers to use.
- Never empty ashtrays in wastebaskets until the ash has been soaked.
- Always keep household equipment clean and in good repair.
- Have worn and frayed electrical cords replaced immediately.
- Avoid overloading electric wiring circuits.
- Use a heat-resistant pad under toasters, grills, and other appliances.

_____ **Smoke Detectors:** Smoke detectors have been installed in your unit in compliance with city ordinances and to provide an additional measure of safety for you. These devices are designed to sense the visible and invisible products of combustion created by a fire, and are intended to give early warning in case of smoke or fire. However, they cannot be expected to protect against fires resulting from smoking in bed. The battery that powers the detector should last at least one year. However, you should test its operation once each month to assure yourself of proper functioning. (Test the battery by firmly depressing the button located near the center of the detector cover for a few seconds. The alarm will sound as it would if smoke from a fire were actually present. If the alarm does not sound, call the management office immediately.)

_____ **Tenant Insurance:** In the event of loss or damage by fire or other casualty to your apartment due to your own fault or that of your guests, you will be charged and billed for restoration of the loss or the damaged premises. Therefore, we strongly recommend that you contact an insurance agent to obtain Renters' Insurance, Household Goods and Liability Insurance or another similar policy to cover your personal belongings against vandalism, fire, burglary, and water damage as well as personal liability. Our insurance **does not** cover your personal belongings or liability.

_____ **Vacations or Absence from Unit:** It is advisable to notify the mail carrier, newspaper and all other routine delivery people when you plan to be away from your home for an extended period. The Post Office can hold your mail and other deliveries for you until you return. A growing pile of newspapers allows too many people to know you are absent. Before leaving on your vacation, cupboards should be checked for unwrapped foodstuffs. The garbage should be emptied. Mail a check to cover the rent if the rental payment due date comes during your vacation. (Your rent is due on the first day of each month, whether you are here or not.)

Keep all windows closed during your absence to prevent rain damage to draperies, carpeting, and unit interiors. Check all electrical appliances (such as the stove or coffeepot to be certain that they are unplugged or off. It is required to notify the office if you will be away for an extended period of time.

The following information pertains to Move-ins and Move-outs.

1. The moving or removing of any furniture, boxes, or any other articles to or from your unit shall be done at reasonable hours, so as not to disturb other tenants. Any damage caused by moving shall be your responsibility and as such you will be charged accordingly.

2. Charges at move-out will be levied where damages and abnormal wear have been caused by the abuse or misuse of the tenant, household members or guest of the

household. The Authority will not charge the tenant for the on-going refurbishment of the unit or items needed attention due to normal wear and tear.

3. **CHECK-IN** – You are responsible for a check-in with the Authority at move-in and you should be very careful that any items needing repair are noted on the **MOVE-IN INSPECTION REPORT,** so that you will not be held responsible for any damages that you did not do.

4. **CHECK-OUT** – You are responsible for making an appointment to check-out with the Authority and returning the keys. For any days beyond your move-out date, that the keys are not returned, you will be charged rent at the daily pro-rated amount. You are responsible to call all utility companies to have final readings taken.

The following is a list of items that need to be cleaned by the tenant (you) **prior** to move-out. Any failure on the part of the tenant to leave the unit and its appliances or fixtures clean will result in deductions from the Security Deposit and possibly remove the ability of you to remain in or return to Public Housing.

- All debris must be removed from the unit, storage shed, patio and any and all areas assigned to your unit.
- The walls and floor behind and around the stove should be cleaned.
- Entire bathroom which includes but is not limited to; sinks, tub, tile and toilets must be cleaned.
- Light fixtures should be clean and if any bulbs are missing or broken they need to be replaced.
- Closets and cabinets should be cleaned thoroughly inside and outside (kitchen area will probably need degreaser).
- All floors, walls and stairs must be swept and wiped.
- If your windows are excessively dirty from smoking or cooking, they should be cleaned.
- Any carpet tape, contact paper or shelf paper, picture hooks, etc. should be removed and disposed of.
- All units with carpet must have the carpet professionally cleaned before the unit is vacated

You can expect a letter with an accounting of charges, if any, levied against your security deposit within21 days after the end of the month in which you vacated your unit. You should discuss anything that you might be charged with when you conduct your check-out with the Authority. If

you abandon the unit or are not present for the check-out you have no chance to dispute any charges for damages or cleaning. Any charges that exceed your security deposit, including unpaid rent, late fees, NSF fees, prior back charges, sales and service, attorney fees etc., will be listed on the Authority's notice to you and payment of those charges should be remitted to the Authority **IMMEDIATELY**. If the Authority does not receive payment from you, we will turn your account over to an agency for collection.

The Housing Authority will serve a 30 day notice to vacate to any tenant receiving 4 Lease Violations in a 12 month period.

I/We hereby acknowledge that I/We have received a copy of the House Rules & Regulations and agree that we will abide by them.

_____	_____
Head of Household	Date
_____	_____
Spouse/Adult/Co-Head	Date
_____	_____
Other Adult or Live-In Aide	Date
_____	_____
Other Adult or Live-in Aide	Date
_____	_____
Other Adult or Live-in Aide	Date

Annual Statement/Performance and Evaluation Report
Capital Fund Program, Capital Fund Program Replacement Housing Factor and
Capital Fund Financing Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB No. 2577-0226
Expires 4/30/2011

Part I: Summary

PHA Name: Housing Authority of the County of San Joaquin	**Grant Type and Number** Capital Fund Program Grant No: CA30P02450108 Replacement Housing Factor Grant No: Date of CFFP: _____	**FFY of Grant:** 2008 **FFY of Grant Approval:** 2008

Type of Grant
☐ **Original Annual Statement** ☐ **Reserve for Disasters/Emergencies** ☐ **Revised Annual Statement (revision no:)**
☒ **Performance and Evaluation Report for Period Ending:** ☐ **Final Performance and Evaluation Report**

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost [1]	
		Original	Revised [2]	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations (may not exceed 20% of line 21) [3]				
3	1408 Management Improvements	336,016.00			
4	1410 Administration (may not exceed 10% of line 21)	225,677.00			
5	1411 Audit	2,500.00			
6	1415 Liquidated Damages				
7	1430 Fees and Costs				
8	1440 Site Acquisition				
9	1450 Site Improvement	464,727.00			
10	1460 Dwelling Structures	1,100,005.00			
11	1465.1 Dwelling Equipment—Nonexpendable	22,570.00			
12	1470 Non-dwelling Structures	15,000.00			
13	1475 Non-dwelling Equipment	90,271.00			
14	1485 Demolition				
15	1492 Moving to Work Demonstration				
16	1495.1 Relocation Costs				
17	1499 Development Activities [4]				
18a	1501 Collateralization or Debt Service paid by the PHA				
18ba	9000 Collateralization or Debt Service paid Via System of Direct Payment				
19	1502 Contingency (may not exceed 8% of line 20)	2,256,766.00			
20	Amount of Annual Grant: (sum of lines 2 – 19)				
21	Amount of line 20 Related to LBP Activities				
22	Amount of line 20 Related to Section 504 Activities				
23	Amount of line 20 Related to Security – Soft Costs				
24	Amount of line 20 Related to Security – Hard Costs				
25	Amount of line 20 Related to Energy Conservation Measures				

[1] To be completed for the Performance and Evaluation Report.
[2] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[3] PHAs with under 250 units in management may use 100% of CFP Grants for operations.
[4] RHF funds shall be included here.

Part I: Summary

PHA Name:	**Grant Type and Number**	**FFY of Grant:**
Housing Authority of the County of San Joaquin	Capital Fund Program Grant No: CA30P02450108 Replacement Housing Factor Grant No: Date of CFFP: _____	2008 **FFY of Grant Approval:** 2008

Type of Grant
☐ **Original Annual Statement** ☐ **Reserve for Disasters/Emergencies** ☐ **Revised Annual Statement (revision no:)**
☑ **Performance and Evaluation Report for Period Ending:** ☐ **Final Performance and Evaluation Report**

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost [1]	
		Original	Revised [2]	Obligated	Expended

Signature of Executive Director	**Date**	**Signature of Public Housing Director**	**Date**

Part II: Supporting Pages

PHA Name: Housing Authority of the County of San Joaquin	**Grant Type and Number** Capital Fund Program Grant No: CA30P02450108 CFFP (Yes/ No): Replacement Housing Factor Grant No:	**Federal FFY of Grant:** 2008

Development Number Name/PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised [1]	Funds Obligated [2]	Funds Expended [2]	
PHA-Wide	Management Improvements	1408		336,016.00				
PHA-Wide	Administration	1410		225,677.00				
PHA-Wide	Audit	1411		2,500.00				
Sierra Vista	Site Improvements-tree trimming,	1450		263,962.00				
CA024000241	security improvemts, concrete repairs							
	Dwelling Structures-roof repairs,	1460		299,576.00				
	interior painting, HVAC replacements							
	Dwelling Equipment	1465		8,272.00				
	Non-Dwelling Structures-day care	1470		15,000.00				
	facility repairs							
Diablo Homes	Site Improvements-tree trimming,	1450		16,726.00				
CA024000242	landscape improvements							
	Dwelling Structures-bathroom/kitchen	1460		270,943.00				
	remodel, window replacements,							
	Dwelling Equipment	1465		4,095.00				

[1] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[2] To be completed for the Performance and Evaluation Report.

Part II: Supporting Pages

PHA Name: Housing Authority of the County of San Joaquin	**Grant Type and Number** Capital Fund Program Grant No: CA30P02450108 CFFP (Yes/ No): Replacement Housing Factor Grant No:	**Federal FFY of Grant:** 2008

Development Number Name/PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised [1]	Funds Obligated [2]	Funds Expended [2]	
Mokelumne Manor	Site Improvements-sewage pond	1450		70,408.00				
CA024000243	treatment, shade covers, benches							
	Dwelling Structures-roof repairs	1460		3,000.00				
	Dwelling Equipment	1465		1,050.00				
Conway Homes	Site Improvements-ADA & landscape	1450		113,631.00				
CA024000244	improvements							
	Dwelling Structures-bathroom/kithcen	1460		526,486.00				
	remodel, install grease shields, GFCI							
	Dwelling Equipment	1465		9,153.00				
PHA-Wide	Non-Dwelling Equipment-upgrade	1475		90,271.00				
	phone system							

[1] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[2] To be completed for the Performance and Evaluation Report.

Part III: Implementation Schedule for Capital Fund Financing Program					
PHA Name:					**Federal FFY of Grant:**
Development Number Name/PHA-Wide Activities	All Fund Obligated (Quarter Ending Date)		All Funds Expended (Quarter Ending Date)		Reasons for Revised Target Dates [1]
	Original Obligation End Date	Actual Obligation End Date	Original Expenditure End Date	Actual Expenditure End Date	

[1] Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Part III: Implementation Schedule for Capital Fund Financing Program					
PHA Name:					**Federal FFY of Grant:**
Development Number Name/PHA-Wide Activities	All Fund Obligated (Quarter Ending Date)		All Funds Expended (Quarter Ending Date)		Reasons for Revised Target Dates [1]
	Original Obligation End Date	Actual Obligation End Date	Original Expenditure End Date	Actual Expenditure End Date	

[1] Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Annual Statement/Performance and Evaluation Report
Capital Fund Program, Capital Fund Program Replacement Housing Factor and
Capital Fund Financing Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB No. 2577-0226
Expires 4/30/2011

Part I: Summary

PHA Name:	**Grant Type and Number**	**FFY of Grant:**
Housing Authority of the County of San Joaquin	Capital Fund Program Grant No: CA30P02450107 Replacement Housing Factor Grant No: Date of CFFP: _____	2007 **FFY of Grant Approval:** 2007

Type of Grant
☐ **Original Annual Statement** ☐ **Reserve for Disasters/Emergencies** ☐ **Revised Annual Statement (revision no:)**
☒ **Performance and Evaluation Report for Period Ending:** ☐ **Final Performance and Evaluation Report**

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost [1]	
		Original	Revised [2]	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations (may not exceed 20% of line 21) [3]				
3	1408 Management Improvements	434,593.00	464,038.00		
4	1410 Administration (may not exceed 10% of line 21)	217,296.00	232,019.00		
5	1411 Audit	1,500.00	1,500.00		
6	1415 Liquidated Damages				
7	1430 Fees and Costs	245,500.00	245,500.00		
8	1440 Site Acquisition				
9	1450 Site Improvement	104,178.00	104,178.00		
10	1460 Dwelling Structures	80,847.00	183,901.00		
11	1465.1 Dwelling Equipment—Nonexpendable				
12	1470 Non-dwelling Structures	23,332.00	23,332.00		
13	1475 Non-dwelling Equipment	190,271.00	190,721.00		
14	1485 Demolition	675,000.00	675,000.00		
15	1492 Moving to Work Demonstration				
16	1495.1 Relocation Costs	200,000.00	200,000.00		
17	1499 Development Activities [4]				
18a	1501 Collateralization or Debt Service paid by the PHA				
18ba	9000 Collateralization or Debt Service paid Via System of Direct Payment				
19	1502 Contingency (may not exceed 8% of line 20)	2,172,967.00	2,320,189.00		
20	Amount of Annual Grant: (sum of lines 2 – 19)				
21	Amount of line 20 Related to LBP Activities				
22	Amount of line 20 Related to Section 504 Activities				
23	Amount of line 20 Related to Security – Soft Costs				
24	Amount of line 20 Related to Security – Hard Costs	75,000.00	79,207.00		
25	Amount of line 20 Related to Energy Conservation Measures				

[1] To be completed for the Performance and Evaluation Report.
[2] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[3] PHAs with under 250 units in management may use 100% of CFP Grants for operations.
[4] RHF funds shall be included here.

Part I: Summary

PHA Name:	**Grant Type and Number**	**FFY of Grant:**
Housing Authority of the County of San Joaquin	Capital Fund Program Grant No: CA30P02450107 Date of CFFP: _____ Replacement Housing Factor Grant No:	2007 **FFY of Grant Approval:** 2007

Type of Grant

☐ **Original Annual Statement** ☐ **Reserve for Disasters/Emergencies** ☐ **Revised Annual Statement (revision no:)**

☑ **Performance and Evaluation Report for Period Ending:** ☐ **Final Performance and Evaluation Report**

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost [1]	
		Original	Revised [2]	Obligated	Expended

Signature of Executive Director	Date	Signature of Public Housing Director	Date

Part II: Supporting Pages

PHA Name: Housing Authority of the County of San Joaquin	**Grant Type and Number** Capital Fund Program Grant No: CA30P02450107 CFFP (Yes/ No): Replacement Housing Factor Grant No:	**Federal FFY of Grant:** 2007

Development Number Name/PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised [1]	Funds Obligated [2]	Funds Expended [2]	
PHA-Wide	Management Improvements	1408		434,593.00	464,038.00			
PHA-Wide	Administration	1410		217,296.00	232,019.00			
PHA-Wide	Audit	1411		1,500.00	1,500.00			
PHA-Wide	Fees and Costs	1430		245,500.00	245,500.00			
PHA-Wide	Non-Dwelling Equipment	1475		190,721.00	190,721.00			
PHA-Wide	Relocation	1495		200,000.00	200,000.00			
Sierra Vista	Site Improvements	1450		8,949.00	8,949.00			
CA024000241	Dwelling Structures	1460		6,945.00	6,945.00			
	Non-Dwelling Structures	1470		2,004.00	2,004.00			
	Demolition	1485		675,000.00	675,000.00			
Diablo Homes	Site Improvements	1450		27,269.00	27,269.00			
CA024000242	Dwelling Structures	1460		21,161.00	72,688.00			

[1] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[2] To be completed for the Performance and Evaluation Report.

Part II: Supporting Pages

PHA Name: Housing Authority of the County of San Joaquin	**Grant Type and Number** Capital Fund Program Grant No: CA30P02450107 CFFP (Yes/ No): Replacement Housing Factor Grant No:	**Federal FFY of Grant:** 2007

Development Number Name/PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised [1]	Funds Obligated [2]	Funds Expended [2]	
	Non-Dwelling Structures	1470		6,108.00	6,108.00			
Mokelumne Manor	Site Improvements	1450		6,991.00	6,991.00			
CA024000243	Dwelling Structures	1460		5,426.00	5,426.00			
	Non-Dwelling Structures	1470		1,565.00	1,565.00			
Conway Homes	Site Improvements	1450		60,969.00	60,969.00			
CA024000244	Dwelling Structures	1460		47,315.00	98,842.00			
	Non-Dwelling Structures	1470		13,655.00	13,655.00			

[1] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[2] To be completed for the Performance and Evaluation Report.

Part III: Implementation Schedule for Capital Fund Financing Program					
PHA Name:					**Federal FFY of Grant:**
Development Number Name/PHA-Wide Activities	All Fund Obligated (Quarter Ending Date)		All Funds Expended (Quarter Ending Date)		Reasons for Revised Target Dates [1]
	Original Obligation End Date	Actual Obligation End Date	Original Expenditure End Date	Actual Expenditure End Date	

[1] Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Part III: Implementation Schedule for Capital Fund Financing Program					
PHA Name:					**Federal FFY of Grant:**
Development Number Name/PHA-Wide Activities	All Fund Obligated (Quarter Ending Date)		All Funds Expended (Quarter Ending Date)		Reasons for Revised Target Dates [1]
	Original Obligation End Date	Actual Obligation End Date	Original Expenditure End Date	Actual Expenditure End Date	

[1] Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Annual Statement/Performance and Evaluation Report
Capital Fund Program, Capital Fund Program Replacement Housing Factor and
Capital Fund Financing Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB No. 2577-0226
Expires 4/30/2011

Part I: Summary

PHA Name:	**Grant Type and Number**	**FFY of Grant:**
Housing Authority of the County of San Joaquin	Capital Fund Program Grant No: CA30P02450206 Replacement Housing Factor Grant No: Date of CFFP: _____	2007 **FFY of Grant Approval:** 2007

Type of Grant
☐ **Original Annual Statement** ☐ **Reserve for Disasters/Emergencies** ☐ **Revised Annual Statement (revision no:)**
☒ **Performance and Evaluation Report for Period Ending:** ☐ **Final Performance and Evaluation Report**

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost [1]	
		Original	Revised [2]	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations (may not exceed 20% of line 21) [3]				
3	1408 Management Improvements	12,839.00	0.00		
4	1410 Administration (may not exceed 10% of line 21)	6,419.80	0.00		
5	1411 Audit				
6	1415 Liquidated Damages				
7	1430 Fees and Costs	6,419.80	0.00		
8	1440 Site Acquisition				
9	1450 Site Improvement		25,385.68		
10	1460 Dwelling Structures				
11	1465.1 Dwelling Equipment—Nonexpendable				
12	1470 Non-dwelling Structures				
13	1475 Non-dwelling Equipment		38,812.32		
14	1485 Demolition	38,519.40	0.00		
15	1492 Moving to Work Demonstration				
16	1495.1 Relocation Costs				
17	1499 Development Activities [4]				
18a	1501 Collateralization or Debt Service paid by the PHA				
18ba	9000 Collateralization or Debt Service paid Via System of Direct Payment				
19	1502 Contingency (may not exceed 8% of line 20)	64,198.00	64,198.00		
20	Amount of Annual Grant: (sum of lines 2 – 19)				
21	Amount of line 20 Related to LBP Activities				
22	Amount of line 20 Related to Section 504 Activities				
23	Amount of line 20 Related to Security – Soft Costs				
24	Amount of line 20 Related to Security – Hard Costs				
25	Amount of line 20 Related to Energy Conservation Measures				

[1] To be completed for the Performance and Evaluation Report.
[2] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[3] PHAs with under 250 units in management may use 100% of CFP Grants for operations.
[4] RHF funds shall be included here.

Part I: Summary

PHA Name:	**Grant Type and Number**	**FFY of Grant:**
Housing Authority of the County of San Joaquin	Capital Fund Program Grant No: CA30P02450206 Date of CFFP: _____ Replacement Housing Factor Grant No:	2007 **FFY of Grant Approval:** 2007

Type of Grant

☐ **Original Annual Statement** ☐ **Reserve for Disasters/Emergencies** ☐ **Revised Annual Statement (revision no:)**

☑ **Performance and Evaluation Report for Period Ending:** ☐ **Final Performance and Evaluation Report**

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost [1]	
		Original	Revised [2]	Obligated	Expended

Signature of Executive Director	Date	Signature of Public Housing Director	Date

Part II: Supporting Pages

PHA Name: Housing Authority of the County of San Joaquin	**Grant Type and Number** Capital Fund Program Grant No: CA30P02450206 CFFP (Yes/ No): Replacement Housing Factor Grant No:	**Federal FFY of Grant:** 2007

Development Number Name/PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised [1]	Funds Obligated [2]	Funds Expended [2]	
PHA-Wide	Management Improvements	1408		12,839.00	0.00			
PHA-Wide	Administration	1410		6,419.80	0.00			
PHA-Wide	Fees and Costs	1430		6,419.80	0.00			
Mokelumne Manor	Site Improvements-concrete repairs	1450		0.00	25,385.68			
CA024000243	Non-Dwelling Equipment-playground	1475		0.00	38,812.32			
	equipment							
Sierra Vista	Demolition	1485		38,519.40	0.00			
CA024000241								

[1] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[2] To be completed for the Performance and Evaluation Report.

Part II: Supporting Pages

PHA Name: Housing Authority of the County of San Joaquin	**Grant Type and Number** Capital Fund Program Grant No: CA30P02450206 CFFP (Yes/ No): Replacement Housing Factor Grant No:	**Federal FFY of Grant:** 2007

Development Number Name/PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised [1]	Funds Obligated [2]	Funds Expended [2]	

[1] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[2] To be completed for the Performance and Evaluation Report.

Part III: Implementation Schedule for Capital Fund Financing Program					
PHA Name:					**Federal FFY of Grant:**
Development Number Name/PHA-Wide Activities	All Fund Obligated (Quarter Ending Date)		All Funds Expended (Quarter Ending Date)		Reasons for Revised Target Dates [1]
	Original Obligation End Date	Actual Obligation End Date	Original Expenditure End Date	Actual Expenditure End Date	

[1] Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Part III: Implementation Schedule for Capital Fund Financing Program					
PHA Name:					**Federal FFY of Grant:**
Development Number Name/PHA-Wide Activities	All Fund Obligated (Quarter Ending Date)		All Funds Expended (Quarter Ending Date)		Reasons for Revised Target Dates [1]
	Original Obligation End Date	Actual Obligation End Date	Original Expenditure End Date	Actual Expenditure End Date	

[1] Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Annual Statement/Performance and Evaluation Report
Capital Fund Program, Capital Fund Program Replacement Housing Factor and
Capital Fund Financing Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB No. 2577-0226
Expires 4/30/2011

Part I: Summary

PHA Name:	**Grant Type and Number**	**FFY of Grant:**
Housing Authority of the County of San Joaquin	Capital Fund Program Grant No: CA30P02450106 Replacement Housing Factor Grant No: Date of CFFP: _____	2006 **FFY of Grant Approval:** 2006

Type of Grant
☐ **Original Annual Statement** ☐ **Reserve for Disasters/Emergencies** ☐ **Revised Annual Statement (revision no:)**
☒ **Performance and Evaluation Report for Period Ending:** ☐ **Final Performance and Evaluation Report**

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost [1]	
		Original	Revised [2]	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations (may not exceed 20% of line 21) [3]				
3	1408 Management Improvements	434,593.00			
4	1410 Administration (may not exceed 10% of line 21)	217,296.00			
5	1411 Audit	1,500.00			
6	1415 Liquidated Damages				
7	1430 Fees and Costs	245,500.00			
8	1440 Site Acquisition				
9	1450 Site Improvement	104,178.00			
10	1460 Dwelling Structures	80,847.00			
11	1465.1 Dwelling Equipment—Nonexpendable				
12	1470 Non-dwelling Structures	23,332.00			
13	1475 Non-dwelling Equipment	190,271.00			
14	1485 Demolition	875,000.00			
15	1492 Moving to Work Demonstration				
16	1495.1 Relocation Costs				
17	1499 Development Activities [4]				
18a	1501 Collateralization or Debt Service paid by the PHA				
18ba	9000 Collateralization or Debt Service paid Via System of Direct Payment				
19	1502 Contingency (may not exceed 8% of line 20)	2,172,967.00			
20	Amount of Annual Grant: (sum of lines 2 – 19)				
21	Amount of line 20 Related to LBP Activities				
22	Amount of line 20 Related to Section 504 Activities				
23	Amount of line 20 Related to Security – Soft Costs	255,393.00			
24	Amount of line 20 Related to Security – Hard Costs				
25	Amount of line 20 Related to Energy Conservation Measures				

[1] To be completed for the Performance and Evaluation Report.
[2] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[3] PHAs with under 250 units in management may use 100% of CFP Grants for operations.
[4] RHF funds shall be included here.

Part I: Summary

PHA Name:	**Grant Type and Number**	**FFY of Grant:**
Housing Authority of the County of San Joaquin	Capital Fund Program Grant No: CA30P02450106 Date of CFFP: _____ Replacement Housing Factor Grant No:	2006 **FFY of Grant Approval:** 2006

Type of Grant

☐ **Original Annual Statement** ☐ **Reserve for Disasters/Emergencies** ☐ **Revised Annual Statement (revision no:)**

☑ **Performance and Evaluation Report for Period Ending:** ☐ **Final Performance and Evaluation Report**

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost [1]	
		Original	Revised [2]	Obligated	Expended

Signature of Executive Director	Date	Signature of Public Housing Director	Date

Part II: Supporting Pages

PHA Name: Housing Authority of the County of San Joaquin	**Grant Type and Number** Capital Fund Program Grant No: CA30P02450106 CFFP (Yes/ No): Replacement Housing Factor Grant No:	**Federal FFY of Grant:** 2006

Development Number Name/PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised [1]	Funds Obligated [2]	Funds Expended [2]	
PHA-Wide	Management Improvements	1408		434,593.00				
PHA-Wide	Administration	1410		217,296.00				
PHA-Wide	Audit	1411		1,500.00				
PHA-Wide	Fees and Costs	1430		245,500.00				
PHA-Wide	Non-Dwelling Equipment	1475		190,721.00				
Sierra Vista	Site Improvements	1450		13,099.00				
CA024000241	Non-Dwelling Structures	1470		13,099.00				
	Demolition	1485		875,000.00				
Diablo Homes	Site Improvements	1450		39,911.00				
CA024000242	Dwelling Structures	1460		39,912.00				
Mokelumne Manor	Site Improvements	1450		10,233.00				
CA024000243	Non-Dwelling Structures	1460		10,233.00				

[1] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[2] To be completed for the Performance and Evaluation Report.

Part II: Supporting Pages

PHA Name: Housing Authority of the County of San Joaquin	**Grant Type and Number** Capital Fund Program Grant No: CA30P02450106 CFFP (Yes/ No): Replacement Housing Factor Grant No:	**Federal FFY of Grant:** 2006

Development Number Name/PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised [1]	Funds Obligated [2]	Funds Expended [2]	
Conway Homes	Site Improvements	1450		40,935.00				
CA024000244	Dwelling Structures	1460		40,935.00				

[1] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[2] To be completed for the Performance and Evaluation Report.

Part III: Implementation Schedule for Capital Fund Financing Program					
PHA Name:					**Federal FFY of Grant:**
Development Number Name/PHA-Wide Activities	All Fund Obligated (Quarter Ending Date)		All Funds Expended (Quarter Ending Date)		Reasons for Revised Target Dates [1]
	Original Obligation End Date	Actual Obligation End Date	Original Expenditure End Date	Actual Expenditure End Date	

[1] Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Part III: Implementation Schedule for Capital Fund Financing Program					
PHA Name:					**Federal FFY of Grant:**
Development Number Name/PHA-Wide Activities	All Fund Obligated (Quarter Ending Date)		All Funds Expended (Quarter Ending Date)		Reasons for Revised Target Dates [1]
	Original Obligation End Date	Actual Obligation End Date	Original Expenditure End Date	Actual Expenditure End Date	

[1] Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Annual Statement/Performance and Evaluation Report
Capital Fund Program, Capital Fund Program Replacement Housing Factor and
Capital Fund Financing Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB No. 2577-0226
Expires 4/30/2011

Part I: Summary

PHA Name:	**Grant Type and Number**	**FFY of Grant:**
Housing Authority of the County of San Joaquin	Capital Fund Program Grant No: CA30P02450105 Replacement Housing Factor Grant No: Date of CFFP: _____	2005 **FFY of Grant Approval:** 2005

Type of Grant
☐ **Original Annual Statement** ☐ **Reserve for Disasters/Emergencies** ☐ **Revised Annual Statement (revision no:)**
☒ **Performance and Evaluation Report for Period Ending:** ☐ **Final Performance and Evaluation Report**

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost [1]	
		Original	Revised [2]	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations (may not exceed 20% of line 21) [3]				
3	1408 Management Improvements	454,200.00	337,788.00	337,788.00	32,826.17
4	1410 Administration (may not exceed 10% of line 21)	247,780.00	248,894.00	248,894.00	18,653.99
5	1411 Audit	1,500.00	1,500.00	1,500.00	1,500.00
6	1415 Liquidated Damages				
7	1430 Fees and Costs	231,000.00	114,956.00	114,956.00	34,153.32
8	1440 Site Acquisition				
9	1450 Site Improvement	75,696.00	590,802.00	590,802.00	75,696.00
10	1460 Dwelling Structures	390,377.00	1,015,000.00	1,015,000.00	148,110.11
11	1465.1 Dwelling Equipment—Nonexpendable				
12	1470 Non-dwelling Structures	0.00	30,000.00	30,000.00	
13	1475 Non-dwelling Equipment	213,387.00	150,000.00	150,000.00	12,966.43
14	1485 Demolition				
15	1492 Moving to Work Demonstration				
16	1495.1 Relocation Costs				
17	1499 Development Activities [4]				
18a	1501 Collateralization or Debt Service paid by the PHA	875,000.00	0.00	0.00	0.00
18ba	9000 Collateralization or Debt Service paid Via System of Direct Payment				
19	1502 Contingency (may not exceed 8% of line 20)				
20	Amount of Annual Grant: (sum of lines 2 – 19)	2,488,940.00	2,488,940.00	2,488,940.00	323,906.02
21	Amount of line 20 Related to LBP Activities				
22	Amount of line 20 Related to Section 504 Activities				
23	Amount of line 20 Related to Security – Soft Costs				
24	Amount of line 20 Related to Security – Hard Costs				
25	Amount of line 20 Related to Energy Conservation Measures				

[1] To be completed for the Performance and Evaluation Report.
[2] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[3] PHAs with under 250 units in management may use 100% of CFP Grants for operations.
[4] RHF funds shall be included here.

Part I: Summary

PHA Name:	**Grant Type and Number**	**FFY of Grant:**
Housing Authority of the County of San Joaquin	Capital Fund Program Grant No: CA30P02450105 Replacement Housing Factor Grant No: Date of CFFP: _____	2005 **FFY of Grant Approval:** 2005

Type of Grant
☐ **Original Annual Statement** ☐ **Reserve for Disasters/Emergencies** ☐ **Revised Annual Statement (revision no:)**
☑ **Performance and Evaluation Report for Period Ending:** ☐ **Final Performance and Evaluation Report**

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost [1]	
		Original	Revised [2]	Obligated	Expended

Signature of Executive Director	Date	Signature of Public Housing Director	Date

Part II: Supporting Pages

PHA Name: Housing Authority of the County of San Joaquin	**Grant Type and Number** Capital Fund Program Grant No: CA30P02450105 CFFP (Yes/ No): Replacement Housing Factor Grant No:	**Federal FFY of Grant:** 2005

Development Number Name/PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised [1]	Funds Obligated [2]	Funds Expended [2]	
PHA-Wide	Program Service Coordinator	1408		0.00	63,588.00	63,588.00	6,564.89	
	Security Patrols and Monitoring			75,000.00	75,000.00	75,000.00	13,995.28	
	Community Policing Program			200,000.00	0.00	0.00	0.00	
	MIS Staff Person/Consultant			35,000.00	55,000.00	55,000.00	0.00	
	Staff Training			41,200.00	41,200.00	41,200.00	8,131.08	
	Resident Initiatives "Team"			20,600.00	20,600.00	20,600.00	4,116.00	
	HR Department Implementation			20,600.00	20,600.00	20,600.00	0.00	
	Computer Software License			61,800.00	61,800.00	61,800.00	18.92	
PHA-Wide	Non-Technical Salaries	1410		46,350.00	47,464.00	47,464.00	0.00	
	Technical Salaries			84,460.00	84,460.00	84,460.00	8,451.91	
	Benefits			59,740.00	59,740.00	59,740.00	2,552.84	
	Advertisting			6,180.00	6,180.00	6,180.00	0.00	
	Sundry Costs			36,050.00	36,050.00	36,050.00	7,649.24	
	Travel			15,000.00	15,000.00	15,000.00	0.00	
PHA-Wide	Audit	1411		1,500.00	1,500.00	1,500.00	1,500.00	
PHA-Wide	Architectural/Engineering Fees	1430		126,000.00	39,956.00	39,956.00	0.00	
	Permit/Consultant Fees			94,500.00	70,000.00	70,000.00	34,153.32	

[1] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[2] To be completed for the Performance and Evaluation Report.

Part II: Supporting Pages

PHA Name: Housing Authority of the County of San Joaquin	**Grant Type and Number** Capital Fund Program Grant No: CA30P02450105 CFFP (Yes/ No): Replacement Housing Factor Grant No:	**Federal FFY of Grant:** 2005

Development Number Name/PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised [1]	Funds Obligated [2]	Funds Expended [2]	
PHA-Wide	Sundry Planning	1430		10,500.00	5,000.00	5,000.00	0.00	ongoing
CA 24-01	Site Improvements	1450		32,234.00	150,000.00	150,000.00	39,371.00	ongoing
Sierra Vista	Dwelling Structures	1460		100,000.00	450,000.00	450,000.00	65,196.31	ongoing
Homes								
CA-24-02	Site Improvements	1450		5,862.00	65,000.00	65,000.00	0.00	ongoing
Tracy Homes	Dwelling Structures	1460		61,538.00	55,000.00	55,000.00	1,963.98	ongoing
	Non-Dwelling Structures	1470		0.00	15,000.00	15,000.00	0.00	ongoing
CA 24-3A	Site Improvements	1450		3,907.00	6,755.00	6,755.00	0.00	ongoing
Mokelumne Manor	Dwelling Structures	1460		0.00	15,000.00	15,000.00	0.00	ongoing
CA 24-3B	Site Improvements	1450		976.00	6,755.00	6,755.00	0.00	ongoing
Mokelumne	Dwelling Structures	1460		0.00	15,000.00	15,000.00	0.00	ongoing
Manor								
CA 24-04-1	Site Improvements	1450		0.00	17,292.00	17,292.00	4,500.00	ongoing
Sierra Vista Annex	Dwelling Structures	1460		6,251.00	50,000.00	50,000.00	35,835.02	ongoing

[1] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[2] To be completed for the Performance and Evaluation Report.

Part II: Supporting Pages

PHA Name: Housing Authority of the County of San Joaquin	**Grant Type and Number** Capital Fund Program Grant No: CA30P02450105 CFFP (Yes/ No): Replacement Housing Factor Grant No:	**Federal FFY of Grant:** 2005

Development Number Name/PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised [1]	Funds Obligated [2]	Funds Expended [2]	
CA 24-04-2	Site Improvements	1450		0.00	150,000.00	150,000.00	0.00	ongoing
Conway Annex	Dwelling Structures	1460		0.00	180,000.00	180,000.00	14,592.38	ongoing
	Non-Dwelling Structures	1470		0.00	15,000.00	15,000.00	0.00	ongoing
CA 24-05	Site Improvements	1450		5,860.00	15,000.00	15,000.00	3,262.50	ongoing
Diablo Homes	Dwelling Structures	1460		61,538.00	40,000.00	40,000.00	16,406.45	ongoing
CA 24-06	Site Improvements	1450		19,534.00	150,000.00	150,000.00	25,300.00	ongoing
Conway Homes	Dwelling Structures	1460		84,126.00	180,000.00	180,000.00	11,650.38	ongoing
CA 24-07	Site Improvements	1450		3,906.00	15,000.00	15,000.00	3,262.50	ongoing
Burton Homes	Dwelling Structures	1460		41,026.00	15,000.00	15,000.00	1,319.93	ongoing
CA 24-09	Site Improvements	1450		3,417.00	15,000.00	15,000.00	0.00	ongoing
Krafft Homes	Dwelling Structures	1460		35,898.00	15,000.00	15,000.00	1,145.66	ongoing
PHA-Wide	Computer Network	1475		61,800.00	67,000.00	67,000.00	996.05	ongoing
	Computer Software Upgrade			103,000.00	53,000.00	53,000.00	0.00	ongoing
	Upgrade Phone Sys County Wide			28,587.00	10,000.00	10,000.00	8,840.00	ongoing

[1] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[2] To be completed for the Performance and Evaluation Report.

Part II: Supporting Pages

PHA Name: Housing Authority of the County of San Joaquin	**Grant Type and Number** Capital Fund Program Grant No: CA30P02450105 CFFP (Yes/ No): Replacement Housing Factor Grant No:	**Federal FFY of Grant:** 2005

Development Number Name/PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised [1]	Funds Obligated [2]	Funds Expended [2]	
PHA-Wide	Shop Equipment	1475		15,000.00	15,000.00	15,000.00	3,130.38	ongoing
	Furniture			5,000.00	5,000.00	5,000.00	0.00	ongoing
PHA-Wide	Collaterization - Debt Service	1501		875,000.00	0.00	0.00	0.00	

[1] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[2] To be completed for the Performance and Evaluation Report.

Capital Fund Program—Five-Year Action Plan

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB No. 2577-0226
Expires 4/30/20011

Part I: Summary

PHA Name/Number	Locality (City/County & State)	☒ **Original 5-Year Plan** ☐ **Revision No:**

A.	Development Number and Name	Work Statement for Year 1 FFY 2009	Work Statement for Year 2 FFY 2010	Work Statement for Year 3 FFY 2011	Work Statement for Year 4 FFY 2012	Work Statement for Year 5 FFY 2013
B.	Physical Improvements Subtotal	Annual Statement	$1,663,318.00	$1,496,318.00	$1,463,318.00	$1,448,318.00
C.	Management Improvements		$140,000.00	$137,000.00	$135,000.00	$135,000.00
D.	PHA-Wide Non-dwelling Structures and Equipment		$90,271.00	$90,271.00	$90,271.00	$90,271.00
E.	Administration		$225,677.00	$225,677.00	$225,677.00	$225,677.00
F.	Other		$2,500.00	$2,500.00	$2,500.00	2,500.00
G.	Operations					
H.	Demolition		$135,000.00	$305,000.00	$340,000.00	$355,000.00
I.	Development					
J.	Capital Fund Financing – Debt Service					
K.	Total CFP Funds		$2,256,766.00	$2,256,766.00	$2,256,766.00	$2,256,766.00
L.	Total Non-CFP Funds					
M.	Grand Total		$2,256,766.00	$2,256,766.00	$2,256,766.00	$2,256,766.00

Part I: Summary (Continuation)

PHA Name/Number	Locality (City/county & State)	☒ **Original 5-Year Plan** ☐ **Revision No:**

	Development Number and Name	Work Statement for Year 1 FFY _____	Work Statement for Year 2 FFY _____	Work Statement for Year 3 FFY _____	Work Statement for Year 4 FFY _____	Work Statement for Year 5 FFY _____
		Annual Statement				

Part II: Supporting Pages – Physical Needs Work Statement(s)

Work Statement for Year 1 FFY 2009	Work Statement for Year 2 FFY 2010			Work Statement for Year: 3 FFY 2011		
	Development Number/Name General Description of Major Work Categories	Quantity	Estimated Cost	Development Number/Name General Description of Major Work Categories	Quantity	Estimated Cost
See	CA024000241/Sierra Vista Homes-		$623,286.00	CA024000241/Sierra Vista Homes-		$282,272.00
Annual	ADA & landscape improve, walkways,			security improvements, tree trimming,		
Statement	concrete repairs, interior painting			fence repairs, resurface streets		
	CA024000242/Diablo Homes-		$292,569.00	CA024000242/Diablo Homes-		$491,583.00
	tree trimming, landscape improvements,			sewer lines, floor replacement,		
	stucco repairs, bathroom and			interior and exterior painting, security		
	kitchen remodel			door replacement		
	CA024000243/Mokelumne Manor-		$74,458.00	CA024000243/Mokelumne Manor-		$74,458.00
	street repairs, wrought iron fence, roof			street repairs, wrought iron fence, roof		
	repairs			repairs		
	CA024000244/Conway Homes-		$648,005.00	CA024000244/Conway Homes-		$648,005.00
	concrete repairs, bathroom and			bathroom and kitchen remodel		
	kitchen remodel					
	Subtotal of Estimated Cost		$ 1,638,318.00	Subtotal of Estimated Cost		$ 1,496,318.00

Part II: Supporting Pages – Physical Needs Work Statement(s)

Work Statement for Year 1 FFY _____	Work Statement for Year 4 FFY 2012			Work Statement for Year: 5 FFY 2013		
	Development Number/Name General Description of Major Work Categories	Quantity	Estimated Cost	Development Number/Name General Description of Major Work Categories	Quantity	Estimated Cost
See	CA024000241/Sierra Vista Homes-		$202,272.00	CA024000241/Sierra Vista Homes-		$187,272.00
Annual	tree trimming, resurface streets, landscape			tree trimming, fence repairs, landscape		
Statement	improvements, interior painting			improvements, roof repairs		
	CA024000242/Diablo Homes-		$538,583.00	CA024000242/Diablo Homes-		$538,583.00
	sewer lines, tree trimming, landscape			water lines, tree trimming, landscape		
	improvements, bathroom & kitchen remodel			improvements, bathroom & kitchen remodel		
	CA024000243/Mokelumne Manor-		$74,458.00	CA024000243/Mokelumne Manor-		$74,458.00
	tree trimming, roof repairs, wood fence			tree trimming, roof repairs, wooden fence		
	replacements			replacements, sewage pond treatment		
	CA024000244/Conway Homes-		$648,005.00	CA024000244/Conway Homes-		$648,005.00
	bathroom and kitchen remodel			roof repairs, bathroom and kitchen remodel		
	Subtotal of Estimated Cost		$ 1,463,318.00	Subtotal of Estimated Cost		$ 1,448,318.00

Part III: Supporting Pages – Management Needs Work Statement(s)

Work Statement for Year 1 FFY _____	Work Statement for Year 2 FFY 2010		Work Statement for Year: 3 FFY 2011	
	Development Number/Name General Description of Major Work Categories	Estimated Cost	Development Number/Name General Description of Major Work Categories	Estimated Cost
See	Management Improvements-	$140,000.00	Management Improvements-	$137,000.00
Annual	Community policing program, staff training, resident		community policing program, staffing training, resident	
Statement	initiatives team		initiatives team	
	Administration-	$225,677.00	Administration-	$225,677.00
	Non-technical and technical salaries, sundry costs		non-technical and technical salaries, sundry costs	
	Audit	$2,500.00	Audit	$2,500.00
	Non-Dwelling Structures and Equipment-	$115,271.00	Non-Dwelling Structures and Equipment-	$90,271.00
	Upgrade phone system, playground equipment		computer network	
	Demolition	$135,000.00	Demolition	$305,000.00
	Subtotal of Estimated Cost	$ 618,448.00	Subtotal of Estimated Cost	$ 760,448.00

Part III: Supporting Pages – Management Needs Work Statement(s)

Work Statement for Year 1 FFY _____	Work Statement for Year 4 FFY 2012		Work Statement for Year: 5 FFY 2013	
	Development Number/Name General Description of Major Work Categories	Estimated Cost	Development Number/Name General Description of Major Work Categories	Estimated Cost
See	Management Improvements-	$135,000.00	Management Improvements-	$135,000.00
Annual	community policing program, staffing training, resident		community policing program, staffing training, resident	
Statement	initiatives team		initiatives team	
	Administration-	$225,677.00	Administration-	$225,677.00
	non-technical and technical salaries, sundry costs		non-technical and technical salaries, sundry costs	
	Audit	$2,500.00	Audit	$2,500.00
	Non-Dwelling Structures and Equipment-	$90,271.00	Non-Dwelling Structures and Equipment-	$90,271.00
	computer network		computer network	
	Demolition	$340,000.00	Demolition	$355,000.00
	Subtotal of Estimated Cost	$ 793,448.00	Subtotal of Estimated Cost	$ 808,448.00

Annual Statement/Performance and Evaluation Report
Capital Fund Program, Capital Fund Program Replacement Housing Factor and
Capital Fund Financing Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB No. 2577-0226
Expires 4/30/2011

Part I: Summary

PHA Name:	**Grant Type and Number**	**FFY of Grant:**
Housing Authority of the County of San Joaquin	Capital Fund Program Grant No: CA30P02450109 Replacement Housing Factor Grant No: Date of CFFP: _____	2009 **FFY of Grant Approval:** 2009

Type of Grant
☒ **Original Annual Statement** ☐ **Reserve for Disasters/Emergencies** ☐ **Revised Annual Statement (revision no:)**
☐ **Performance and Evaluation Report for Period Ending:** ☐ **Final Performance and Evaluation Report**

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost [1]	
		Original	Revised [2]	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations (may not exceed 20% of line 21) [3]				
3	1408 Management Improvements	140,000.00			
4	1410 Administration (may not exceed 10% of line 21)	225,677.00			
5	1411 Audit	2,500.00			
6	1415 Liquidated Damages				
7	1430 Fees and Costs	0.00			
8	1440 Site Acquisition				
9	1450 Site Improvement	616,497.00			
10	1460 Dwelling Structures	969,251.00			
11	1465.1 Dwelling Equipment—Nonexpendable	22,570.00			
12	1470 Non-dwelling Structures	30,000.00			
13	1475 Non-dwelling Equipment	115,271.00			
14	1485 Demolition	135,000.00			
15	1492 Moving to Work Demonstration				
16	1495.1 Relocation Costs				
17	1499 Development Activities [4]				
18a	1501 Collateralization or Debt Service paid by the PHA				
18ba	9000 Collateralization or Debt Service paid Via System of Direct Payment				
19	1502 Contingency (may not exceed 8% of line 20)				
20	Amount of Annual Grant: (sum of lines 2 – 19)	2,256,766.00			
21	Amount of line 20 Related to LBP Activities				
22	Amount of line 20 Related to Section 504 Activities				
23	Amount of line 20 Related to Security – Soft Costs				
24	Amount of line 20 Related to Security – Hard Costs				
25	Amount of line 20 Related to Energy Conservation Measures				

[1] To be completed for the Performance and Evaluation Report.
[2] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[3] PHAs with under 250 units in management may use 100% of CFP Grants for operations.
[4] RHF funds shall be included here.

Part I: Summary

PHA Name:	**Grant Type and Number**	**FFY of Grant:**
Housing Authority of the County of San Joaquin	Capital Fund Program Grant No: CA30P02450109 Replacement Housing Factor Grant No: Date of CFFP: _____	2009 **FFY of Grant Approval:** 2009

Type of Grant
☑ **Original Annual Statement** ☐ **Reserve for Disasters/Emergencies** ☐ **Revised Annual Statement (revision no:)**
☐ **Performance and Evaluation Report for Period Ending:** ☐ **Final Performance and Evaluation Report**

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost [1]	
		Original	Revised [2]	Obligated	Expended

Signature of Executive Director	Date	Signature of Public Housing Director	Date

Part II: Supporting Pages

PHA Name: Housing Authority of the County of San Joaquin	**Grant Type and Number** Capital Fund Program Grant No: CA30P02450109 CFFP (Yes/ No): Replacement Housing Factor Grant No:	**Federal FFY of Grant:** 2009

Development Number Name/PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised [1]	Funds Obligated [2]	Funds Expended [2]	
PHA-Wide	Community Policing Program	1408		120,000.00				ongoing
	Staff Training			10,000.00				ongoing
	Resident Initiatives Team			10,000.00				ongoing
PHA-Wide	Non-Technical Salaries	1410		57,974.00				ongoing
	Technical Salaries			100,000.00				ongoing
	Sundry Costs			67,703.00				ongoing
PHA-Wide	Audit	1411		2,500.00				ongoing
Sierra Vista	Site improvements-tree trimming,	1450		114,000.00				planning phase
CA024000241	concrete repairs, resurface streets							
	Dwelling Structures-HVAC replace.,	1460		330,000.00				planning phase
	interior painting, roof repairs							
	Dwelling Equipment	1465		8,272.00				planning phase
	Non-Dwelling Structures-office and	1470		30,000.00				planning phase
	multi-purpose room repairs							
	Demolition	1485		135,000.00				planning phase

[1] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[2] To be completed for the Performance and Evaluation Report.

Part II: Supporting Pages

PHA Name: Housing Authority of the County of San Joaquin	**Grant Type and Number** Capital Fund Program Grant No: CA30P02450109 CFFP (Yes/ No): Replacement Housing Factor Grant No:	**Federal FFY of Grant:** 2009

Development Number Name/PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised [1]	Funds Obligated [2]	Funds Expended [2]	
Diablo Homes	Site Improvements-tree trimming,	1450		32,089.00				planning phase
CA024000242	landscape improvement,							
	Dwelling Structures-bath/kitchen	1460		390,203.00				planning phase
	remodel, water lines, window repl.							
	Dwelling Equipment	1465		4,095.00				ongoing
Mokelumne Manor	Site Improvements-shade covers,	1450		70,408.00				planning phase
CA02400243	benches, sewage pond treatments							
	Dwelling Structures-roof repairs	1460		3,000.00				ongoing
	Dwelling Equipment	1465		1,050.00				ongoing
Conway Homes	Site Improvements-concrete repairs	1450		400,000.00				planning phase
CA024000244								
	Dwelling Structures-bathroom and	1460		246,048.00				planning phase
	kitchen remodel							
	Dwelling Equipment	1465		9,153.00				planning phase
PHA -Wide	Non-Dwelling Equipment-upgrade	1475		115,271.00				planning phase
	phone system, playground equipment							

[1] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[2] To be completed for the Performance and Evaluation Report.

Part III: Implementation Schedule for Capital Fund Financing Program					
PHA Name:					**Federal FFY of Grant:**
Development Number Name/PHA-Wide Activities	All Fund Obligated (Quarter Ending Date)		All Funds Expended (Quarter Ending Date)		Reasons for Revised Target Dates [1]
	Original Obligation End Date	Actual Obligation End Date	Original Expenditure End Date	Actual Expenditure End Date	

[1] Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Part III: Implementation Schedule for Capital Fund Financing Program

PHA Name: Housing Authority of the County of San Joaquin					Federal FFY of Grant: 2009
Development Number Name/PHA-Wide Activities	All Fund Obligated (Quarter Ending Date)		All Funds Expended (Quarter Ending Date)		Reasons for Revised Target Dates [1]
	Original Obligation End Date	Actual Obligation End Date	Original Expenditure End Date	Actual Expenditure End Date	

[1] Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Housing Authority of the County of San Joaquin

2009 PHA Agency Plan

Challenged Elements

There we no “Challenged Elements of this year’s PHA Plan

Resident Advisory Board Membership - 2009

NAME	REPRESENTS
DEBORAH GURLEY	Sierra Vista Development
VIRGINIA MALONEY	Sierra Vista Development
THOW THOEUNG	Sierra Vista Development
SHELLEY LOPES	Thornton Development
LEROY HAWKINS	Tracy Development
BONITA PEREZ	Tracy Developments
TIFFANY GAINES	Tracy Developments
DAWN ANDERSON	Conway development
THERESA SANTOYA	Conway Development

Resident Advisory Board

Comments on the Housing Authority's Annual PHA Plan for 2009

The Resident advisory Board is in agreement with the Mission, Goals and Objectives as outlined in the Housing Authority's Annual PHA Plan for 2009.

Amendments to the Authority's Admissions and Continued Occupancy Policy for Public Housing and The Administrative Plan for the Housing Choice Voucher Program (HCVP):

The Resident Advisory Board supports the amendments to the Occupancy Policy for Public Housing and the Administrative Plan for HCVP. We have the following comments and observations regarding the changes:

- Incorporate requirements of HUD's final Rule for Income and Rent Determination in Public and Assisted Housing Programs
    - "Agree with the reasoning which would probably assist the eligibility worker to process the paper work quicker and less paper work"
    - "I agree that all points outlined for the Final Rule are reasonable and should be followed."
    - "Disagree – why have Social Security for the whole families, the kids are so young just getting into the world".
    - "I agree with the change for Rent Determine Requirements".

- Waiting List Organization – Change from 2 site-based waiting lists to 5
    - "I agree with the reason on waiting list organization for change". "100% agree".
    - "I think this change is good because someone may only want to move into Conway and not Sierra Vista or vice versa and they won't be offered something they don't want (site-wise) so they won't be bumped to the bottom of the list or removed."
    - "Agree".

- Vacant Unit Changes: Applicant given two (rather than three) vacant unit choices before being removed from the waiting list
    - "I agree with the change".
    - "Agree with the reasoning"
    -

- "I think two choices is adequate as long as it's in the housing development desired by potential occupant".
- "This way everybody will have a chance to move up on the list in reasonable time".
- "I disagree. It's not fair because you might don't like the people live next, may be hard to get along with".

- Family Self Sufficiency: ITSP members must attend the annual and interim appointments.

  - "I agree"
  - "I fell this is reasonable, the representative has always been willing to work with me and has always been very accommodating when scheduling changes".
  - "I agree"

- Capital Fund Budget

  - The Resident Advisory Board, overall, supports the plans for the upcoming year for capital fund projects.

Analysis of Recommendations:

The comments received by the RAB were mostly favorable to the plans and changes to the Annual PHA Plan and PHA Policies. No recommendations for changes to the Plans were requested by the RAB.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: Housing Authority of the County of San Joaquin **Page** 1 **of** 1

None

Authorized for Local Reproduction
Standard Form - LLL-A

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
[b] a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
[b] a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
[a] a. initial filing
b. material change
For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
[x] Prime [ ] Subawardee
Tier _____, *if known*:
Housing Authority of the County of
San Joaquin
P. O. Box 447
Stockton, CA 95201
Congressional District, *if known*: CA-18

5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:

Congressional District, *if known*:

6. Federal Department/Agency:
Department of Housing and Urban Development

7. Federal Program Name/Description:
Public Housing Capital Fund Program Grant
CFDA Number, *if applicable*: _____

8. Federal Action Number, *if known*:
CA30P02450109

9. Award Amount, *if known*:
$ $2,256,766.00

10. a. Name and Address of Lobbying Registrant
(*if individual, last name, first name, MI*):
None

b. Individuals Performing Services (*including address if different from No. 10a*)
(*last name, first name, MI*):
None

11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: Barbara Kauss
Print Name: Barbara Kauss
Title: Executive Director
Telephone No.: 209-460-5065 Date: 07/13/09

Federal Use Only:

Authorized for Local Reproduction
Standard Form LLL (Rev. 7-97)

OMB Approval No. 2577-0157 (Exp. 3/31/2010)

Certification of Payments to Influence Federal Transactions

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

Applicant Name

Housing Authority of the County of San Joaquin

Program/Activity Receiving Federal Grant Funding

Public Housing

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title
Barbara Kauss	Executive Director
Signature	**Date (mm/dd/yyyy)**
Barbara S Kauss	07/13/09

Certification for a Drug-Free Workplace

U.S. Department of Housing and Urban Development

Applicant Name

Housing Authority of the County of San Joaquin

Program/Activity Receiving Federal Grant Funding

Public Housing

Acting on behalf of the above named Applicant as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

I certify that the above named Applicant will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

b. Establishing an on-going drug-free awareness program to inform employees ---

(1) The dangers of drug abuse in the workplace;

(2) The Applicant's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a.;

d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will ---

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federalagency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.(2), with respect to any employee who is so convicted ---

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a. thru f.

2. Sites for Work Performance. The Applicant shall list (on separate pages) the site(s) for the performance of work done in connection with the HUD funding of the program/activity shown above: Place of Performance shall include the street address, city, county, State, and zip code. Identify each sheet with the Applicant name and address and the program/activity receiving grant funding.)

1. 448 S. Center Street Stockton, CA 95203
2. 421 S. El Dorado Street Stockton, CA 95203
2. 2436 S. Belleview Street Stockton, CA 95206
3. 741 Flint Ave Stockton, CA 95206
4. 26188 N. Manor Drive Thornton, CA 95686
5. 311 West Street Tracy, CA 95376

Check here [ ] if there are workplaces on file that are not identified on the attached sheets.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.
Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties.
(18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title
Barbara Kauss	Executive Director
Signature: X Barbara Kauss	Date: 07/13/09

form **HUD-50070** (3/98)
ref. Handbooks 7417.1, 7475.13, 7485.1 & .3

PHA 5-Year and Annual Plan	U.S. Department of Housing and Urban Development Office of Public and Indian Housing	OMB No. 2577-0226 Expires 4/30/2011

1.0 **PHA Information**
PHA Name: Housing Authority of the County of San Joaquin PHA Code: CA024
PHA Type: ☐ Small ☒ High Performing ☐ Standard ☐ HCV (Section 8)
PHA Fiscal Year Beginning: 10/2009

2.0 **Inventory** (based on ACC units at time of FY beginning in 1.0 above)
Number of PH units: 1068 Number of HCV units: 4871

3.0 **Submission Type**
☐ 5-Year and Annual Plan ☒ Annual Plan Only ☐ 5-Year Plan Only

4.0 **PHA Consortia** ☐ PHA Consortia: (Check box if submitting a joint Plan and complete table below.)

Participating PHAs	PHA Code	Program(s) Included in the Consortia	Programs Not in the Consortia	No. of Units in Each Program	
				PH	HCV
PHA 1:					
PHA 2:					
PHA 3:					

5.0 **5-Year Plan.** Complete items 5.1 and 5.2 only at 5-Year Plan update.

5.1 **Mission.** State the PHA's Mission for serving the needs of low-income, very low-income, and extremely low income families in the PHA's jurisdiction for the next five years:

"The Housing Authority of the County of San Joaquin is dedicated to providing and advocating for affordable, attractive, safe living environments and opportunities to become self-sufficient for individuals and families that are hard to house."

5.2 **Goals and Objectives.** Identify the PHA's quantifiable goals and objectives that will enable the PHA to serve the needs of low-income and very low-income, and extremely low-income families for the next five years. Include a report on the progress the PHA has made in meeting the goals and objectives described in the previous 5-Year Plan. **N/A**

6.0 **PHA Plan Update**

(a) Identify all PHA Plan elements that have been revised by the PHA since its last Annual Plan submission: Eligibility, Selection and Admissions Policies, Operation and Management, Fiscal Year Audit, Asset Management.

(b) Identify the specific location(s) where the public may obtain copies of the 5-Year and Annual PHA Plan. For a complete list of PHA Plan elements, see Section 6.0 of the instructions.: Main administrative office of the PHA – 448 South Center St., Stockton, CA 95201 PHA development management offices: (1) Conway Homes: 741 Flint Avenue, Stockton CA 95206 (2) Sierra Vista Homes: 2436 Belleview Street, Stockton, CA 95206 (3) Thornton Homes: 26188 North Manor Drive, Thornton, CA 95686 (4) Tracy Homes: 311 West Street, Tracy, CA 95376

7.0 **Hope VI, Mixed Finance Modernization or Development, Demolition and/or Disposition, Conversion of Public Housing, Homeownership Programs, and Project-based Vouchers.** *Include statements related to these programs as applicable.*

8.0 **Capital Improvements.** Please complete Parts 8.1 through 8.3, as applicable.

8.1 **Capital Fund Program Annual Statement/Performance and Evaluation Report.** As part of the PHA 5-Year and Annual Plan, annually complete and submit the *Capital Fund Program Annual Statement/Performance and Evaluation Report,* form HUD-50075.1, for each current and open CFP grant and CFFP financing.

8.2 **Capital Fund Program Five-Year Action Plan.** As part of the submission of the Annual Plan, PHAs must complete and submit the *Capital Fund Program Five-Year Action Plan,* form HUD-50075.2, and subsequent annual updates (on a rolling basis, e.g., drop current year, and add latest year for a five year period). Large capital items must be included in the Five-Year Action Plan.

8.3 **Capital Fund Financing Program (CFFP).**
☐ Check if the PHA proposes to use any portion of its Capital Fund Program (CFP)/Replacement Housing Factor (RHF) to repay debt incurred to finance capital improvements. **N/A**

9.0 **Housing Needs**. Based on information provided by the applicable Consolidated Plan, information provided by HUD, and other generally available data, make a reasonable effort to identify the housing needs of the low-income, very low-income, and extremely low-income families who reside in the jurisdiction served by the PHA, including elderly families, families with disabilities, and households of various races and ethnic groups, and other families who are on the public housing and Section 8 tenant-based assistance waiting lists. The identification of housing needs must address issues of affordability, supply, quality, accessibility, size of units, and location. **N/A**

9.1	**Strategy for Addressing Housing Needs**. Provide a brief description of the PHA's strategy for addressing the housing needs of families in the jurisdiction and on the waiting list in the upcoming year. **Note: Small, Section 8 only, and High Performing PHAs complete only for Annual Plan submission with the 5-Year Plan. N/A**
10.0	**Additional Information**. Describe the following, as well as any additional information HUD has requested. (a) Progress in Meeting Mission and Goals. Provide a brief statement of the PHA's progress in meeting the mission and goals described in the 5-Year Plan. **N/A** (b) Significant Amendment and Substantial Deviation/Modification. Provide the PHA's definition of "significant amendment" and "substantial deviation/modification" **N/A**

11.0	**Required Submission for HUD Field Office Review**. In addition to the PHA Plan template (HUD-50075), PHAs must submit the following documents. Items (a) through (g) may be submitted with signature by mail or electronically with scanned signatures, but electronic submission is encouraged. Items (h) through (i) must be attached electronically with the PHA Plan. **Note:** Faxed copies of these documents will not be accepted by the Field Office. (a) Form HUD-50077, *PHA Certifications of Compliance with the PHA Plans and Related Regulations* (which includes all certifications relating to Civil Rights) (b) Form HUD-50070, *Certification for a Drug-Free Workplace* (PHAs receiving CFP grants only) (c) Form HUD-50071, *Certification of Payments to Influence Federal Transactions* (PHAs receiving CFP grants only) (d) Form SF-LLL, *Disclosure of Lobbying Activities* (PHAs receiving CFP grants only) (e) Form SF-LLL-A, *Disclosure of Lobbying Activities Continuation Sheet* (PHAs receiving CFP grants only) (f) Resident Advisory Board (RAB) comments. Comments received from the RAB must be submitted by the PHA as an attachment to the PHA Plan. PHAs must also include a narrative describing their analysis of the recommendations and the decisions made on these recommendations. (g) Challenged Elements (h) Form HUD-50075.1, *Capital Fund Program Annual Statement/Performance and Evaluation Report* (PHAs receiving CFP grants only) (i) Form HUD-50075.2, *Capital Fund Program Five-Year Action Plan* (PHAs receiving CFP grants only)

6.0 **PHA Plan Update**
(a) Identify all PHA Plan elements that have been revised by the PHA since its last Annual Plan submission: Eligibility, Selection and Admissions Policies, Operation and Management, Fiscal Year Audit, Asset Management.

Public Housing

(2)Waiting List Organization

a. Which methods does the PHA plan to use to organize its public housing waiting list (select all that apply)
☒ Community-wide list
☐ Sub-jurisdictional lists
☒ Site-based waiting lists
☐ Other (describe)

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? 5

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? 2

3. ☒ Yes ☐ No: May families be on more than one list simultaneously
If yes, how many lists? **5**

(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? (select one)
☐ One
☒ Two
☐ Three or More

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

The Public Housing Admissions and Continued Occupancy Plan and the HCV Administrative Plan were both updated to reflect a change in HUD guidance on the use of up-front income verification (UIV) information to project income. HUD is in the process of developing new guidance on verification. It is also in the process of finalizing a rule on income and rent. We will review our policies in these areas again after the final rule and the guidance are issued.

8. Demolition and Disposition

[24 CFR Part 903.7 9 (h)]

Applicability of component 8: Section 8 only PHAs are not required to complete this section.

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.)

Demolition/Disposition Activity Description
1a. Development name: Sierra Vista Homes 1b. Development (project) number: CA024001
2. Activity type: Demolition ☒ Disposition ☐
3. Application status (select one) Approved ☐ Submitted, pending approval ☐ Planned application ☒
4. Date application approved, submitted, or planned for submission: 05/15/06
5. Number of units affected: 330 6. Coverage of action (select one) ☐ Part of the development ☒ Total development
7. Timeline for activity: a. Actual or projected start date of activity: 02/01/10 b. Projected end date of activity: 02/01/12

Statement of Financial Resources

Financial Resources: Planned Sources and Uses		
Sources	**Planned $**	**Planned Uses**
1. **Federal Grants (FY 2005 grants)**		
a) Public Housing Operating Fund	**$3,266,044**	
b) Public Housing Capital Fund	**$2,256,766**	
c) HOPE VI Revitalization		
d) HOPE VI Demolition		
e) Annual Contributions for Section 8 Tenant-Based Assistance	**$30,253,950**	
f) Public Housing Drug Elimination Program (including any Technical Assistance funds)		
g) Resident Opportunity and Self-Sufficiency Grants	**$165,333**	
h) Community Development Block Grant	**$0**	
i) Hard to House		
Other Federal Grants (list below)		
Section 8 Admin Fee	**$2,845,100**	
Franco Center Multi-Family Service Coordinator Grant	**$77,148**	
Franco Center	**$522,015**	
Sartini Manor	**$20,303**	
2. Prior Year Federal Grants (unobligated funds only) (list below)		
3. Public Housing Dwelling Rental Income	**$3,381,083**	
4. Other income (list below)		
Interest Income	**$100,209**	
4. Non-federal sources (list below)		
State Migrant Housing Programs	**$1,231,163**	
Total resources	**$44,119,114**	