

<b>PHA 5-Year and Annual Plan</b>	<b>U.S. Department of Housing and Urban Development Office of Public and Indian Housing</b>	<b>OMB No. 2577-0226 Expires 4/30/2011</b>
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<b>1.0</b>	<b>PHA Information</b> PHA Name: <u>MUNICIPALITY OF FAJARDO</u> PHA Code: <u>RQ-036</u> PHA Type: <input type="checkbox"/> Small <input type="checkbox"/> High Performing <input type="checkbox"/> Standard <input checked="" type="checkbox"/> HCV (Section 8) PHA Fiscal Year Beginning: (MM/YYYY): <u>07/2010</u>
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<b>2.0</b>	<b>Inventory</b> (based on ACC units at time of FY beginning in 1.0 above) Number of PH units: <u>N/A</u> Number of HCV units: <u>79</u>
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<b>3.0</b>	<b>Submission Type</b> <input checked="" type="checkbox"/> 5-Year and Annual Plan <input type="checkbox"/> Annual Plan Only <input type="checkbox"/> 5-Year Plan Only
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<b>4.0</b>	<b>PHA Consortia</b> <input type="checkbox"/> PHA Consortia: (Check box if submitting a joint Plan and complete table below.)
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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:					

<b>5.0</b>	<b>5-Year Plan.</b> Complete items 5.1 and 5.2 only at 5-Year Plan update.
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<b>5.1</b>	<b>Mission.</b> 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: <b>The mission of the PHA is the same as that of the Department of Housing and Urban Development: To promote adequate and affordable, economic opportunity and suitable living environment free from discrimination.</b>
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<b>5.2</b>	<b>Goals and Objectives.</b> 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. <b>The PHA goals and Objectives are:</b> <ol style="list-style-type: none"> <li>1. The Municipality of Fajardo will apply for additional Rental Vouchers.</li> <li>2. Increase customer satisfaction.</li> <li>3. Leverage private or other public funds to create additional housing opportunities.</li> <li>4. Improve voucher management</li> <li>5. Concentrate efforts to improve specific management functions as public housing finance voucher unit inspections.</li> <li>6. Ensure Equal Opportunity and Affirmatively further Fair Housing.</li> <li>7. Ensure enforcement of VAWA/SEX Offender Policy by 100%.</li> </ol>
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<b>6.0</b>	<b>PHA Plan Update</b> <p>(a) Identify all PHA Plan elements that have been revised by the PHA since its last Annual Plan submission: <b>The element revised was number 1. See the Administrative Plan, Chapter H.</b></p> <p>(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.</p> <p><b>TO OBTAIN COPIES OF THE 5-YEAR AND ANNUAL PLAN, VISIT US AT:</b></p> <p style="text-align: center;"><b>OFICINA ASUNTOS FEDERALES</b> <b>CALLE GARRIDO MORALES #11; FAJARDO, PR</b></p>
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<b>7.0</b>	<b>Hope VI, Mixed Finance Modernization or Development, Demolition and/or Disposition, Conversion of Public Housing, Homeownership Programs, and Project-based Vouchers.</b> Include statements related to these programs as applicable. <b>N/A</b>
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<b>8.0</b>	<b>Capital Improvements.</b> Please complete Parts 8.1 through 8.3, as applicable. <b>N/A</b>
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<b>8.1</b>	<b>Capital Fund Program Annual Statement/Performance and Evaluation Report.</b> As part of the PHA 5-Year and Annual Plan, annually complete and submit the <i>Capital Fund Program Annual Statement/Performance and Evaluation Report</i> , form HUD-50075.1, for each current and open CFP grant and CFFP financing. <b>N/A</b>
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<b>8.2</b>	<b>Capital Fund Program Five-Year Action Plan.</b> As part of the submission of the Annual Plan, PHAs must complete and submit the <i>Capital Fund Program Five-Year Action Plan</i> , 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. <b>N/A</b>
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8.3	<p><b>Capital Fund Financing Program (CFFP).</b>  <input type="checkbox"/> 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. <b>N/A</b></p>										
9.0	<p><b>Housing Needs.</b> 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.</p> <table data-bbox="175 384 573 573"> <tr> <td>Total units in</td> <td>79</td> </tr> <tr> <td>Occupied</td> <td>67</td> </tr> <tr> <td>Not occupied</td> <td>12</td> </tr> <tr> <td>Available for rent</td> <td>21</td> </tr> <tr> <td>People in waiting list</td> <td>142</td> </tr> </table> <p>The waiting list is <u>closed</u> and the Fajardo PHA expects to <u>reopen</u> the list in the PHA Plan year. The Fajardo PHA permits specific categories of families onto the waiting list only to fulfill preferences when it is closed.</p>	Total units in	79	Occupied	67	Not occupied	12	Available for rent	21	People in waiting list	142
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Occupied	67										
Not occupied	12										
Available for rent	21										
People in waiting list	142										
9.1	<p><b>Strategy for Addressing Housing Needs.</b> 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. <b>Note: Small, Section 8 only, and High Performing PHAs complete only for Annual Plan submission with the 5-Year Plan.</b></p> <p><b>The Municipality of Fajardo will apply for additional Rental Vouchers. We have development outreach strategies to acquired new rental units and maximize program funds utilization. The PHA will make a market study to determine reasonable rents within the PHA's jurisdiction.</b></p>										

**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.

**The main mission in the Section 8 Program Administration is to satisfy the housing needs for to very-low and low income families that don't have the resources to satisfy themselves. Through Section 8 Program the Municipality of Fajardo can bring the benefit of rent subsidy to many families. The Municipality of Fajardo authority has been administrating the funding in the best way possible to reach the maximum number of families according to the available resource. However we want to have more opportunities to assist our very low income and low income citizen in their needs to aid and guide them to acquire a better quality of life. (see more in appendix A).**

(b) Significant Amendment and Substantial Deviation/Modification. Provide the PHA's definition of "significant amendment" and "substantial deviation/modification"

**The Municipality of Fajardo will amend or modify its agency plan upon the occurrence of any of the following events, if and only if, the events are not included in the approved annual plan during the term of the approved plan, as it constitutes a significant amendment and substantial deviation/modification:**

- **Changes to rent or admission policies or organization of waiting list;**
- **Any modification to the PHA's Mission Statement or any substantial modification to the Municipality's goals and objectives.**

**An exception to this definition will be made if there are changes to the requirements of the Federal Regulation. Those changes will not be considered significant amendments.**

(c) Resident Advisory Board Members: (if any)

Mrs. Nancy Ortíz  
Mrs. Ana Rodríguez  
Mrs. Dinelia Díaz  
Mrs. Luz Z. Pagán  
Mrs. María L. Peraza  
Mrs. Wildalis Ayala  
Mrs. Luz I. Santiago  
Mr. Elvin Castro  
Mrs. Mildred Ríos

(d) See attachment 3

(e) Sex Offender Policy

**The PHA will proceed to:**

- **Ask households at each recertification/reexamination whether any member is subject to lifetime registration requirement under a states sex offender registration program.**
- **Use the Dru Sjodin National Sex Offender Website to confirm that applications and federal housing assistance recipients are not lifetime registered sex offenders.**
- **Aggressively pursue termination of tenancy or assistance, as appropriate, for tenants subject to a State lifetime sex offender registration requirement to the extent currently allowed by law.**

(f) Violence against woman policy:

**Specific requirements include a description of : (a) activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to child or adult victims of domestic violence, dating violence, sexual assault, or stalking; (b) any activities, services or programs provided or offered by a public housing agency that helps child and adult victims of domestic violence, dating violence, sexual assault, or staking, to obtain or maintain housing; and (c) any activities, services, or programs provided or offered by a public housing agency to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance victim safety in assisted families.**

10.0

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<b>11.0</b>	<p><b>Required Submission for HUD Field Office Review.</b> 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. <b>Note:</b> Faxed copies of these documents will not be accepted by the Field Office.</p> <ul style="list-style-type: none"><li>(a) Form HUD-50077, <i>PHA Certifications of Compliance with the PHA Plans and Related Regulations</i> (which includes all certifications relating to Civil Rights)</li><li>(b) Form HUD-50070, <i>Certification for a Drug-Free Workplace</i> (PHAs receiving CFP grants only)</li><li>(c) Form HUD-50071, <i>Certification of Payments to Influence Federal Transactions</i> (PHAs receiving CFP grants only)</li><li>(d) Form SF-LLL, <i>Disclosure of Lobbying Activities</i> (PHAs receiving CFP grants only)</li><li>(e) Form SF-LLL-A, <i>Disclosure of Lobbying Activities Continuation Sheet</i> (PHAs receiving CFP grants only)</li><li>(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.</li><li>(g) Challenged Elements</li><li>(h) Form HUD-50075.1, <i>Capital Fund Program Annual Statement/Performance and Evaluation Report</i> (PHAs receiving CFP grants only)</li><li>(i) Form HUD-50075.2, <i>Capital Fund Program Five-Year Action Plan</i> (PHAs receiving CFP grants only)</li></ul>
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Municipality of Fajardo Housing Agency of the City of Fajardo, PR:  
 Administrative Plan and Procedures  
 FOR THE SECTION 8 TENANT BASED  
 HOUSING CHOICE VOUCHER RENTAL ASSISTANCE PROGRAM

	Page #
<b>A. PURPOSE.....</b>	<b>5</b>
<b>B. DEFINITIONS.....</b>	<b>5-11</b>
<b>C. GENERAL APPLICABILITY AND SCOPE.....</b>	<b>12-13</b>
<b>D. PUBLIC NOTICE TO LOWER-INCOME AND/OR VERY LOW-INCOME FAMILIES.....</b>	<b>14-19</b>
1. Notice of Availability of Housing Assistance	
2. Notice in Accordance with HUD Guidelines	
3. Opening and Closing the Waiting List	
4. Policy Governing Cross-Listing and Merging of Waiting List	
5. Notice of Nondiscrimination	
<b>E. PUBLIC NOTICE AND INVITATION TO OWNERS.....</b>	<b>20</b>
1. Invitation to Owners	
2. Contacts with Organizations	
<b>F. ELIGIBILITY CRITERIA.....</b>	<b>21-33</b>
1. Family and Income Qualification	
2. Projected Income Indeterminable or Determinable for a Short Period	
3. Family with Outstanding Balance Owing	
4. Disposition of Assets	

**G. VERIFICATION OF ELIGIBILITY..... 34-46**

1. Application for Admission
2. Determination of Annual Income
3. Factors of Eligibility and Tenant rent
4. Verification of Annual Income
5. Policy and Procedures for Third Party verifications
6. Record of Family
7. Misrepresentation of Family Circumstances
8. Determination of Ineligibility
9. Suspension of Voucher Issuance
10. Removal from the Tenants Base Assistance Waiting List

**H. ELIGIBLE FAMILIES..... 46-49**

Voucher

Declared Emergencies

Preference in Selecting Eligible Families

1. Tenant Selection
2. Family Briefing
3. Expiration and Extension of Voucher
4. Family Break-up
5. Family Absence from Unit

<b>I.</b>	<b>SUBSIDY STANDARDS.....</b>	<b>49-53</b>
<b>J.</b>	<b>FINDER'S KEEPER POLICY.....</b>	<b>53</b>
<b>K.</b>	<b>PORTABILITY.....</b>	<b>54-60</b>
<b>L.</b>	<b>FAMILY'S RIGHT TO MOVE.....</b>	<b>61</b>
<b>M.</b>	<b>VIOLENCE AGAIST WOMEN ACT – VAWA [24 CFR 982.353 (a)]</b>	<b>61</b>
<b>N.</b>	<b>OWNER OBLIGATION TO SCREEN FAMILIES.....</b>	<b>62</b>
<b>O.</b>	<b>RENTAL AGREEMENT AND LEASE APPROVAL.....</b>	<b>62-63</b>
<b>P.</b>	<b>TERM OF ASSISTED LEASE.....</b>	<b>64-65</b>
<b>Q.</b>	<b>HOUSING AGENCY POLICY GOVERNING OWNER APPROVAL.....</b>	<b>65</b>
<b>R.</b>	<b>PAYMENTS DUE THE OWNER: HOUSING ASSISTANCE PAYMENTS AND TENANT'S RENT (MINIMUM RENT).....</b>	<b>66-69</b>
	1. Calculation of Tenant's Rent and Subsidy	
	2. Establish and Document Reasonableness of Owner's rent	
	3. Timing of Payments	
	4. Additional Payments	
	5. Special Claims	
<b>S.</b>	<b>CHANGING THE PAYMENT STANDARDS: AFFORDABILITY ADJUSTMENTS.....</b>	<b>69</b>
	1. Changes in Application of the Payment Standard	
	2. Subsequent Adjustment to Initial Contract Rent	
<b>T.</b>	<b>SECURITY DEPOSITS.....</b>	<b>70</b>
<b>U.</b>	<b>CONTINUED ELIGIBILITY AND INCOME ADJUSTMENT.....</b>	<b>71-75</b>
<b>V.</b>	<b>RE-EXAMINATION.....</b>	<b>75-85</b>
	1. Annual Re-examination	

2.	Re-determination of Total Tenant Payments and Housing Assistance Payment	
3.	Termination of Payments	
4.	Changes in Family Size and Composition	
5.	Disclosure and Verification of Social Security Numbers	
6.	Evidence of Eligibility for Assistance Based on Citizen or Eligible	
<b>W.</b>	<b>INSPECTION OF DWELLING UNIT UNDER AGREEMENT.....</b>	<b>85-96</b>
1.	Inspection to Determine Unit Meets HQS	
2.	Determination that Unit does not meet HQS	
<b>Y.</b>	<b>GROUNDS FOR DENIAL OR TERMINATION OF ASSISTANCE.....</b>	<b>96</b>
<b>Z.</b>	<b>MFHA POLICY GOVERNING.....</b>	<b>97</b>
<b>AA.</b>	<b>INFORMAL REVIEW OR HEARING ON AGENCY ACTION OR DECISION.....</b>	<b>97-100</b>
<b>BB.</b>	<b>USE OF SECTION 8 C/V'S FOR WITNESS RELOCATION PURPOSE.....</b>	<b>100</b>
<b>CC.</b>	<b>ADDENDUM- HOPWA PROGRAM (TBRA).....</b>	<b>101-102</b>
<b>DD.</b>	<b>CONDUCT ANNUAL SURVEY OF UTILITY SUPPLIERS.....</b>	<b>103</b>
<b>EE.</b>	<b>EQUAL OPPORTUNITY REQUIREMENTS.....</b>	<b>103</b>
<b>FF.</b>	<b>EXPENDITURES FROM OPERATING RESERVES.....</b>	<b>103</b>
<b>GG.</b>	<b>SEVERABILITY.....</b>	<b>103</b>
<b>HH.</b>	<b>REPAYMENT POLICY AND PROCEDURES.....</b>	<b>103-106</b>

**A. PURPOSE**

These policies and procedures are adopted by the Municipality of Fajardo Housing Agency to set forth the essential elements to implement Title 24 of the Code of Federal Regulations (CFR), as established in 24 CFR Part 5 Subpart F (Definition of Income and General Factors of Eligibility), as amended; the Housing Voucher Program as established in 24 CFR Part 982.

**B. DEFINITIONS**

Unless otherwise clear from the context as used herein, the following terms for the purpose of this rule shall mean:

**1937 Act:** Section 8 of the U.S. Housing Act of 1937 as amended.

**Adjusted income:** Annual income less certain allowances as outlined in 24 CFR 5 Subpart F, as amended.

**Admission:** The effective date of the first HAP contract for a family in a tenant-based program. This is the point when the family becomes a participant in the program.

**Housing Agency:** Municipality of Fajardo Housing Agency.

**Annual Contribution Contract (ACC):** A written agreement between HUD and the Housing Agency to provide annual contributions to cover housing assistance payments and other related expenses. This is now a consolidated agreement for the Section 8 Rental Voucher Programs.

**Annual Income:** The anticipated total income of family for a 12- month period as outlined in 24 CFR 5, as amended.

**Assets:** Net cash value as outlined in 24 CFR 5 Subpart F, as amended.

**Child Care Expenses:** Amounts anticipated to be paid by the family for the care of children under 13 years of age as outlined in 24 CFR 5, as amended.

**Citizen:** A family member who is a U.S. Citizen by birth, a naturalized citizen or a national of the United States of America.

**City:** Fajardo, PR

**Contract of Participation (FSS Contract):** A contract, as described in 24 CFR 984.103, that sets forth the terms and governing the FSS family's participation in the FSS program.

**Continuously Assisted Family:** Families who have received any form of Federal housing Assistance under the U.S. Housing Act of 1937, as amended, within the 120 days period preceding the date of the eligibility interview shall be considered income eligible", if otherwise eligible under the remaining program rules.

**Dependent:** A member of the eligible family household other than family head or spouse, who is under 18 years of age or is **age 18 and older AND** is a disabled person or handicapped person or is a full-time student.

**Disabled Person:** A person with a disability as defined in 24 CFR 5, as amended.

**Displaced Person:** A person as defined in 24 CFR 5, as amended, or a person displaced pursuant to HUD directive, or a person whose dwelling has been extensively damages by fire or natural disaster.

**Domicile:** The legal residence of the household head or spouse as determined in accordance with State and local laws.

**Drug-related criminal activity:** Drug-trafficking or illegal use, or possession for personal 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 or distribution, or the possession with intent to manufacture, sell or distribute a controlled substance.

**Elderly Family:** A family as defined 24 CFR 5, as amended.

**Elderly Person:** A person who is at least 62 years of age.

**Family:** A family consisting of two or more persons sharing residency who are either related by blood, marriage, or operation of law or have evidenced a stable family relationship and as defined in 24 CFR 5, as amended.

**Fair Market Rent:** The maximum rent, including utilities, as annually established by HUD for dwelling units of varying sizes (number of bedrooms) for the purpose of establishing local payment standards.

**Family Income (Annual income):** Income as defined in 24 CFR 5, as amended.

**Family Unit Size:** The appropriate number of bedrooms for a family pursuant to the Housing Agency's duly adopted subsidy standards determines family unit size.

**Finding Increment:** Each commitment of budget Housing Agency by HUD to a Housing Agency under the consolidated annual contributions contract for the Housing Agency program.

**Full-time Student:** A person who is in full-time attendance (equal to a full-time day student) under the standards and practices of the educational institution he or she is attending.

**Gross Rent:** The Contract Rent plus any utility allowance for tenant paid utilities and other services.

**Handicapped Person:** A person having a physical or mental impairment as defined in 24 CFR 5.

**Head of Household:** The adult member of the family who is the head of the household for purpose of determining income eligibility and rent.

**Homeless Family:** A person or family as defined in 24 CFR 5 Subpart F, as amended.

**Housing Assistance Payment (HAP):** The monthly rental assistance payment remitted by the Housing Agency on behalf of a Section 8 participant.

**Housing Choice Voucher:** New and only form of Section 8 tenant based rental assistance as of October 1, 1999.

**INS:** The U. S. Immigration and Naturalization Service.

**HUD Requirements:** HUD requirements are issued by HUD headquarters; such as regulation, Federal register notices, handbook requirements or other binding program directives for the Section 8 Housing Voucher Program.

**Housing Assistance Payments Contract :** A written contract between the Housing Agency and owner to make Housing Assistance Payments to the owner on behalf of an eligible family participating in the Housing Choice Voucher Program.

**Housing Choice Voucher:** A document (HUD Form 52646) issued by the Housing Agency declaring a family to be eligible for participation in the Section 8 Housing Choice Voucher Program and stating the terms and conditions for the family's participation.

**Housing Quality Standards (HQS):** The inspection performance requirements and acceptability criteria for housing set forth in 24 CFR 982.401, as amended.

**Involuntary Displacement:** Displacement of a person or family as outlined in 24 CFR 5 Subpart F.

**JTPA Program:** Program covered under the Jobs Training Partnership Act.

**Live-in-Aide:** A person as defined in 24 CFR 5 Subpart F, as amended.

**Lower-Income Family:** A family whose income does not exceed 80 percent of the median income for the city as determined by HUD with adjustments for size of family.

**Medical Expenses:** Those medical expenses which are anticipated to be incurred during the 12-month period for which the Annual Income is computed, and which are not covered by medical insurance (premiums for such medical insurance may be included as medical expenses) or any other source.

**Merge Date:** The date HUD officially merged the rules governing the Certificate and Voucher Program into one form of rental assistance (i.e., October 1, 1999).

**Mixed family:** A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Moderate Rehabilitation:** Generally defined to mean required dwelling unit repairs required to meet or exceed HQS at a total cost of \$1,000.00 - \$5,000.00 per unit.

**Monthly Income:** One-twelfth of the Annual Income (also called Monthly Gross Income).

**Monthly Income After Allowance:** One-twelfth of the Adjusted Income.

**Near-Elderly:** A person who is at least 50 years of age but bellow the age of 62.

**Non-Citizen:** A person who is neither a citizen nor a national of the United States.

**Owner:** Any person or entity, including a cooperative, having the legal right to lease or sub-lease a unit to participant.

**Payment Standard:** A schedule of amounts adopted by the city for each bedroom size that is used to determine the housing assistance (subsidy) a family will receive in the Voucher Program.

**Portability:** Moving with a Section 8 housing choice voucher rental assistance (subsidy) to a dwelling unit outside of the jurisdiction of the issuing or initial Public Housing Agency.

**Pre-Merger Certificate:** Section 8 Certificate issued to a qualified family before October 1, 1999.

**Pre-Merger Voucher:** Section 8 issued to a qualified family before October 1999.

**Premises:** The building or complex in which the dwelling unit is located, including common areas and grounds.

**Public Assistance:** Welfare or other payments to families or individuals based on need, which are made under programs funded, separately or jointly, by the Federal and/or State governments.

**Public Housing Agency:** PHA.

**Remaining Member:** *A remaining member of a tenant family* is a family member of an assisted tenant family who remains in the unit when other member of the family have left the unit. To remain in occupancy with continued rental assistance the remaining tenant family member must be of legal age to enter into a lease pursuant to state law, and must not be a current or recent participant in criminal activity as defined under the 1998 PHRA.

**Rental Agreement:** A written agreement between an owner and an eligible family to rent a unit.

**Rent to Owner:** The rent payable to the owner as approved by the PHA pursuant to the owner's request and the rent reasonableness criteria.

**Reasonable Rent:** A rent to owner that is not more than either the rent charged for comparable units in the private unassisted market; or rent charged by the owner for a comparable assisted or unassisted unit in the building or premises.

**Residency Preference:** A Housing Agency preference for admission of families that reside anywhere in 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*.

**Section 214:** Section 214 of the *Housing and Community Development Act of 1980*, as amended (42 U.S.C. 1436a). Section 214 restricts HUD from making financial assistance available for non-citizen unless they meet one of the categories of eligible immigration status specified in Section 214.

**Single Person:** A person living alone or intending to live alone.

**Special Admission:** Admission of an applicant that is not on the PHA's waiting list, or admission without considering the applicant's waiting list position, such as a person who is displaced by HUD action with the promise of Section 8 rental assistance.

**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.

**Subsidy Standards:** Standards established by a Housing Agency to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions. (See definition of family Unit Size).

**Suspension:** Stopping the clock on the term of family's voucher, for such period as determined by the Housing Agency, from the time when the family submits a request for Housing Agency approval to lease a unit, until the time when the Housing Agency approves or denies the request.

**Suspension:** Stopping the clock on the term of family's voucher, for such period as determined by the Housing Agency, from the time when the family submits a request for Housing Agency approval to lease a unit, until the time when the Housing Agency approves or denies the request.

**Substandard Housing:** Housing that is physically deficient as defined in 24 CFR 982.219, as amended.

**Tenancy Addendum:** The lease language required by HUD to be include in the lease between the tenant and the owner.

**Tenant:** The person or persons who executes the lease or lessee of the dwelling unit.

**Tenant Rent:** The amount payable monthly by the family as rent to the owner.

**Total Tenant Payment (TTP):** The monthly cost of rent and utilities payable by the assisted family consistent with the HUD-required formula.

**U.S.Department of Housing and Urban Development:** HUD

**Utility Allowance:** An amount equal to the estimate established by the Housing Agency of the monthly costs of utilities (except telephone) and other housing services for an assisted unit, which are not included in the tenant rent, but is the responsibility of the family occupying the unit.

**U.S. 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, including Puerto Rico, the U.S. Virgin Island, Guam, Canal Zone, etc.

**Utility Reimbursement Payment:** The amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Tenant payment for the family occupying the unit. This amount can be paid directly to the tenant or the Utility Supplier pursuant to the PHA's adopted policy.

**Very Low-Income Family:** A family whose income does not exceed 50 percent of the median income for the City as determined by HUD, with adjustments for size of family.

**Violent Criminal Activity:** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

**Waiting List Admission:** An admission from the Housing Agency's waiting list.

## **C. GENERAL APPLICABILITY AND SCOPE**

The policies and procedures contained herein are applicable to the making of Housing assistance payments on behalf of eligible families pursuant to the provisions of Section 8 of the U.S. Housing Act of 1973, as amended. To implement the Housing Choice Voucher Program, the Housing Agency, with the approval of HUD is authorized to make housing assistance payment on behalf of eligible families who rent units which meet or exceed HUD's Housing Quality Standards (HQS) during the period of the ACC.

### **§ 1.00 Scope of the Section 8 Administrative Plan**

The Section 8 Housing choice Voucher program is federally funded and locally Administered by the Municipality of Fajardo Housing Agency through its Section 8 Housing office (hereinafter referred to as the office or the program).

Local rules, which are made a part of this Section 8 Administrative Plan, are intended to promote local housing objectives consistent with the intent of the federal housing legislation.

Local Programs subject to the provisions of this Section 8 Administrative Plan, as Applicable included:

- Pre-Merger Rental Vouchers
- Housing Choice Vouchers

Required program forms are located in HUD Handbook 7420.8 and on the worldwide web at [www.hudclips.org](http://www.hudclips.org).

### **§ 1.01 Statement of Compliance with Applicable Fair Housing Laws**

The Municipality of Fajardo Housing Agency is an equal opportunity employer and an equal opportunity housing provider.

The Housing Agency will administer its housing programs in a nondiscriminatory manner without regard to race, color, creed, national origin, religion, sex, age, handicap, or familial status. The Housing Agency will comply with all federal, state and local fair housing Statutes, executive Orders and comparable laws, including but not necessarily limited to:

- a. Title VI of the Civil Rights Act of 1964, as amended.
- b. Title VII of the Civil Rights Act of 1968, as amended.
- c. Section 504 of the rehabilitation Act of 1973, as amended.

- d. Fair Housing Amendments Act of 1988.
- e. Title II of the American with Disabilities Act.
- f. State/Local Fair Housing Laws.

The Housing Agency will provide federal/state/local information regarding discrimination and recourse in the event of discrimination.

Prospective and participating landlords will be apprised of applicable Fair Housing Laws and the Housing Agency's policy regarding the full range of actions to be taken against landlords involved in discriminatory leasing practices.

The Housing Agency subscribes to HUD's open-housing policy and will maintain list of available housing to ensure greater housing choice/opportunities for low-income households served by this Housing Agency.

If an applicant or participating family believes they have been the victims of illegal discrimination the Housing Agency will provide:

- HUD's fair housing Brochure (dated 7/90);
- Assistance in completing HUD form 903; and/or
- Referral to the Regional HUD Office of Fair Housing.
- Referral to state or local fair housing organizations.

The MFHA may extend the family's term of voucher ("search time"), not to exceed 60 days, where there is sufficient evidence to lead the agency to believe the family's efforts to locate suitable housing has been impeded by discriminatory actions (or inactions) by prospective landlords or realtors.

#### **§ Applicability of the Privacy Act**

The Housing Agency will facilitate the full exercise of rights conferred on individuals under the Privacy Act of 1974, [5 U.S.C. 552A] and will ensure the protection of privacy as to individuals about whom the office maintains records under its Section 8 Housing Choice Voucher Program, except that information which is part of the applicant or tenant's file with regard to current/prior participation in drug-related or violent criminal activity, history of excessive damage to units created by applicant or tenant-family, or eviction from Section 8 assisted units, will be shared with prospective landlords.

A release form, executed by all adult family members, will accompany any requests for release of information.

## **D. PUBLIC NOTICE TO LOWER-INCOME AND/OR VERY LOW-INCOME FAMILIES**

### **1. Notice of Availability of Housing Assistance**

The Housing Agency shall periodically make known to the public through publication in local daily newspaper of general circulation, minority print media and other suitable means, the availability and nature of housing assistance for low-income families. The notice shall further inform such families where and how they may apply for Section 8 Voucher assistance. The notice shall also state that occupants of housing assisted under the 1937 Act, and applicants on waiting list for any such housing, must apply if they wish to be considered for a Voucher. In addition, the notice shall state that applicants for Section 8 Voucher will not lose their place on the waiting list for public housing at the Municipality of Fajardo Housing Agency.

### **2. Notice in Accordance with HUD Guidelines**

Such notice shall be made in accordance with the Housing Agency's most recently adopted Section 8 Administrative Plan. Upon request, the Housing Agency shall send to the HUD field office a copy of the Section 8 Administrative Plan.

### **3. Opening and Closing the Waiting List**

The Housing Agency will give public notice when the waiting list is opened, including any limitations on who may apply. If the Housing Agency determines that its waiting list contains an adequate pool for use of its available funding, the Housing Agency may stop accepting applications.

### **4. Policy Governing Cross-listing and Merging of Waiting List**

The Municipality of Fajardo Housing Agency will not merge its Section 8 tenant-based assistance waiting list with its project-based waiting list for conventional public housing.

The Agency will maintain a single, waiting list for Section 8 applicants consistent with HUD'S instructions under Part 1 of the Section 8 Conforming Rule. If the public-housing waiting list is open at the time a family submits a pre-application for Section 8 assistance the family will be afforded the opportunity to be cross-listed on the Municipality of Fajardo Housing Agency's public housing waiting list with the:

- Same date/time of application
- Same preference codes.

5. Notice of Nondiscrimination

All notices of general circulation regarding the availability of the program, and any notices to prospective applicants/participants or owners shall state the Housing Agency promotes nondiscrimination in housing and will assist any family who alleges discrimination by staff and/or owners. Such assistance may include any of the following: (a) assisting the family in completing HUD Form 903; (b) referring the family to the local legal aid society; (c) providing the family with the toll free number for HUD's Office of Fair Housing in Washington, D.C.

**§ Statement of Program Approach and Planned Outreach**

The Housing Agency will implement its Section 8 rental Assistance Program in manner consistent with the Housing Agency's mission of providing "*decent, safe, sanitary, and affordable*" housing. The Municipality of Fajardo Housing Agency will promote outreach about its programs and services, regarding the availability and nature of the Section 8 housing choice voucher program.

Outreach methods and strategy will be redesigned if it is determined that a particular segment or segments of the community are not being reached.

Efforts to reach those persons where Spanish may not be their first language will included the use of:

- a. HUD forms which are printed in different languages; and
- b. Public notices in newspapers that serve various non-spanish speaking populations.

Newspaper to be used to advertise the availability of the program and to recruit owners of rental housing outside areas of low income and high minority concentration may include, but will not necessarily be limited to:

- a. Horizonte

Broadcast news sources may include, but will not necessarily be limited to:

- a. WMDD Radial Station.

During periods of time when the Housing Agency is accepting applications, interested persons will be afforded the opportunity to make written pre-application for assistance, even if it appears through discussion with the applicant that they may not qualify for assistance.

All determinations of eligibility for the waiting list will be made solely based upon the written or oral representations of the family on the pre-application housing application forms. If a family appears to be eligible they will be placed on the waiting list. A final determination of eligibility will not occur until the Housing Agency actually has a form of assistance available to offer the family. At that time, the Section 8 program staff will conduct the family's final eligibility interview and undertake the required verification procedures.

To facilitate agency compliance with HUD's *income targeting requirements* an assertive effort to identify and assist *extremely low income families* will be accomplished through outreach activities with:

- Department of Family and Children's Services (local TANF agency)
- Puerto Rico Department of Employment Services
- Puerto Rico Board of Education
- Local hospitals, colleges and universities

The MFHA will notify organizations representing persons with disabilities and ethnic minority populations of the period of time for which applications for Section 8 rental assistance will be provided. These same organizations will be recruited to assist the populations they serve by:

- Providing transportation to the interview and to search for housing outside of areas of high poverty or minority concentration;
- Assisting the applicant in organizing family data to be brought to the interview;
- Negotiating rents and security deposits with prospective landlords;
- Securing required security and/or utility deposits;
- Acquiring furniture.

Such organizations may include, but are not necessarily limited to:

- Churches serving the English-speaking community

The application will ask how the applicant heard about the program as a means of feedback on the effectiveness of the agency's outreach program, and to modify its strategy to reach under-represented populations.

§ 1.01 Maintaining The Waiting List

The Municipality of Fajardo Housing Agency maintains a master waiting list for the Section 8 Housing Choice Voucher Programs.

The waiting list will provide the following information on apparently eligible households who have an active form of application (pre-application or full application):

- a. Name of head of household;
- b. date and time the pre-application was received;
- c. Unit size(s) most appropriate to meet the family's needs;
- d. Preference status codes; (if any) and
- e. race/ethnicity of head of household
- d. Annual income (for income-targeting compliance)

§ 1.02 Policy and Procedures Governing Income Targeting in Section 8 Waiting List Selections

The Municipality of Fajardo Housing Agency will implement *income targeting* consistent with the provisions of the Public Housing Reform Act of 1998. family selection from the waiting list will be made in a manner that assures at least seventy five percent (75%0 of all new admissions within the PHA's fiscal year have income at or below the extremely low income (ELI) limit for this area.

To ensure compliance with this requirement the agency will code its list applicants by *income range* as follows:

Code 1=low *income* (i.e. family income reported at 50-81% of area median income);

Code 2=very low *income*(i.e., family income reported at 31-50% of area median income); and

Code 3=extremely low *income* (i.e., family income reported at zero to 30% of area median income).

The Municipality of Fajardo Housing Agency may select an applicant from its waiting list based on income range, and without regard to locally adopted preferences in tenant selection, if necessary to ensure federal compliance with annual income targeting *requirements* for the Section 8 housing choice voucher program.

Section 8 program management staff will undertake the following procedures to establish and maintain compliance with its income targeting requirements:

- Step 1: 90 days prior to the start of the new fiscal year, collect the data required to estimate the annual gross incomes of waiting list applicants (see income codes on the waiting list);
- Step 2: Estimate the number of families expected to be admitted over course of upcoming fiscal year based on historical data (use unit turnover data from current fiscal year);
- Step 3: Estimate number of families to be selected from the waiting list to facilitate 100% lease-up in upcoming fiscal year (use success rate data on number voucher issued vs. number of contracts executed in current fiscal year);
- Step 4: Based on current distribution of ELI families on the waiting list determine if the MFHA can accomplish its requirement for 75% ELI admission utilizing its “regular” tenant selection process, or if agency must intensively monitor waiting list selections to determine need to implement strategy (e.g. suspend regular preferences for ELI preference: open the waiting list for new ELI applicant; increase outreach to organizations representing the ELI populations).

### **§ 1.03 Updating The Waiting List**

The Housing Agency will initiate a periodic update of the applications received. The applicant will:

- Be mailed an update letter of interest regarding continued interest (sent by general mail to the applicant’s most recently reported address);
- Be required to complete the update form and return it within fifteen (15) calendar days of mailing by the HA in order to maintaining their name on the waiting list.

If the family fails to respond within the specified time period they will be determined Ineligible. For each notice returned marked “*Address Unknown*”, staff will close the application, attach the returned notice and envelope, and file the file will be maintain for three years.

Any changes in family's circumstances that affect their place on the waiting list, such as a changes in local preferences, will be made as of date of the application update with the HA.

The family will maintain their original date of application no matter how many times there are changes in their circumstances while they are on the waiting list.

#### **§ 1.04 Closing and Reopening The Waiting List**

The HA reserves the right to:

1. Discontinue application taking for all or some targeted applicant families when it has been determined by the Housing Agency's Manager or designee that there is insufficient funding;
2. Give public notice whenever the waiting list will reopen through a local newspaper of general circulation.
3. State where and when interested persons may apply and any limitations on who may apply, as well as any reasonable accommodations for persons with disabilities who wish to apply.

#### **§ 1.05 Selecting From The Section 8 Waiting List**

Families will be selected for program participation as either a waiting list selection or special admission (non-waiting list admission).

*"Special Admission"* are made without regard to family's position on the waiting list or even if the family is not on the waiting list. These admissions occurs only when HUD gives the housing Agency special allocation of Section 8 funding for specific families living in certain targeted units. Special admissions are permitted when HUD provides special funding for general categories of targeted families such as the homeless or families displaced due to natural disaster, or due to the sale of HUD foreclosure.

**E. PUBLIC NOTICE AND INVITATION TO OWNERS**

1. Invitation to Owner

The HA shall periodically solicit owners through publication in local newspaper of general circulation and other suitable means to make dwelling units available for rental by eligible families. In so doing, the HA shall encourage participation by owners of units in areas other than those with concentrations of low-income or minority families.

Solicitation to owners shall be made in accordance with the applicable HUD guidelines. The HA shall prepare and distribute *owner's fact sheets and owner's briefing packets*, which explain the basic program requirements and owner benefits to participating in the Section 8 rental assistance programs. The Section 8 staff shall also address members of local organizations representing the rental market.

The Section 8 staff prepare maps that show various areas. Both within and neighboring its jurisdiction, to assist families in renting housing outside area of poverty or minority concentration. The maps will be used during briefing session, along with information about job opportunities, school and services in these non-impact areas to encourage the applications to consider these area when seeking a place to live. To further support this effort, to de-concentrate pockets of poverty, the Section 8 staff shall include in the tenant's briefing packet a list of owners who are willing to lease, or properties available for lease under the voucher program, or a list of other organizations that will help families find units. The list shall include properties or organizations that operate outside areas of poverty or minority concentration.

2. Contacts with Organizations

The HA shall periodically:

- a. Develop working relationships with owners and real estates broker associations,
- b. 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, and
- c. Explain the program, including equal opportunity requirements and Section 504 nondiscrimination requirements, to real estate agents, landlords, and other groups that have dealing with low-income families or are interested in housing such families.

## F. ELIGIBILITY CRITERIA

### 1. Family Qualification for Rental Assistance

All applicants must qualify under the following factors of eligibility. This includes family's ability to meet the AH/HUD definition of family; document U.S. Citizen, U.S. national or eligible immigration status; have income at or below 50% of median income; not owe the HA or any other HA monies as a prior Section 8 participant; within the past 3 years no participation in drug-related or violent criminal activity, provide all applicable certifications and documentation.

### 2. Projected Income indeterminable or Determinable for a Short Period

If family is determined to have *unstable income* or reports *zero income* the HA shall place the family on a more frequent than annual re-examination schedule. Based upon individual circumstances this may result in a 30,60, or 90 day interim reporting schedule. It is expected that most such families will be subject to a 90-day interim reporting requirement.

### 3. Family with Outstanding Balance Owing

An applicant with an outstanding balance owed to the HA in connection with its Section 8, public housing and/or other housing programs under the 1937 Act will be declared Ineligible for housing assistance until the outstanding balance is paid in full. If an applicant family is determined to owe the HA or another HA money as a prior participant in the Section 8 or public housing programs its is the policy of this HA to offer the family the opportunity to enter into a repayment agreement while on the waiting list.

When the family reaches the top of the waiting list all prior monies owed must be paid in full as a factor of initial eligibility. Family must make full payment within 15 calendar days of the final eligibility interview. Failure to do so will result in denial of eligibility and family's name will be removed from the waiting list. Each family so denied will be advised in writing with procedures to follow to request an informal review.

For participating families, the HA may offer a repayment agreement. The family's non-compliance with the terms of the repayment agreement is considered grounds for termination of program participation. The HA will give both the family and the owner a 30 days written notice of intent to terminate for family's failure to comply.

Applicants and participant families will be offered the opportunity for an informal review or hearing in accordance with Section Y of this plan.

4. Prior Termination from Section 8 Program

The MFHA may deny assistance to the applicant if the applicant has been previously terminated from a Section 8 rental Voucher programs for violation of program obligations, or if a family member has been evicted from public housing in the three year period, preceding the date of application, for drug related criminal activity unless there is evidence of successful completion of drug rehab or the family member involved in drug related criminal activity is no longer a member of the applicant/participant household.

5. Disposition of Assets

An applicant who has assigned, converted, transferred, or otherwise disposed of assets within two years prior to the date of initial certification or recertification shall have the value of such assets included in the determination of net family assets as set forth in 24 CFR 5 Subpart F, as amended.

- a. The MFHA 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 effective date of the certification or recertification.
- b. If the family certifies that they did dispose of assets for less than fair market value, a certification that shows:
  - ▶ All assets disposed of less than Fair Market Value;
  - ▶ The date they disposed of the assets;
  - ▶ The amount the family received; and
  - ▶ The asset's market value at the time of disposition.

**§ 1.00 Establishing Applicant Eligibility**

All families must qualify for assistance in accordance with HUD's criteria for eligibility.

The preliminary determination of income eligibility will be based on the family's self-declared sources and amounts of income.

Factors confirming any local preference claimed factors of eligibility and income will not be third-party verified until the family reaches the top of the waiting list.

§ 1.01 Definition of Family

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

1. Definition of Family

To qualify for rental assistance, an applicant household must meet one of the following criteria:

- a. Two or more persons regularly living together in a stable family-type relationship, who will live together in the MFHA assisted housing.
- b. Two or more persons who are not related by blood, marriage, adoption, guardianship or operation of law, but are regularly living together, can verify shared income or resources, and will live together in MFHA housing.
- c. The term "*Family*" also includes, but not limited to:
  - ▶ A family with or without children;
  - ▶ An elderly family;
  - ▶ A disabled family ;
  - ▶ A displaced family;
  - ▶ The remaining member of tenant's family;
  - ▶ A single person who is not elderly, displaced, or a person with disabilities, or the remaining member of a tenant family.
  - ▶ two or more elderly or disabled persons living together, or one or more elderly or disables persons living with one or more live-in aids.

- d. A child who is verified as being “temporarily absent” from the home due to placement in foster care shall be considered when determining the family composition and family size.

2. Head of Household

The head of household is the adult member of the household who is designated by the family as head, and who is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease with an owner under State/Local laws.

*Emancipated minors* who qualify under State law may be recognized as head of household if there is additional evidence/documentation that they are capable of upholding all essential terms and conditions of occupancy.

A family may designate an elderly or disable family member as head of household solely to qualify the family as an elderly household, provided that the person is at least partially responsible for paying the rent.

3. Applicable Definitions

For proper application of the rule governing *Restriction on Assistance to Non-citizen*<sup>1</sup>, 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, significant others, or co-heads.

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<sup>1</sup> Section 214 of the 1980 Housing and Community Development Amendments

4. A one-person household (i.e., single person) is considered to be an eligible family without restriction.

*Spouse* generally means the husband or wife of the head of household in a marriage recognized under Puerto Rico Commonwealth Law.

*Live-in aide* means the person expected to reside with an elderly or disable voucher holder which a physician has declared to be medically necessary for the care and well-being of the voucher-holder and who is not obligated to provide the support for this person and who would not be living in the (subsidized) unit except to provide the necessary care.

**§ 1.03 Income Limitations**

At the time of issuance of the voucher to a family from the waiting list a family's gross annual income must not exceed the Low Income (i.e. 80% of area median income) limit. In addition, the family, when first admitted, must select a unit in an area in which the family meets the income limit for the housing choice voucher program.

For a family receiving assistance at the time of the portability move i.e., ("currently assisted family"), who elects to move with continued assistance under portability to the jurisdiction of another Section 8 program, they may be either very low or low income as *a continuously assisted family*.

*Co-head of household* means the person(s) who are (a) living in a spousal relationship or (b) are related or unrelated adults with equal responsibility for program/lease compliance, such as may be the case with two adult sisters or two adult disabled persons wishing to live together.

**§ 1.02 Eligible single Persons**

All single persons are eligible to apply for and receive Section 8 subsidy if otherwise eligible during periods of time when the agency is accepting applications.

**§ 1.03 Income Limitations**

At the time of issuance of the voucher to a family from the waiting list a family's gross annual income must not exceed the Low Income (i.e. 80% of area median income) limit. In addition, the family, when first admitted, must select a unit in an area in which the family meets the income limit for the housing choice voucher program.

For a family receiving assistance at the time of the portability move i.e., "currently assisted family"), who elects to move with continued assistance under portability to the jurisdiction of another Section 8 program, they may be either very low or low income as *a continuously assisted family*.

**§ 1.04 Procedure for Projecting Unstable Income**

Where a family member has sporadic, yet recurring income such as a business owner or temporary clerical work (i.e., "Kelly-Girl") the income will include projected income based upon current income and expenses:

1. Place family on a 90-day re-exam cycle;

2. Require family to bring income information for the most recent 60-day (eight-week period) preceding the date of certification;
3. Calculate average weekly or monthly income and use this as a base line figure to project income for the upcoming 12-month period.
4. Combine the income from this period with the income from the prior period to establish a new baseline weekly or monthly figure;
5. Recalculate the TTP and determine need for additional interim re-exams.

**§ 1.05 Housing Agency Policy Governing Verification of Zero Income**

All income representations made by the family to the Housing Agency must be verified to ensure the accurate calculation of total tenant payment and housing assistance payment. When a family claims zero income the staff will use the following procedures:

1. Head or co-head of household must complete a *Family Economic-Sufficiency Form*. This form will inquire as to how the family is currently covering living expenses such as utilities, food, clothing, etc.
2. Review the family information to evaluate possible participation in programs such as TANF, unemployment, etc.
3. Pose questions to the family intended to probe for unreported income and to clarify any discrepancies.
4. Have the head or co-head complete the following verification forms, even if they represent they do not receive income from these sources;
  - Food Stamp verification form
  - TANF verification form
  - Unemployment benefits verification form
  - Credit bearu reporting verification form
  - Any other verification form that appears to fit the family's profile
  - Income Tax Return
  - IRS request for Information

If the verification form reflects income from these source the Section 8 staff will act on the information provided by the source. The Section 8 staff is also to meet with the family to discuss any discrepancies and to provide the family with the opportunity to explain the discrepancies, and to supply information, which controverts the information, received.

If the family generally disputes the information provided by the third party the Section 8 staff is to seek further clarification by phone with the third party. The information provided by the third party is to prevail. The family will be offered the opportunity for an informal review of any decision reached based upon the third party information if the family feels that the HA decision has an adverse effect. The decision of the hearing officer will prevail.

### **§ 1.06 Social Security Reporting Requirements**

Families are required to provide social security numbers for all family members age 6 and older, if they have been assigned a social security number (SSN), as a condition of initial and continued eligibility.

If family member age 6 and older does not have a social security number the family:

- Must provide a certification that a SSN has not been assigned; and family must agree to provide any social security numbers assigned after the date of the certification.
- For a minor age 6 to seventeen without a social security number the head of household or legal guardian will be required to complete the prescribed certification form.
- If an adult household member reports no social security number the adult must execute the required form.

If a non-elderly applicant or participant provides a social security number for which they state they cannot provide the appropriate verification the HA may grant a 60-day extension period in which to obtain and submit the required documentation.

For elderly families the HA may grant an extension of up to 120 days in which to provide the required documentation.

Failure of any to supply the required documentation within the prescribed extension period will result in denial (applicant) or termination (participant) of assistance.

Verification of social security numbers reported by household members will be evidenced through submission of a valid social security card issued by the Social Security Administration or through an alternate form of documentation including, but not necessary limited to:

- Benefit award letters
- Drivers license
- Employment identification card
- The MFHA state-issued identification card
- Payroll stubs
- Bank statements
- Medical insurance identification card
- IRS form 1099 (or similar)
- Medical insurance/medical provider card
- Military identification card

A person age 6+ proposed to join a family in occupancy must comply with provisions of this part.

#### **§ 1.07 Section 214 Declaration**

Pursuant to Section 214 of the 1980 *Housing and Community development Amendments*, all applicant and participant households must provide a declaration of citizenship or eligible immigration status. The Section 8 staff will provide this form with a letter of explanation to each household applying for assistance. If an applicant family member has ineligible status the family may not receive full subsidy. If any member of the family is a U.S. citizen or has eligible immigration status then the family may qualify for pro-rated/partial assistance. If there are no family members with citizen or eligible immigration status then the family will be determined ineligible for subsidy and denied issuance of voucher. An ineligible family will be informed in writing of the denial and their right to request an informal hearing equal to the hearing granted for a participant family.

If there are no family members with citizen or eligible immigration status then the family will be determined ineligible for housing. An ineligible family will be informed in writing of the denial and their right to request an informal hearing.

1. 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 contest their status. Eligible immigrants are persons who are in one of the six immigrant categories as specified by HUD.
  - a. Mixed Families A family is eligible for assistance as long as at least one member is citizen or eligible immigrant. Families that include eligible and ineligible individuals are called a mixed family. Such applicant families will be given notice that their assistance will be pro-rated and that they may request a hearing if they contest this determination.
  - b. No eligible member Applicant families that include no eligible members will be ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.
  - c. Non-citizen students defined by HUD in the non-citizen regulations are not eligible for assistance.
2. Section 214 verifications will be accomplished as follows:
  - a. U.S. Citizen or Nationals Persons claiming status as a U.S. citizen or U.S. national will provide a self-certification in the form prescribed by the agency.
  - b. Eligible Immigrants Staff will conduct primary verification of eligible immigrant status through the INS automated SAVE (Systematic Verification for entitlements) system using the instructions provided at HUD Guidebook 7420.10 G (pg. 5-7)

Staff will not delay, deny or terminate assistance to an applicant or currently assistance household if any one of the following circumstances applies:

- At least one person in the household has submitted appropriate INS documents;
- The documents were submitted to the INS on a timely basis, but the verification process has not been completed;
- The family member in question moves;

- The INS appeals process has not been completed
- Assistance is pro-rated;
- Deferral of termination of assistance is granted by the agency;
- For a program participant, the informal hearing process is not complete.

Assistance will be denied or terminated when:

- Declaration of citizenship or eligible immigration status is not submitted by the specified deadline or any extension;
- Required documentation is submitted but INS primary and secondary verification does not verify immigration status and family does not pursue INS or PHA appeal; or
- Required documentation is submitted but INS primary and secondary verification does not verify immigration status, and INS or PHA appeal is pursued but decision(s) are rendered against the family.

When the MFHA decides to deny or terminated assistance, a written notice, which includes the following, will be sent by first class mail:

- An explanation of why the financial assistance will be denied or terminated;
- Notification that the family may be eligible for prorated assistance if it is a *mixed family*;
- Procedures for requesting *temporary deferral or proration of assistance for currently assisted families*;
- Family's right to appeal the results of the secondary verification to the INS; and
- Family's right to request an informal hearing from the PHA in lieu of an INS appeal or after an appeal.

Where feasible, the agency will provide all required notices and instructions in a language that the family understands if the family is not proficient in English. Care will be taken to ensure that the implementation of the 214 requirements are accomplished consistent with Section 504 and Fair Housing requirements.

**§ 1.08 Other Criteria for Admission**

1. Applicant must have paid in full any outstanding debt owed to any PHA for public housing Section 8 voucher or for any previous tenancy under the 1937 Housing Act and/or any other federally assisted housing program.
2. Applicant must have left any previous tenancy under the Section 8 program without being in violation of family obligation under its Housing Voucher, (unless there was good cause) within the five-year period preceding the date of applicant for assistance.
3. No family member has committed:
  - Fraud
  - Bribery; or
  - Any other corrupt or criminal act in connection with any federally assisted housing program in the five-year period preceding the date of applicant for assistance.
4. family has not breached a pre-existing agreement to repay the Housing Agency for monies owed as prior program participant. If there are any monies due and owing the Housing Agency the family must make full payment of the debt prior to being issued a voucher. Failure to do so is grounds for denial of assistance.
5. No family member to occupy the assistance unit is an employee the HA or governing body that makes policies or decisions relating to the operation of the Section 8 program unless HUD has granted a written waiver.

**§ 1.09 Family Suitability**

It is not the intent of the federal government nor the local government to provide subsidy for a family with a member(s) who have a history of drug related, violent criminal activity, nor alcohol abuse that interferes with the health, safety or right to peaceful enjoyment of others.

If the family member involved in the illegal drug activity or violent criminal activity will not occupy the assisted unit, or can demonstrate that he/she is recovering or has recovered from such addiction and does not currently use or possess a controlled substance, the HA may approve the family for program participation.

The HA will not screen for factors that relate to suitability of the applicant family as “tenants”

Section 8 staff prohibited from considerate *suitability factors*, such as those described below, when determinate family eligibility for Section 8 rental assistance:

1. Prior rent paying history;
2. Outstanding debts owed to previous owners (unless there was an owner’s claim which was paid by the HA on behalf of the family, thus creating a financial obligation to the HA); or
3. History of damage to rental properties, etc.

The above forms of screening and evaluating an applicant for tenancy are the responsibility of the landlord and not the HA.

Owners are advised both orally and in writing of their obligation to perform normal, routine screening of applicants they propose to house.

The HA will continually urge owners to conduct such thorough screening on a uniform, consistent and non-discriminatory basis as part of the owner’s routine tenant selection process.

The HA will provide the following information to prospective landlords to the extent such information is a part of the applicant/tenant file and does not violate the privacy act.

- Current address
- Current landlord information
- Prior landlord information
- Outstanding claims for unpaid rent or damages owing the program

## **§ 1.10 Grounds for Denial of Admission and Notice to Family**

If the applicant household does not meet the factors of eligibility stated in the section the HA will make a determination of ineligibility. Any family determined to be ineligible for assistance will be notified in writing within five (5) working days of the decision.

## **§ 1.11 Informal Review Procedure for Applicants**

Applicants will be provided an opportunity for informal review of decision that deny the applicant placement on the waiting list, issuance of a section 8 voucher or participation in the section 8 program.

1. The written notice of ineligibility will state the reason for the determination and advise the family of its right to request an informal review of the decision within fifteen (15) calendar days of the date of the HA's notice of ineligibility.
2. Applicant will be given the opportunity for informal review in accordance with these procedures:
  - If such a review is requested the informal review will be conducted within ten (10) calendar days of receiving the family's written request.
  - Review shall be conducted by any employee, other than a person who made or approved the decision under review or a subordinate of that person.
  - Applicant shall be given an opportunity to present oral or written objections to the HA decision.
  - Applicant has the right to legal counsel or other representation at his/her expense.
  - The hearing has the right to legal counsel or other representation at his/her expense.
  - The hearing officer will notify the applicant in writing of the final decision within five (5) working days after the informal review. This notice shall include a brief statement of the reasons for the final decision.

## **G. VERIFICATION OF ELIGIBILITY**

### **1. Applicant for Admission**

The HA shall determine eligibility for section 8 rental assistance in accordance with criteria established by HUD and the MFHA. In so doing, the HA shall require every applicant to complete and sign an application prescribed by the HA, as well as applicable verification consent forms.

### **2. Determination of Annual Income**

Family income for purpose of determining income eligibility and tenant rent and subsidy shall be computed in accordance with HUD specified sources and amounts of income to be included or excluded as stated at 24 CFR – 5 Subpart F.

Additionally, the MFHA shall exclude certain amounts of earned income under designated and qualified local training programs related to Welfare Reform as specified in HUD Notice 98-2, and consistent with 24 CFR 5.609.

### **3. Verification of Factors of Initial Eligibility and Tenant Rent**

To document program eligibility, preference rating, dwelling size and rent to be paid, the information submitted on the application for admission shall be independently verified. Program verification used shall be valid for a period of 60 days prior to admission. Program verifications used for annual re-exams shall be valid for a period of 120 days prior to the effective date of re-examination of family circumstances.

The HA will follow the verification methods prescribed in HUD PIH-Notice 92-45 and PIH Notice 2001-15

When third party verification source cannot or will not provide the required information within four weeks this will be noted in the applicant or tenant file and the HA will document the alternative method used.

The HA may review original documents provided by family and use this as the basis for a provisional determination that will remain subject to third party verification.

If third party verification is received after the provisional determination of initial/continued eligibility or tenant rent has been made the HA will use the third party independent verification to make a retroactive determination. A family's rent may be increased or decreased retroactively.

If there is a determination that a family was not initially eligible for program participation the family will be terminated on 30 day written notice to the family and owner. Any ineligible family will be required to make full repayment of subsidy received to which the family was not entitled.

#### 4. Supporting Documents

To comply with the verification requirements process for admission and or re-examinations periods the family must submit the following documents.

- Policies record( for each person 18+)
- Date of Birth Certificate
- School records
- Family composition photo ( for admission, and if some changes occurs in family composition change)
- (3) Personal References
- (3) Credit References
- Copy Social Security card.
- Child care expenses Statement
- Medical expenses Statement
- Employment Statement
- Social Security benefits Statements
- Unemployment benefits Statement
- Child support Statement
- Welfare benefits Statement
- Retired benefits Statement
- Veteran benefits Statement
- Income Notarized Statement

#### 5. Verification of Annual Income

Anticipated income is a prime determinant of an applicant's eligibility for participation and their level of rental assistance. An annual income means income from all sources received by the family head and spouse (even if temporarily absent), and by each additional member of the family, including all net income to be derived from assets for the upcoming 12-month period.

Annual income will be determined based on appropriate third party verification. Initial income eligibility is established by comparing annual income to the HUD-prescribed maximum income limit.

There is no minimum income requirement for participation in the section 8 rental assistance programs.

6. Record of Family

A file folder shall be established for each applicant and participant family and shall contain the original application and all data collect to verify and document the family's status. For each participant family that HA will maintain as part of the family record the family's application, applicable verifications, a copy of the executed lease and the HAP contract, as well as correspondence between the family and HA. The HA shall retain all applicant/tenant certifications and relevant documentation as set forth in 24 CFR 982, as amended.

7. Misrepresentation of Family Circumstances

If any applicant deliberately misrepresents the information on which eligibility or tenant rent is established, the HA may deny and/or terminate assistance and may refer the family file/record to the proper authorities for appropriate disposition.

8. Determination of Ineligibility

If an applicant is determined to be ineligible for section 8 rental assistance, the HA shall promptly state the reasons for its determination to the applicant in writing. The letter shall also state that the applicant may request an informal discussion and explain how to request the informal discussion.

9. Suspension of Voucher Issuance

If there is insufficient funding to assist the family at the top of the waiting list, the HA will not issue any form of assistance to any other family on the waiting list until there is sufficient funds to assist the family at the top of the waiting list.

However, if HUD awards the HA funds for a specified category of families on the waiting list, the HA must select families in that category, even if they are not at the top of the waiting list for one year. All such selections will be made as a Special Admission and so noted in the tenant and waiting list records.

10. Removal from the Tenant-Based Assistance Waiting List

The HA will remove a family's name from the section TBA waiting list if the family is determined ineligible in accordance with criteria prescribed by HUD or HA policy. The HA may also remove a family's name from its waiting list for family's failure to provide the HA with a new mailing address and/or any correspondence is returned with no forwarding address. The HA may also remove a family's name from the waiting list based upon a family's written request.

## §1.00 Policy and Procedures for Verifying factors of Eligibility

Verification of income and asset information is required to determine eligibility for admission and continued assistance. All of the family's written representations that affect the family's eligibility or rent, must be verified by the HA section 8 Admission staff.

Written inquires will include:

- Statement of the purpose for requesting family data; and
- Statement signed by the applicant to permit the source to release information/family data.

When an applicant or tenant reports annual income that appears to be less than adequate for the family's needs, or if the family appears to be eligible for income that is not reported to be received, (i.e, Temporary Assistance for Needy Families, TANF), welfare, unemployment compensation, child support, etc.) the absence of such income will be verified.

Family may be required to sign verification consent forms for:

- Temporary Assistance for Needy Families (TANF)
- Food Stamps
- Unemployment Compensation
- State Wage information Collection HA
- Credit Reports

For an initial determination of eligibility all required verifications must be current (i.e issued within the 60 days period preceding the date of interview).

Tenant files will contain documentation of all required verifications.

1. Applicant/tenants must cooperate with section 8 staff and comply with the HA's certification/verification process by providing enough information to allow the section 8 office to obtain verification from a third party of all statements regarding eligibility and rent. Family composition is generally treated as self-certification. The signature of the head and/or co-head of household on the application for housing assistance will normally be considered sufficient verification for family composition. However, the HA may require proof of family composition consistent with the HA's definition of *family*.

2. All income , assets and each applicable deduction will be verified at the time of admission and at each subsequent re-examination. Income will be verified by third party verification. If third party written verification is not possible, Section 8 staff shall attempt to receive third party oral verification by calling the source or participating in a meeting with the source. Whenever third party oral verification is utilized the Eligibility Specialist/Housing representative who received the information will be required to document the date of the phone contact, the name of the person they spoke with, information received and sign their name. Additionally , the Eligibility Specialist/Housing Representative will complete the HA's third party oral verification form. This form will identify with whom they spoke, the date, and other critical information. If neither third party written nor oral verification is possible this will be noted in the file and Section 8 staff undertake a review of documentation provided by the family ES/HR are to review documents provided by the family for: *date, authenticity, and completeness*. If documents appear to be altered they should not be considered and alternative documentation should be requested.

The following statements will also be verified and documented in the tenant file:

- a. Age of family members when the sole factor determining factor of eligibility is age or to support deduction claimed for minors or elderly household status;
- b. Displacement, handicap, disability, veteran or serviceman status when they are a factor in determining eligibility for certain deductions or preferences;
- c. Full-time student status

#### **§ 1.00.a Policy and Procedures for Third Party Verifications**

The verification process during the time of application, interim reexamination and annual re-examination is a critical task in the administration of the Department of Housing and Urban development (HUD) assisted housing programs. This task requires Public Housing Agencies (PHA) to verify factors that affect the determination of an applicant's/participant's adjusted income. The verification process also requires the applicant/participant to provide and disclose information that is true and complete, which is necessary in the administration of HUD's assisted housing programs. The MFHA is committed to insure that all applicants and participants information if verified for accuracy.

The requirement for the third party verification can be found at 24 CFR §960.256(c ) (1) and §982.516 (a) (2) and states that "The PHA must obtain and document in the family

file third party verification of the following factors, or must document in the file why third party verification was not available:

- Reported family annual income;
- The value of assets;
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income or income-Based rent.

The Department has defined third party verification based on verification requirements established by the Inspector General's Office, prior HUD notices and guidebooks. References; PIH Notice 2001-15; Improving Income Integrity in Public and Assisted Housing Choice Voucher Program Guidebook (Section 12-4) issued April 2001 The Tenant Integrity Program Training Guide issued by the Office of the Inspector General (Page 51) issued October 1989.

Third party verification is defined as independent verification of income and/or expenses by contacting the individual income/expense source(s) supplied by the family. The verification documents must be supplied directly to the independent source by the PHA and returned directly to the PHA from the independent source.

The tenant shall not hand carry documents to or from the independent source. The Agency will mail, fax, or e-mail the verification request form to the independent source. In the event that the independent source does not respond to the Agency's faxed, mailed or emailed request for information, the Agency will secure and document oral third party verification.

The agency will ensure that they use appropriate consent forms to obtain specific information. The HUD Form 9886 authorizes HUD and the PHA to obtain third party verification of the following;

- Any income information or materials from State Wage Information Collection Agencies (SWICA).
- Income information obtained from previous and current employers. The HUD Form 9886 authorizes HUD only, to obtain third party verification of the following;
- Income information from the SSA.
- Income return information from the IRS.

The HUD Form 9886 may not be used to obtain any information.

## **Verification Guidance**

The Agency will make every effort to secure HUD System Available for Upfront Income Verification. The Agency will use HUD's Tenant Assessment Sub-System (TASS) and centralized UIV System as acceptable methods for verifying family income.

**Note:** The Agency will insure to have a valid HUD Form 9886 signed by all household members who are 18 years of age or older in the tenant file.

The Agency will make use of the Third Party Verification to Supplement Upfront Income Verification.

**Written Third Party verification:** Independent verification of income and/or expenses will be secured by contacting the individual income/expense source(s) supplied by the family. The verification documents must be supplied directly to the independent source by the PHA and be returned directly to the Agency from the independent source.

**Oral Third Party Verification:** Independent verification of income and/or expense will be secured and documented by contacting the individual income/expense source(s) supplied by the family, via telephone or in-person visit. Agency staff will document in the tenant file, the date and time of the telephone call, the name of the person contacted and telephone number, along with the confirmed verified information. This verification method will be the last resource used in the event that the independent source does not respond to the Agency's faxed, mailed, or e-mailed request for information in ten (10) business days.

**Document Review:** The Agency will review original documents provided by the tenant in support of their declaration of income during the income reexamination. This verification method will only be used as the sole source of income verification when all other source of third party verification cannot be obtained. When the Agency has to resort reviewing tenant-provided documents, the Agency will document in the tenant file why third party verification was not available.

This plan provides further guidance on the verification method that the Agency will utilize to insure full compliance and adherence with this policy and with HUD's requirements.

The MFHA will use the following verification methods in the order listed below:

- (1) Upfront Verification
- (2) Written Third party Verification
- (3) Oral Third party Verification
- (4) Document Review
- (5) Tenant Declaration

The Agency will attempt to use upfront income verification first and whenever possible, since it is the most preferred method by HUD and does not rely on an individual filling out a form, which may result in lower data integrity.

If upfront verification is not available then the Agency will obtain required written third party verification. Verification forms are to be mailed, faxed or e-mailed directly to the independent source. In the event that the independent source fails to respond to written verification request, the Agency will then contact the independent source by telephone or in a personal visit to obtain the verification. Upon receipt of the information, the Agency must document in the family file, the date and time the information was received along with the name of the person and title that provided the information.

#### **H. EXCEPTIONS TO THIRD PARTY VERIFICATION REQUIREMENTS:**

The MFHA is aware that in some situations, third party verification is not available for a variety of reasons. Oftentimes, the Agency may have to make numerous attempts to obtain the required verification with no luck, or the income source may not honor written or oral requests for income information, or the assets or expenses to be verified is an insignificant amount, or it may not be cost effective to obtain third party verification of assets and expenses, when the impact on total tenant payment is minimal. In these cases, it is acceptable for Agency to review original documents provided by the tenant. However, the Agency is required to document in the family file the reasons(s) why third party verification was not available. The Agency will maintain a photocopy of the original document in the family file.

#### **§ 100.b Upfront Income Verification**

In order to comply with Notice PIH 2004-18 (HA) and 24CFR 5.236(b)(2), the PHA is using the Tenant Assessment Subsystem (TASS) to verify Social Security/Supplemental Security Income (SS/SSI) benefits of current participants and household members, as an Upfront Income Verification (UIV) tool.

UIV is the verification of income, before or during a reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals. UIV replaces, to the maximum extent possible, the more time-consuming and less accurate third verification process.

HUD's system provides PHAs with information supplied from state wage information collection agencies (SWICA) and the Social Security Administration (SSA) Income is provided through a data matching process for the households covered by 50058 form submitted to HUD.

The UIV is HUD's Key Strategy in reducing income and rent errors from unreported income. The primary objective of this tool is to increase accuracy and efficiency in determining family eligibility and computing rent calculations. It also removes the barriers to verify tenant-reported income.

## **DEPARTMENTAL MANAGEMENT GOALS**

- Incorporation of UIV policy in the PHA Administrative Plan and occupancy procedures
- Use and monitoring income discrepancies (through TASS)
- Elimination of subsidy payment errors

## **VERIFICATION ORIENTATION**

Section 8 Program participants must be orientated about the UIV tools that will be used as part of the annual activities, such as re-certifications and interims, to verify income information. PHA will request the family the HUD Form 9886: Authorization for Release of Information/Privacy Act. During the interview process the family will be orientated about how that income verification toll works.

The staff who conduct the interview process must emphasize the importance of fully disclosing income by informing participants before disclosure that the PHA have access to income information through HUD's UIV tolls, such as social security benefits.

## **TENANT ASSESMENT SUBSYSTEM (TASS)**

PHA uses the Tenant Assessment Subsystem (TASS) to verify Social Security/Supplemental Security Income (SS/SSI) benefits of current participants and household members, as an Upfront Income Verification (UIV) tool.

The Social Security Administration provides HUD with benefit information on all current participants and household members who have disclosed a valid social security number. HUD makes this information available to administrators of Public Housing and Section 8 Programs through TASS and UIV systems.

## **THIRD PARTY VERIFICATION REQUIREMENT**

PHA use TASS to comply with 24CFR 960.259(a)(1), which requires PHA to obtain and document in the family file third party verification of the following factors or document or in the file why third party verification was not available:

1. Reported family annual income.
2. Value of assets
3. Expenses related to deductions from annual income.
4. other factors that affect the determination of adjusted income-based rent.

In an event that third party verification is not available, the PHA must document the tenant file as to why third party verification was not available. Below are some examples of acceptable file documentation:

1. New admission, information is not available in TASS
2. New tenant, information not available in TASS
3. Current tenant, information not available in TASS due to change in re-examination date
4. Current tenant, information not available in TASS due to discrepancy with name, date of birth. Or social security number in SSA file.
5. Current tenant, information not available in TASS, reason unknow.

## **INCOME DISCREPANCIES**

If there any discrepancies between the TASS data and the information provided by family members, the PHA will discuss it with the participant and document it. Statutory and regulatory requirements prohibit PHA from taking any adverse actions against participants solely based on computer matching information. PHA may not suspend, terminate, reduce, or make a final denial of assistance to any tenants as a result of information produced by UIV tools, such as TASS, until:

1. Tenant has received a notice from the PHA of its findings and has been offered the opportunity to contest the findings;

2. Either the notice period provided in applicable regulations of the program or 30 days, whichever is later, has expired.

In most cases, it is anticipated that PHA will resolve income discrepancies with participants. (See 24CFR 5.236). In those cases, where there is undisclosed income the PHA will consider the following aspects:

- Repayments agreements
- Thresholds for legal action related to fraud.
- Interim reexamination thresholds

**AVAILABILITY OF INCOME INFORMATION**

The availability of social security benefit information in HUD systems is dependent upon data quality and timely submission of HUD Form 50058 to the Public and Indian Housing Information center (PIC). PHA must ensure that data entered on HUD Form 50058 is accurate and complete. If the family's HUD Form 50058 is not successfully submitted to PIC, social security benefit information will not be available in HUD income verification systems. While the TASS system will be an excellent tool for highlighting potential income errors, PHA will still have the responsibility to:

- Compare TASS information with participant-provided information
- Resolve income discrepancies promptly to determine accurate tenant rents based on all available information.

In addition, PHA will be responsible for:

- Maintaining a current form HUD-9886 in each HCV applicant's and participants file
- Ensuring that TASS data is stored in places that are physically secure from access by unauthorized persons

Below is a table with a summary of errors descriptions, explanations, and corrective actions to take in order to reduce the number of unavailable Social Security Benefit Reports.

Error Description	Explanation	Corrective Action
Member SSN not sent to SSA- invalid SSN	HUD did not submit the SSN to SSA based on the invalid characteristics of the SSN. For example, 999-99-9999, 111-11-1111, etc.	Enter a valid SSN on HUD Form 50058, or request original social security card from tenant. Confirm SSN displayed on the social security card matches the SSN reported on the HUD Form 50058. If the numbers do not match, make the necessary correction to the HUD Form 50058.
No benefits reported by SSA	The tenant's identity was verified by SSA based on the SSN/Last Name/Date of Birth combination. However, the tenant does not and has never received SS/SSI benefits.	None. <u>Note:</u> In some cases a tenant may actually received benefits but the local SSA field office has not updated SSA's master file with the benefit information. Thus the current benefit information is not displayed.
SSN not found in SSA records	The tenant's SSN is not a valid number issued by SSA.	Request original social security card from tenant. Confirm SSN displayed on the card matches the SSN reported on the HUD Form 50058. If the number do not match, make the necessary correction to the HUD Form 50058.

<b>Error Description</b>	<b>Explanation</b>	<b>Corrective Action</b>
SSN was not verified by SSA	The tenant's SSN is not a valid number issued by SSA.	Request original social security card from tenant. Confirm SSN displayed on the social security card matches the SSN reported on the HUD Form 50058. If the numbers do not match, make the necessary correction to the HUD Form 50058.
Surname matched, but date of birth did not match with SSA records.	The tenant's identity was not verified because while the Surname matched with SSA records, the date of birth did not match. However, based on the SS/last name combination, SSA has indicated that the tenant does not receive SS/SSI benefits.	Request original birth certificate from tenant. Confirm date of birth displayed on the birth certificate matches the date of birth reported on the HUD Form 50058. If the date of birth does not match, make the necessary correction to the HUD Form 50058.
Date of birth matched, but surname did not match with SSA records.	The tenant's, identity was not verified because while the date of birth matched with SSA records, the surname did not match. However, based on the SSN/date of birth combination SSA has indicated that the tenant does not received SS/SSI benefits.	Request birth certificate and social security card of tenant/household member. Confirm surname on all documents matches the surname reported on HUD Form 50058. If the surname does not match, verify the change in surname(court order, marriage license, etc.) and make the necessary correction to the HUD Form 50058.
SS benefits cannot be disclosed due to discrepancy in date of birth.	The tenant's identity was verified by SSA based on the SSN/last name combination and the tenant is receiving SS benefits. However, due to the discrepancy in the date of birth, the benefit information cannot be disclosed.	Request original birth certificate from tenant. Confirm date of birth displayed on the birth certificate matches the date of birth reported on the match, make the necessary correction to the HUD Form 50058.
SS benefit cannot be disclosed due to discrepancy in name	The tenant's identity was verified by SSA based on the SSN/date of birth combination and the tenant is receiving SS benefits. However, due to the discrepancy in the last name the benefit information cannot be disclosed.	Request original birth and social security card of tenant/household member. Confirm that on all documents match. If the surname do not match, verify the change in surname(court order, marriage license, etc.) and make the necessary correction to the HUD Form 50058.
SSI benefits cannot be disclosed due to discrepancy in date of birth	The tenant's identity was verified by SSA based on SSN/last name combination and the tenant is receiving SSI benefits. However, due to the discrepancy in the date of birth, the benefit information cannot be disclosed.	Request original birth certificate from tenant. Confirm date of birth displayed on the birth certificate matches the date of birth reported on the HUD Form 50058. If the date of birth does not match, make the necessary correction to the HUD Form 50058.

## § 1.01 Verification of Handicap/Disability Status

To ensure compliance with the non-discrimination provisions of the *Fair Housing Amendments Act of 1988* and *Section 504 of the Rehabilitation Act 1973*, the Housing Agency will implement the following procedures when verifying a family's representation that the head or co-head/spouse is handicapped or disabled for 12 months or more.

1. Such verification will only occur when the head/co-head has indicated in writing that a family member is handicapped or disabled and the family feels that such status entitles them to special deductions and/or special assistance in locating suitable units or preference in tenant selection.
2. Person(s) who receives Supplemental Security income Disability Payments (SSI) or Social Security Disability (SSD) benefits will be determined handicapped/disabled and no further verification will be required.
3. No family/family member will be required to attest to nor establish their ability to live independently as a condition of initial or continued eligibility for assistance.
4. If the individual with a disability has been recently de-institutionalized or status they are otherwise disabled, but is not receiving SSI/SSD, verification from a trained professional (i.e., doctor, therapist,) that the named person meets HUD's definition of handicap or disability will be adequate verification. Section 8 staff will provide the third party with a certification form containing the HUD definition.

## § 1.02 Use of the HUD Form 9886

The HUD Form 9886, *Authorization for the Release of Information/Privacy Act Notice*, must be executed by all adult household members (and spouse regardless of age) age 18 and older. This form must be completed for each initial certification and annual re-certification. If the family undergoes an interim re-exam and there is a family member who has since the last certification attained age 18, this household member will be required to complete the Form 9886 as part of the interim re-examination. Eligibility Specialist/Housing Representative will review with the applicants/participants the Authorization for the Release of Information/Privacy Act Notice, to explain (a) how the information provided by the participant will be used by HUD; (b) HUD's restriction on disclosure of the information; and (c) that other information requested by the Public Housing Agency are HUD eligibility requirements.

**Note:** The Consent form expires 15 months after date signed.

Individual verification forms will continue to be used to collect the specific information to be verified, such as the employment verification form which requests information specific to rate and frequency of pay, as well as potential for overtime, tips, fees, and bonuses.

When the Housing Agency has reason to believe that a family's circumstances have changed, or are different from the representations made on the most recent certification the Housing Agency will send the form 9886 to any/all sources designated on the form.

## **I. ELIGIBLE FAMILIES**

### **1. Voucher**

If an applicant is determined to be eligible and sufficient funding is available, such applicant shall be issued a *Housing Choice Voucher* signed by a duly authorized representative of the Housing Agency.

### **2. Declared Emergencies**

In the event of an emergency declared by resolution of MFHA Board of Directors, the waiting list for Section 8 Housing Choice Vouchers may be bypassed. Under such circumstances, vouchers may be provided to current residents of public housing (or other forms of assisted housing owned by MFHA to families who meet the qualifications for participation in the Section 8 Housing Choice Voucher program. This housing assistance shall be provided solely for the purpose of relocating such families residing in the housing units specified in the Emergency declaration to other housing units that meet all Section 8 program requirements.

In the event no suitable relocation units exist within the MFHA inventory, Section 8 Vouchers shall be used if the family otherwise qualifies for this form of assistance.

### **3. Preference in Selection of Eligible Families**

The MFHA have not preferences at all. In selecting eligible families for participation in the Housing Choice Voucher Program, the HA shall apply the following order. Eligible families be selected in the order of the date and time of their application:

- Fortuitous Cases (as natural disaster, earthquake, Tsunami, Hurricane, Fire grateful by any Federal, State or Local Agency).

#### 4. Exception(s) to the Granting of Local Preference in Tenant Selection

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

The MFHA will grant an exception to such a family only if:

- The responsible member has successfully completed a rehabilitation program.
- The evicted person was not involved in the drug related activity that occasioned the eviction.

#### 5. Notice of Denial of a Preference

If the HA determines that an applicant does not meet the criteria for a local preference claimed, the HA should promptly notify the applicant in writing. The notice shall state the reasons for the denial and that the applicant has a right to request an informal review with the HA's staff.

The HA will not deny a family's calmed preference, nor remove a family from the waiting list solely because the applicant family has applied for, received, or refused other forms of housing assistance.

### § 1.00 Issuance of Housing Choice Vouchers

#### 1. Tenant Selection

The HA will issue housing choice vouchers pursuant to HUD'S final rule, effective October 1, 1999. An available housing choice voucher will be issued to eligible applicants as the family reaches the top of the waiting list (and in accordance with applicable preference and date/time of application). The owner decides whether a voucher-holder is suitable for tenancy based upon the outcome of the owner's routine screening.

The HA, in deciding whether to admit the applicant/family, will not discriminate on the basis of age, race, color, religion, sex, nation origin, disability, whether the family has children, whether family members are unwed parents, recipients of public assistance, or children born out of wedlock. The HA cannot adopt a preference in tenant selection for higher income families over lower income families. [24 CFR §982.202 (b)]

#### 2. Family Briefing

When a family initially receives a Voucher, a full explanation of the Section 8 program requirements shall be provided as part of the family's briefing as outlined in 24 CFR 982.301, as amended, for Voucher holders.

### 3. Expiration and Extension of Voucher

The term of the Voucher shall be outlined in 24 CFR 982.303, as amended. The initial term of the voucher is 30 days. As a *reasonable* accommodation for family where the head or spouse is disable, the HA will **initially** grant a family the full 60-day term, as an added reasonable accommodation. A disabled family may hold such form of assistance for more than 120 days term as a *reasonable accommodation* where supported by documentation that the family's inability to secure approved housing within the 120 day term was directly related to a family member's disability.

If a family submits a Request for Tenancy Approval (RFTA) prior to the expiration date and the RFTA is subsequently disapproved, the Voucher may be extended upon written request of the family for a period equivalent to the number of days between the submission of the RFTA and the date of disapproval of the RFTA.

A family may submit a written request for an extension of time to search for suitable housing. The written request must be received before the expiration date on the voucher.

The HA will evaluate each request and determine the likelihood of the family finding housing with additional time to search.

An approved extension will be granted for 30 day period of time with proof of effort to timely secure an approved form of housing. Only in extenuating circumstances, such as hospitalization or jury sequestration, will a second extension of 30 days be granted.

### 4. Family Break-Up Eligibility in Event of Family Dissolution

If either an applicant's or participant's family experiences a break or division of its original household composition the HA shall commit the housing assistance to the adult applicant, and who was either head or co-head of household, and who retains custody of any minor children. If there are no minor children involved the housing assistance shall be committed to the person who signed the application for initial or continued assistance. If more than one person signed the application, and there are no minor children involved, the HA shall require the adults to decide who shall receive the housing assistance. If the adults cannot decide within the time frame prescribed, then that HA shall terminate the application for initial or continued assistance and each party must make new application for assistance.

In the event the parties elect to resolve the dispute in court of law, then the HA shall stay any administrative decision and comply with the terms of the court decision.

### 5. Family Absence From the Unit

Family may be absent from the assistance unit for up to 30 consecutive days without written notice to the HA. If the family expects to be absent in excess of 30 consecutive days the family must advise the HA in writing of the anticipated term of absence and the reason.

The HA may allow the family to be absent from the unit for up to 90 consecutive days with continued assistance on good cause shown. If there is no family member remaining in the unit after 90 consecutive days the HA will commence the process of terminating housing payments to the owner upon written notice to family and owner. Should the HA become aware of family's extended absence from the assisted unit and the family has not received written approval of the HA the housing assistance may be terminated sooner than 90 days upon written notice to family and owner. A waiver to this part can be granted at the discretion of the HA's Manager for periods exceeding 90 days but for no more than 180 days. [24 CFR §982.312]

#### **J. SUBSIDY STANDARDS [24 CFR §982.402]**

In issuing the choice voucher to an eligible family, the HA shall determine the number of bedrooms to be placed on the housing choice voucher for families of different size and composition. These standards are developed for the purpose of determining the voucher size that will best meet the family's needs at the lowest cost to the government.

1. In establishing the subsidy standards the HA shall;
  - Consider the smallest number of bedrooms needed to house the family without overcrowding;
  - Assign a subsidy standard that does not require more than two persons to occupy the same bedroom;
  - Include every member of the family, regardless of age, including a child who is temporarily absent due to placement in foster care;
  - Consider a single pregnant woman with no other family members as two-person family.
  - Consider an approved live-in aide for a qualified family;
  - Not assign a subsidy standard that requires parent(s) to share a bedroom with a children(s);
  - Not require children of the opposite sex to share a bedroom as long as one child is age six (6) or older.

In determining the appropriate unit size for a particular family, the HA may grant an exception to its established standards were justified by the age, sex, health, handicap, or relationship of family members or by other personal circumstances.

A family may also lease a unit with fewer bedrooms than the subsidy standard size stated on the housing voucher, as long as the smaller unit meets the applicable HQS space requirements at 24 CFR §982.402[d]. However, the calculation of housing subsidy will be based on the actual unit a size selected as will the allowance for any tenant-utilities.

The living room of a unit may be used as a sleeping room if it meets the HQS standards for a sleeping room. However, the living room cannot be counted as a bedroom for purpose of determining the *applicable payment standard* for the family.

## § 1.00 Subsidy Standards for Issuing Vouchers

The HA will use its subsidy standards to determine the voucher that appears to best meet the family's need for housing while maximizing the use of the space and minimizing the cost to the government. The adopted standards will be consistent with the HQS space standards that are intended to avoid overcrowding. The family, at its option may select a unit with fewer bedrooms than stated on the vouchers if it does not require more than two persons per sleeping room. This usually result in a lesser payment standard and reduced subsidy.

The Housing Representative is to issue the voucher in the size consistent with the HA most recently adopted subsidy standards. Should this result in a unit of five (5) or more bedrooms the housing representative shall use the formula in the *Federal Register* for establishing the applicable FMR and Payment Standards.

## § 1.01 Fair Housing Impact

The fair Housing Amendments Act of 1988 extended protections against discrimination in housing to two additional classes of persons:

- Persons with a disability; and
- Families with children.

The family can select a unit equal in size to the voucher size, or large or smaller than the voucher size, but consistent with the HQS space standard restrictions (i.e, no more than 2 persons per sleeping room including the use of the living room as a sleeping room).

It is the intent of the HA to administer all aspects of its program administration and personnel management system in a non-discriminatory fashion.

## § 1.02 Factors to be Considered

ALL household members and *persons expected to reside* are to be included when establishing the voucher size that will best meet the family's needs.

A temporarily absent family member will be counted for subsidy purposes. A temporarily absent family member means a member of the household who is expected to reside in the assisted dwelling unit during the upcoming 12-month period but who will be absent from the unit for some portion of this 12-month period.

1. Children away at school who are listed as family members will:
  - a. Also be included when determining the applicable family subsidy standard; and
  - b. Any other family members who are temporarily absent.

2. A single person household may be assigned a zero bedroom voucher.

### **§ 1.03 Section 8 Unit Assignment vs. Actual Unit Size Selected**

The Housing Representative establishes the voucher size (i.e., family unit size) based upon a review of the family's household composition.

The family may select a unit, which differs from the voucher size, and the HA representative under the following guidelines will approve this:

- Generally, unit size selected would not result in more than two persons per sleeping room under the voucher program (including the living room).
- For a voucher-holder the payment Standard used to establish subsidy would be based on the lesser of the voucher size or the actual unit size selected by the family.
- When a family must pay some or all of their own utilities directly to the utility supplier the unit allowance to be used will always be based on actual unit size selected by the family.

### **§1.04 Exceptions to the Established Subsidy Standards Prior to Family HAP Being Made (e.i. Applicant Status)**

A family may request an exception to the established subsidy standards for the following reasons and with appropriate documentation.

- Medical reasons;
- Additional household members due to birth, adoption, court-awarded custody, marriage; and
- Additional of a live-in aide.

Any request for an exception must be made in writing with the appropriate supporting documentation.

### **§1.05 Live-in Aide Policy**

An elderly, handicapped, or disabled person may have a care-attendant/live-in aide occupy the unit when this care is;

- Essential to the care and well-being of the voucher holder; and
- The care-giver is not obligated to provide to provide financial support for the elderly, handicapped or disabled person; and
- The care provider would not occupy the unit except for the express purpose of providing necessary supportive services.

The HA requires verification from a source qualified to make the following determinations:

- The care provided is medically necessary;
- Description of the medical and/or necessary supportive services to be provided.
- Estimate of the period of time such care will be required.

Persons qualified to provide the required third party verification include, but are not necessarily limited to:

- Medical doctors
- Psychologists/psychiatrists
- Chiropractors
- Osteopaths
- Psychiatric Social Worker

There is no prohibition against a related family member acting in the capacity of live-in aide. The relative must meet the same criteria and the same third party verification is required. When a relative is the "live-in aide" they will not be listed as a "family" for purpose of determining eligibility or rent. There will be no "deductions" for a live-in aide and the live-in aide does not retain any right to occupancy as the remaining member of a tenant's family when the voucher-holder vacates the unit/program.

If the live-in aide has other family members they wish to occupy the unit, the HA shall grant such approval if the additional of the live-in aide's family members does not result in a larger voucher size (i.e., increased subsidy) and the occupancy by the voucher-holder with the live-in aide and live-in aide's family members will not result in overcrowding, (i.e., more than 2 persons per sleeping room).

The live-in aide is subject to screening and approval by both the agency and the owner.

The live-in aide may hold outside employment or attend school if there is evidence that appropriate alternative care will be provided to the elderly, handicapped or disabled person during these periods of time.

The landlord has the right to require the live-in aide to execute a lease rider agreeing to abide by the terms and conditions of occupancy set forth in the lease agreement.

If the live-in aide violates provisions of the lease rider the owner may take action against the live-in aide separate from action against the assisted family.

If the live-in aide or their members participate in drug-related activities, either the HA or the owner may rescind the aide's right to occupy the unit.

When the HA takes such action against the live-in aide the aide is not entitled to the informal hearing process of the HA.

#### **§1.06 Exceptions to the Established Subsidy Standards After Subsidy Payments (HAP) Have Begun (i.e, Participant Status)**

The Housing Representative will review the family's composition as part of the annual re-exam.

1. If there are/will be changes in the household size the voucher size will automatically be adjusted based upon the established subsidy standards and the current/projected family composition.
2. The participant/family may request a different voucher size between regularly scheduled re-exams due to changes in the family size that would result in more than two persons per sleeping room.

All such additions to the family composition must first be approved/documented by the Section 8 Office before there is consideration of the voucher unit a size change due to reasons such as:

- Adoption
- Births
- Court awarded custody
- Foster child care
- Need for live-in aide
- Disability of a current household member
- Adult children/other family members wishing to join a family already in Occupancy

#### **K. FINDERS-KIPPERS POLICY**

Upon receipt of a HCV, the family shall be responsible for finding a unit of appropriate size that meets the HQS prior to expiration of the Vouches. The family may select the unit that it currently occupies if the unit meets the HQs and is determined to be *rent reasonable* and the owner is willing to execute new leasing documents under the Section 8 program. The HA may provide assistance in finding units for those families who, because of age, handicap, or other reasons are unable to find a unit and may provide assistance in cases where the family alleges that discrimination is preventing it from finding a unit. Any such assistance shall be in accordance with the HA *Administrative Plan and Procedures* and shall not directly or indirectly reduce the family's opportunity to choose among available units. Section 8 housing choice voucher assistance may not be utilized for dwelling units receiving Section 8 project-based assistance as this constitutes *duplicative assistance*.

## **L. PORTABILITY [24 CFR 982.354]**

The provisions for portability of vouchers shall be as outlined in 24 CFR §982.354, as amended. If the neither the head nor spouse resides in Fajardo at the time of application they must initially lease a unit in Fajardo before they can exercise their right of portability. The HA limits family moves to not more than one in any twelve-month period under portability.

The HA will deny permission for a family to exercise portability as cited in 24 CFR 982.31 (e) (1), in the event that the FHA does not have sufficient funds to pay a higher subsidy in another jurisdiction and the receiving agency will not absorb the family into their program.

### **§1.00 Portability of Housing Choice Vouchers**

Section 8 (r) of the United States Housing Act of 1937 provides that housing choice voucher participants may choose a unit that meets program requirements anywhere in the United States, provided a PHA administering the tenant-based program has jurisdiction over the area in which the unit is located. The term "portability" refers to the process of leasing a dwelling unit with tenant-based housing voucher assistance outside of the jurisdiction of the PHA that initially issues the family its voucher (the initial PHA). Program regulations covering where a family may move and the responsibilities of the initial PHA and the receiving PHA (the PHA with jurisdiction over the area to which the family moves) are found at 982.353 through 982.355.

The receiving PHA may choose to absorb the family into the receiving PHA's program or bill the initial PHA. The program regulations at 982.355 9e) provide that the receiving PHA may bill the initial PHA for housing assistance payments (HAP) and administrative fees to cover assistance for a portable family. The regulations require that the initial PHA must promptly reimburse the receiving PHA for the full amount of the HAP payments. The initial PHA must also provide the receiving PHA with 80 percent of the initial PHA on-going administrative fee (or some other negotiated amount if both PHAs agree) for each unit month that the family receives assistance under the voucher program from the receiving PHA.

The regulations further provide that the initial PHA and the receiving PHA must comply with financial procedures required by HUD, including the use of HUD-required billing forms. The initial PHA and the receiving PHA must also comply with billing and payment deadlines under the financial procedures. HUD may assess penalties against an initial PHA or a receiving PHA for violations, as determined by HUD, of the portability requirements.

HUD may transfer funds for assistance to portable families to the receiving PHA from funds available under the initial PHA annual contributions contract (ACC) (see 982.355 (f) (1)).

#### **Denying Family Requests to Move under Portability Procedures.**

The housing choice voucher regulations at 982.355 provide that voucher holders (with the exception of non-resident applicants) and participating families have the right to receive tenant-based voucher assistance in accordance with program requirements to lease a unit outside of the initial PHA jurisdiction. The family may lease a unit anywhere in the United States, provided the area is the jurisdiction of a PHA with a tenant-based voucher program. A PHA may only deny a family's request to move under portability if it has grounds to do so under the program regulations, which are as follows:

1. The PHA has grounds to deny the move because of the family's action or failure to act as described in 982.552 or 932.553.
2. The family is a non-resident applicant, or the family was a non-resident applicant that has not yet been assisted in the initial PHA jurisdiction for twelve months since being admitted to the program (see 982.353 ( c )).
3. The family is an applicant and is not income-eligible in the area in which they wish to initially lease a unit.
4. The PHA has established policies on the timing and frequency of moves in accordance with 982.314 ( c ) (2), and the requested move does not comply with those policies.
5. The PHA does not have sufficient funding for continued assistance to support the move in accordance with 982.314 ( c ) (1).

#### **Denying Portability Moves Dues to Insufficient Funding.**

A PHA may only deny a request to move to a higher cost area in accordance with 982.314 ( e ) (1) if the PHA would be unable to avoid terminations of housing choice voucher assistance for current participants during the calendar year in order to remain within its budgetary allocation for housing assistance payments. A "higher cost area" is defined as an area where a higher subsidy amount will be paid for a family because of higher payment standard amounts or "more generous" subsidy standards (e.g., the receiving PHA issues a 3-bedroom voucher to a family that received a 2-bedroom voucher from the initial PHA). Before denying the family's request to move due to

insufficient funding, the initial PHA must contact the receiving PHA and confirm that the receiving PHA will not absorb the family. If the receiving PHA is willing to absorb the family, there are no grounds to deny the portability move under 982.314 (e) (1).

A PHA may not deny a requested move due to insufficient funding under 982.314 (e) (1) simply because the family wishes to move to a higher cost area. In projecting whether there is sufficient funding available for the remainder of the calendar year in order to approve the move, the PHA may make reasonable estimate to factor in conditions such as pending rent increase and the attrition rate for families leaving the program.

**Initial PHA Responsibilities: Contacting the Receiving PHA.**

When a family wishes to move under portability, the family must inform the initial PHA of the area to which the family wishes to move. In the case where the family is not currently a program participant, the initial PHA must determine if the family is income eligible in the area to which the family wishes to move.

If the family is not income eligible in the area to which the family wishes to move, the PHA must inform the applicant family they may not move to the area in question and receive voucher assistance. Income eligibility is not re-determined when a participant family (a family that is already under a HAP contract) exercises portability.

The initial PHA must contact the receiving PHA on the family's behalf. The initial PHA must promptly notify the receiving PHA to expect the incoming family. This means the initial PHA contacts the receiving PHA on the family's behalf, typically by telephone, fax, or e-mail.

**Initial PHA Responsibilities: Part I of the Form HUD-52665**

The initial PHA completes Part I of the Form HUD-52665 and mails or faxes it to the receiving PHA, along with a copy of the family's voucher issued by the initial PHA, a current copy of Form HUD-50058, and copies of the income verification backing up the form. (Note that in the case of an applicant, the initial PHA has not completed the HUD-50058 and submitted the information to HUD because the family is not yet a new admission. However, the PHA must provide the family information and income information to the receiving PHA in a format similar to the Form HUD-50058 so that the information is easily available for use by the receiving PHA).

Part I of the Form provides the date by which the initial billing notice provided by the receiving PHA must be received by the initial PHA. The initial billing submission must be received by the initial PHA no later than 60 days following the expiration date of the family voucher issued by the initial PHA. If the initial PHA has not received a billing notice by the deadline, the initial PHA must contact the receiving PHA to determine the status of the family if the initial PHA intend not to honor a late billing submission.

If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may inform the receiving PHA that they will not accept any subsequent billing on behalf of the family. Once the initial PHA has so notified the receiving PHA, the initial PHA is not required to honor any billing notice received after the billing deadline. If the PHA still subsequently receives a late billing notice on behalf of the family, it simply returns the late Form HUD 52665 to the receiving PHA, and the receiving PHA must absorb the family.

If the receiving PHA reports that the family is under HAP contract and it cannot absorb the family when the initial PHA contacts the receiving PHA to determine the status of the family, the initial PHA is required to accept the subsequent late billing. The initial PHA may contact HUD to report the receiving PHA's failure to submit the bill in accordance with these procedures. HUD may take acting to address the receiving PHA failure to do so, which may include reducing the receiving PHA's administrative fee. Additionally, HUD may subsequently transfer units from the receiving PHA to the initial PHA when it is feasible, since the initial PHA was required to accept the late billing.

#### **Receiving PHA Responsibilities: Processing Responsibilities**

The receiving PHA must promptly issue a voucher to the family for its search in the receiving PHA jurisdiction, the term of which may not expire before the expiration date of the initial PHA voucher. The receiving PHA may provide additional search time to the family beyond the expiration date of the initial PHA voucher, either when it initially issues its own voucher or by subsequently extending its own voucher's term. However, if the receiving PHA provides the family with search time beyond the expiration date of the initial PHA's voucher, it must inform the initial PHA of the extension and should bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a Request for Lease Approval, execute a HAP contract, and cover the anticipated delivery time (if the PHA is not submitting the billing information by fax or email) so that it will be received by the initial PHA by the deadline date.

A receiving PHA should not process the family if the initial PHA voucher has already expired when it receives the paperwork from the initial PHA, but should refer the family back to the initial PHA. The initial PHA would have to decide to extend the term of the initial PHA voucher (and the billing deadline) before the receiving PHA would process the portability move in such an instance.

HUD expect the receiving PHA to process the family's paperwork and issue the incoming family a voucher for its jurisdiction within two weeks of receiving the HUD-52665 and supporting documentation, provided the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures. The receiving PHA does not re-determine eligibility for a portable family that was already receiving voucher assistance and may unduly delay the family's housing search in issuing the voucher.

Should the receiving PHA wish to conduct its own background checks and/or a new income reexamination on a family that has already received housing assistance payments under the initial PHA, the receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit until those processes are completed. However, the PHA may take subsequent action (e.g., recalculating the HAP payment based on updated income information; terminating the family's participation in the program due to criminal background or failing to disclose necessary information) against the family based on the results. In the case of an applicant family, the receiving PHA may delay issuing or otherwise delay approval of a unit only if the re-certification is necessary to determine income eligibility.

In any event, the PHA may always delay approval of the unit or issuance of the voucher if the family refuses to comply with the receiving PHA procedures. In any case where the PHA is refusing to process or provide assistance under the portability procedures, the family must be given the opportunity for an informal review or hearing in accordance with section 982.554 and 982.555.

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA, but instead wishes to return to the initial PHA or wishes to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA voucher are only valid for the family's search in the receiving PHA jurisdiction. Any extensions of the initial PHA voucher necessary to allow the family additional search-time to return to the initial PHA a jurisdiction or to move to another jurisdiction would be at the discretion of the initial PHA.

The receiving PHA may absorb the family into its own program once the PHA contract is executed on behalf of the family by the receiving PHA, assuming it has funding available under its ACC to do so and such a decision will not result in over-leasing for the Calendar Year. The receiving PHA may also absorb a portable family assisted through a billing arrangement by terminating the billing arrangement with the initial PHA. In such a case, HUD encourages the receiving PHA to provide adequate advance notice to the initial PHA to avoid having to return an overpayment. The receiving PHA must specify the effective date of the absorption of the family.

A PHA does not technically "absorb" a family into its program until the receiving PHA executes a HAP contract on behalf of the family in the receiving PHA jurisdiction. PHAs may not engage in sham or fake portability paperwork exercises an attempt to address their utilization or leasing problems. If the family is not placed under HAP contract in the receiving PHA jurisdiction, the receiving PHA cannot absorb the family.

### **Receiving PHA Responsibilities: Part II of Form HUD-52665.**

The receiving PHA must promptly inform the initial PHA if it intends to absorb or bill. The receiving PHA sends Part II of Form HUD-52665 to the initial PHA. If the receiving PHA decides to bill the initial PHA, the receiving PHA not only completes Part II of the Form HUD-52665, but also attaches a copy of the new Form HUD-52665 before returning it to the initial PHA. In addition to the initial billing deadline discussed above, the instructions of the Form HUD-52665 provide that the receiving PHA must complete and mail (which may include electronic mail or fax) Part II of the form within 10 working days from the date a HAP contract is executed on behalf of a family.

### **Timing of the Initial and Subsequent Billing Payments.**

The initial PHA must pay the first billing amount due within 30 calendar days of receipt of Part II of the Form HUD-52665. Subsequently, the initial PHA must make payment each month the billing arrangement is in effect no later than the fifth working day of each month. The payment must be provided in a form and manner that the receiving PHA is able and willing to accept.

The program regulations at 982.355(f)(1) provide that HUD may transfer funds for assistance to portable families to the receiving PHA from funds available under the initial PHA ACC. Upon request of the receiving PHA, HUD will exercise this authority to transfer units from the initial PHA to the receiving PHA in cases where the initial PHA fails to comply with the initial and subsequent monthly billing due dates described above.

### **Receiving PHA: On-going Responsibilities.**

The receiving PHA must send the initial PHA a copy of the updated Form HUD-50058 at each annual recertification for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount. The purpose of this notification is to serve as an annual "reconciliation" to assist both PHAs in fulfilling their accounting and record-keeping responsibilities. Should the initial PHA fail to receive an updated Form HUD-52665 by the annual recertification date, it should contact the receiving PHA to verify the status of the family. The initial PHA may not withhold payment solely because the receiving PHA did not submit the updated Form HUD 50058 by the annual recertification date.

If the receiving PHA fails to send the Form HUD-52665 within 10 working days following the effective date of the change in the billing amount, the initial PHA is not responsible for paying any increase in the monthly billing amount incurred prior to the notification.

### **Summary of Portability Billing Deadlines.**

The following summarizes the relevant deadlines under the portability billing procedures.

- a. **Submission of Initial Billing Amount (Part II of the Form HUD 50058)**  
Receiving PHA 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 receiving no later than 60 days following the expiration date of the family's voucher issued by the initial PHA.
- b. **Payment of First Billing Amount**  
Initial PHA makes payment within 30 days of receipt of Part II of the Form HUD 50058 indicating billing amount.
- c. **Payment of Subsequent Billing Amounts**  
The initial PHA 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.
- d. **Notification of Change in Billing Amount or Other Action**  
The receiving PHA notifies the initial PHA of any change in the billing amount as soon as possible (preferably before the effective date to avoid retroactive adjustments) but in no circumstance any later than 10 working days following the effective date of the change.

### **Procedures for the Transfer of Units as a Result of Late Payments.**

In the case where the initial PHA fails to make the monthly payment to the receiving PHA by the fifth working day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family or families, the total billing payment that was late or has yet to be paid, and the date the payment was ultimately received (if received at all).

### **Penalties for the Receiving PHA's Failure to Inform the Initial PHA of the Termination of a Billing Arrangement a Timely Manner.**

If HUD determines that the receiving PHA has not notified the initial PHA that a billing arrangement has been terminated in a timely manner and has continued to accept payments from the initial PHA, HUD may reduce administrative fees for the receiving PHA.

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

## M. FAMILY'S RIGHT TO MOVE [24 CFR §982.314]

Without regard to portability, an assisted family may move to a new unit if:

- The assisted lease for the old unit has terminated;
- The owner has given the tenant a notice to vacate or has commenced an eviction action, or has obtained a court judgment or other process allowing the owner to evict the family; or
- The family has given notice to the owner and the HA of their intent to terminate the lease.

In order to move with continued assistance, the family must initially occupy an assisted unit for 12 months before terminating the lease with the owner unless there is (a) good cause. *Good cause* may include, but not necessarily limited to owner's failure to provide services under the lease, or (b) mutual agreement by the owner and to terminate the lease.

A family may move one or more times with continued assistance, either within the jurisdiction of the HA or to the jurisdiction of another PHA, notwithstanding the limitation of moving only once in a 12 month period under portability.

**A family who owes money to the HA will be required to either repay in full or be current under any existing repayment agreement as a condition of eligibility move with continued rental assistance under portability.**

## N. VIOLENCE AGAINST WOMEN ACT – VAWA [24 CFR 982.353 (a)]

The voucher regulation at 982.353 (a) further provide that the initial PHA must deny a family's request to move if the family has moved out of its assisted unit in violation of the lease. However, as previously noted in HUD Notice PIH 2007-5, the Violence Against Women and Justice Department Reauthorization Act 2005 (VAWA 2005) amended section 8 of the U. S. Housing Act to provide an exception to the prohibition against a family moving under the portability provision in violation of the lease.

VAWA 2005 provides that family may receive a voucher and move in violation of the lease under the portability procedures 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 project the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

If the circumstances described above exist, the PHA may allow a family to move under portability procedures if the only basis for the denial is that the family is violating the lease agreement. The PHA may request that the family provided the HUD-approved certification form (Form HUD-50056), or other acceptable documentation in order to verify the family's claim that the request to move is prompted by a incident of abuse in the unit.

**O. OWNER OBLIGATION TO SCREEN FAMILIES [24 CFR §982.307]**

An owner generally has no obligation to participate in the Section 8 HCV program and can refuse to accept a voucher holder, even if this means an otherwise acceptable family is unable to lease the unit.

Owners are responsible for screening families selected by the HA for admission to the program to determine whether they will be suitable tenants. **While the HA may elect to implement some limited form of *tenant suitability screening* this does not remove the owner of duty for performing tenant screening in a manner equal to the screening performed for unassisted tenants.**

An owner may consider such factors as:

1. The family's history of payment of rent and utility bills;
2. Caring for a dwelling unit;
3. Respecting- the right of others;
4. Family history of drug-related criminal activity or other criminal activity which threatens the life, safety, or property of others.

The HA will give the owner the Voucher-holder's current address and, if know, the name and address of the landlord at the family's current and prior address. The HA will also provide a prospective landlord with any of the following information which is a part of the applicant's/participant's file: record of prior restriction from a unit receiving Section 8 assistance through this HA; and/or record of family creating excessive damages to a rental unit. [24 CFR §982.307]

**P. RENTAL AGREEMENT / LEASE APPROVAL [24 CFR §982.308]**

The HA must approve the owner's form of lease for the rental unit. The HA may not give such approval until it determines that the units is eligible and meets the HQS; that the lease is approvable; the rent to the owner is *reasonable*; and the owner has not been deemed ineligible by HUD or the agency to participate in any HUD-funded housing program.

The MFHA will establish and maintain records that include comparable data on unassisted units in the market. This data will be used by Section 8 staff in making their determination of the reasonableness of the owner's proposed rent. The Housing Representative(s) will use the methodology described in Exhibit #2 of this Plan.

All assisted lease must include certain language required by HUD. The language must prohibit certain types of lease provisions involving concessions by the tenant, and include by reference all other lease conveyance prescribed by law for the Section 8 housing

choice voucher program. The Housing Agency may also decline to approve the owner's lease if the owner fails to execute the required HUD Lease Addendum (Form HUD 52641-A), or if the owner's lease does not comply with major provisions of any applicable state or local landlord tenant laws. [24CFR§982.308]

### **§ 1.00 Housing Representative's Role in Leasing**

The Housing Representative is to ensure that all activities and required forms for establishing the assisted tenancy are properly and timely executed. This includes the review and approval of forms provided by the Housing Agency and/or the owner.

#### **§ 1.01 Review of Owner's Form of Lease**

The Housing Representative is to review the owner's form of lease against the *prohibited lease provisions* in the HUD tenancy addendum. Any prohibited lease provisions must be struck in red ink from the owner's lease and the owner must initial and date the change. The owner is to be advised of their additional obligation to comply with material terms and provisions of the Puerto Rico State Landlord-Tenant laws, including laws prohibiting discrimination in the sale rental or financing of housing.

The Section 8 Supervisor must approve the owner's lease and the Housing Representative must review the owner's lease for:

1. Initial term of tenancy of the one year with a start and end date of 12 months. Where the lease will begin on other than the first day of the month the end date be the last day of the same month one year later. For example, if the start date is 3/15/2006 the end date will be 3/31/2007
2. Automatic renewal with defined successive term of *month-to-month, year to year, etc.*
3. Amount of rent due under the lease stated as the *tenant rent* calculated by the Housing Representative.
4. Amount of security deposit in an amount not to exceed one month's contract rent or the deposit charged by owner for their other *unassisted* units, whichever is the lesser.
5. Required provisions of HUD's Section 8 Tenancy Addendum dated March 2000.

**Q. TERM OF ASSISTED LEASE [24 CFR §982.309]**

The initial term of the assisted lease between the owner and tenant must be least one year, and the assisted lease must provide for automatic renewal. However, a shorter initial term may be entered into if consistent with local rental market practices.

The tenant family can terminate the lease at any time after the initial term of the lease. The tenant family must provide written notice of termination to the owner, pursuant to the lease, with a copy to the Housing Agency. The tenant cannot be required to give more than 60 days notice to the owner. [24 CFR §982.309(b)].

The lease can also be terminated at any time by mutual agreement of the owner and tenant. The assisted lease will automatically terminate if the PHA terminates the owner's HAP contract or assistance for the family.

The owner is required to give 30 days written notice to the tenant where the owner is terminating at the end of the lease term.

The owner can terminate the family's tenancy *during the term of the lease* only for *serious or repeated violations of the lease; violation of federal, state, or local law; or other good cause*. Owner must follow lease terms and landlord/tenant law for such terminations.

Grounds for owners to terminate the lease include, but is not limited to: criminal activity by the tenant, any member of the tenant's household, a guest, or any other person under the tenant's control that involves drugs or other criminal activity threatening the health, safety, or right to peaceful enjoyment of their residence by persons residing in or near the tenant's residence. [24 CFR §982.310]

Owner initiated eviction procedure must be established through the court systems, pursuant to State and local laws and any applicable HUD requirements.

*Other good cause* generally includes, but is not limited to: the family's failure to accept a new or revised lease; a family's history of disturbance of neighbors or destruction of property the owner's desire to use the unit for personal use or for a purpose other than as a residential rental unit; or a business or economic purpose, such as the owner's desire to lease the unit at a higher rent. During the first year of the lease, the owner may not terminate for *other good cause* unless it involves a family lease violation. [24 CFR §982.310].

**§ 1.00 Assisted Tenancy**

The lease between owner and tenant family is for less than the full rent due on the unit. The Housing Agency will make rental assistance payments to the owner on behalf of the

assisted tenant. During the term of the assisted tenancy the owner and tenant family must comply with the terms of the lease and HAP contract to ensure continued eligibility for program participation.

**§ 1.01 initial and Successive Lease Terms**

The Housing Representative must review the owner's form of lease to ensure an initial term of lease for a period of not less than 12 months. The Housing Representative must also ensure that the assisted lease provides for *automatic renewal* (e.g, *month-to-month* or *year-to-year*) after the initial term.

**R. HOUSING AGENCY POLICY GOVERNING OWNER APPROVAL OR DISAPPROVAL [24 CFR §982.306].**

An owner can be disapproved for program participation. Reasons for denial of participation can include, but are not limited to: owner has been debarred, suspended, or is subject to a limited denial of participation (LPD) by HUD [24 CFR 24]; owner has been found to have a practice of serious and repeated noncompliance with the terms of the Section 8 housing assistance payments contract (Form HUD 52641); or criminal activity by owner.

When directed by HUD, the Housing Agency will not approve an owner or owner's unit if there is a government initiated administrative or judicial action is pending against the owner for a violation of the Fair Housing Act or other federal equal opportunity requirements or if a court or administrative Housing Agency has determinate that the owner has committed such a violation. [24 CFR §982.306 (a) (b)].

The Housing Agency may deny an owner's request for participation for any of the following reasons: [24 CFR §982.306©].

- Violation of owner's obligations under any Section 8 contract;
- Fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- Drug trafficking (based on preponderance of evidence);
- Owner's history of non-compliance with the HQS or other applicable housing standards,
- Owner's history or practice of renting units which fail to comply with state or local housing codes; and/or
- Owner's failure to pay state or local real estates taxes, fines, or assessments.

**S. PAYMENTS DUE THE OWNER: HOUSING ASSISTANCE PAYMENTS AND TENANT RENT**

The Housing Agency shall make Housing Assistance Payments to the Owner on behalf of the eligible family in accordance with the HAP Contract. No payments shall be made for any unit occupied by an Owner except in the instance of owner occupied cooperative housing units or owner occupied mobile homes approved for pad rental assistance payments.

The lease between the owner and tenant shall provide tenant rent under the applicable HUD formula. The Housing Agency shall make a payment on behalf of the family to the owner that is know as the housing assistance payment on behalf of the family the owner that is know as the housing assistance payment (HAP). **The lease between the owner and tenant shall state the tenant's share of the rent.** The HAP contract will provide for the amount to be paid by the Housing Agency. Initially, and until notice of a change in tenant rent or HAP, the owner may collect only the amounts approved by the Housing Agency.

The Housing Agency may abate its housing assistance payment to the owner fro non-compliance with material terms of the HAP contract. The Housing Agency may also withhold housing assistance payments to owner for amounts due the Housing Agency under one or more contracts with the Housing Agency.

The owner may not collect from the tenant family any amounts withheld by the Housing Agency. The Housing Agency will terminating HAP the date any owner initiated eviction is concluded.

1. Calculation of Tenant Rent and Subsidy

The tenant's rent and subsidy will be calculated in accordance with the prevailing HUD formula, including the minimum rent as most recently adopted by the Housing Board.

The minimum rent adopted by Municipality of Fajardo Housing Agency is **\$50.00 dollars.**

■ **Exemptions from the Minimum Rent.**

Families unable to pay the amount due to financial hardship. Financial hardship includes circumstance in which families:

- Have lost eligibility or are awaiting an eligibility determination for a federal, state or local assistance program, including a family having a noncitizen household member lawfully admitted for permanent residence and who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996;

- Would be evicted as a result of imposing the minimum rent requirement;
- Experience income decreases because of changed circumstances including the loss of employment;
- Have a death in the family; or
- Have other circumstances as determined by the PHA or HUD.
- Family that the incomes not exceed the low or very low income rate.

Hardship determinations are subject to the PHA's informal hearing process.

## 2. Establishing and Documenting Reasonableness of Owner's Rent

The rent to owner under the housing choice voucher program must be *reasonable* when compared to comparable unassisted units.

Rent reasonableness will be determined based on the experience of the program with other units in the jurisdiction and based on fair market rents established by HUD. The Municipality may determine to consult with realtors in the locality, when necessary.

The Housing Representative must execute a rent-reasonableness certification at initial occupancy; whenever the owner submits a request for an increase in contract rent; and when there is a decrease in FMRs of 5% or more in the 60-day period preceding the effective date of the rent increase. The Municipality may also re-determine the reasonable rent at any other time. At all time during the assisted tenancy, the rent to owner may not exceed the reasonable rent almost recently determined or re-determined by the Municipality.

The Section 8 staff will utilize the rent reasonableness methodology, could be also by the Realtors.

Comparability – The Municipality determine where the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units. To make these determination the Municipality will consider:

- The location, quality size, unit type, and age of the contract unit; and
- Any amenities, housing service, maintenance and utilities to be provided by the owner according with the lease.

Owner certification of rents charged for the units – By accepting each monthly housing assistance payment from the Municipality, 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 must give the Municipality information requested by the Municipality on rents charged by the owner for other units in the premises or elsewhere.

### 3. Timing of Payments

Tenant rent is due and payable to the owner as of the date stated in the lease.

For new contracts, the Housing Agency shall make assistance payments to the owner as of the effective date of the Housing Agency-approved lease; in some instance this may result in a retroactive payment of HAP.

The Housing Agency will make effort to execute the HAP contract with the owner as of the start the lease term. The Housing Agency has up to 60 days from the date of the approved lease to execute the HAP contract. An owner is entitled to full payment of the HAP as of the approved lease date. However, if the Housing Agency and owner do not execute the HAP contract within 60 days of the lease effective date, the lease between owner and tenant shall be voided and no housing assistance payments will be made. [24 CFR §982.305(c)]

In some instance, the first payment for a new lease-up may not be made until the second month after the approved lease and HAP contract signed by the owner has been returned to the Housing Agency.

After the initial payment for a contract has been received the owner shall continue to receive monthly payments between the first and tenth working day of each month that the family occupies the unit as a Section 8-assisted family. The Municipality of Fajardo Housing Agency shall make every reasonable effort to ensure owner payments are mailed on or before the first day of each month. Lost checks may be reissued after notifying the bank to stop payment.

### 4. Additional Payments

If the family vacates the units after the first day of the month without written notice to the owner, with a copy to the Municipality of Fajardo Housing Agency, as required under the lease and housing choice voucher, the owner is entitled to keep the full housing assistance payment for the month. The Housing Agency will not make further payments to an owner for any month after the month the family vacates.

If the family is approved to lease another unit during the same month, the Housing Agency will make a pro-rated payment to the new owner. In short, a family may be approved for two assistance payments for two different units in the same month, and such payments are not considered duplicate assistance. [24 CFR §982.311 (d)].

5. Special Claims

Payments other than the regular housing assistance payments and approved *late fees* are prohibited in the housing choice voucher program. Any owner claims for unpaid tenant rent, vacancy loss or unit damage must be pursued with the tenant family.

**T. CHANGING THE VOUCHER PAYMENTS STANDARD  
[24 CFR §982.503]**

At least annually, the Housing Agency shall evaluate whether an adjustment to the payment standard is necessary to assure continued *affordability* of housing by participating families. The evaluation shall take into account “local factors” as well as the financial impact on the program. In no event shall the payment standard be less than 90% of the most recently FMR, nor greater than 110% of the most recently published

FMR without express written approval of HUD.

The following are examples of local factors to be considered in establishing the payment standard schedule:

- Actual contract rents for specific bedroom sizes
- Actual rent increase for participating families
- Current fair market rent
- Success rate in securing eligible housing
- Rent reasonableness data
- Vacancy rate data
- Market rent data for comparable unassisted units
- Financial impact on the Housing Voucher Program
- Sufficient funding level provided by HUD to support continued assistance to families

The MFHA shall analyze whether voucher holders have experienced difficulties in funding housing outside areas of poverty or minority concentration and, where such difficulties were found, the Public Housing Agency will consider whether it is appropriate to seek approval of exception payment standard amounts in any part of its jurisdiction and has sought HUD approval when necessary.

In the event that funding levels are insufficient to continue supporting assistance to families, the MFHA will analyze cost to the program, burden to participating families, burden to participating landlords and the overall social economic impacts to its communities. In its analysis the MFHA determines that funding levels are too low it will attempt to lower its payments standard to a tolerable 90% of FMR levels of funding. The MFHA will make every available effort to continue assistance at an adequate level of

assistance to include lowering its payment standards below 90% of FMR as an intent to avoid terminations of HAP contract in accordance with HUD requirements as stated in 24 CFR 982.454.

1. Changes in Application of the Payment Standard

The family's payment standard may be changed at regular re-examination and at the time the family moves, consistent with the MFHA most recently adopted payment standard schedule.

2. Adjustment to Initial "Rent to Owner"

The rent to owner (contract rent) shall not be charged during the initial term of lease". Owner may request an increase no sooner than 60 days before the anniversary date of the contract to ensure timely review and response from the MFHA and family. The owner may also request approval of an adjustment in the initial rent after the anniversary date upon 60 days written notice. However any approved increase in rent not be effective until the first rent period following a 30 day notice of approval to the owner and family.

Owner must provide both the family and the Housing Agency with a copy of the owner's proposed rent. The Housing Agency shall make a determination of the "reasonableness" of the owner's proposed rent adjustment using the criteria described in Section Q.2 of this plan. If the agency determines the owner's proposed rent adjustment to be "unreasonable" in light of its review of "like units"(i.e, unit comparables) the family will be so advised and given the opportunity to:

- a. Move with continued voucher assistance;
- b. Continue in occupancy with the owner under a non-assisted lease agreement (and absent voucher subsidy).

**U. SECURITY DEPOSITS [24 CFR §982.313]**

The owner may collect a security deposit from the tenant family that does not exceed one month's contract rent. If the owner collects less than one month's rent as security deposit on the owner's other (unassisted) rental units the security deposits on the Section 8 assisted units must be established at the same amount.

Owner may use the security deposit to cover unpaid tenant rent owing at time of move out, damages and/or other cost allowed under State Landlord-Tenant Act. The MFHA will Provide a prior Section 8 owner with the current address of a family who continues to receive Section 8 assistance when the owner provides evidence that (1) the unpaid rent Damages exceed the security deposit collected and (2) the owner has received a court judgment for additional amounts owed.

## W. CONTINUED ELIGIBILITY AND INCOME ADJUSTMENT

A family's eligibility for Section 8 Voucher Assistance (HAP) continues if the family meets the requirements governing eligibility, **until** (1) the Total Tenant Payment equals the Gross Rent for the dwelling unit occupied under the Housing Choice Voucher Program or (2) until 30% of the family's monthly adjusted income equals or exceeds the applicable payment standard under the Voucher Program; or (3) 10 % of family's monthly income equals or exceeds the actual rent plus any allowance for tenant-paid utilities.

Payments under both program can be reinstated if the family's income drops. However, if no payments are made for a period of 180 days (6 months), the HAP contract automatically terminates. [24 CFR §982.455].

Termination of rental assistance at such point shall not affect the family's other rights under its lease Agreement nor shall such termination preclude resumption of payments as a result of subsequent changes in income or rents or other relevant circumstance during the six-month term. The family must pay the full contract rent when HAP is reduced to zero, and the assisted lease between the owner and tenant automatically terminates.

### § 1.00 Interim Reporting Policy and Procedures

Housing Choice Voucher families are required to report the following changes in family Circumstances between regularly scheduled re-certifications:

1. The tenant must report all changes in the household composition.
  - a. If a household member vacates the unit and is considered by the family to be permanently absent; or
  - b. A new person is proposed to move into the unit.
2. The tenant may report any of the following changes that would result in a decrease in the tenant's rent:
  - a. Loss of income;
  - b. Increase in allowable expenses (i.e., child care, handicapped assistance, medical).

Decrease in the tenant's portion of the rent will be effective the first day of the month following the month in which the change occurs, sometimes resulting in a retroactive decrease.

However, the MFHA will not reduce a tenant's rent for a loss/reduction in welfare income (TANF) due to family:

- Fraud
- Failure to participate in a required work activity
- Failure to participate in a required economic self-sufficiency activity

Any reported reduction in welfare benefits will be verified with the local welfare department.

The agency will rely on the written statements of the welfare agency in making its determination

3. Tenants must report **all** income increase within **10** days of the change. However, rent increases as a result of an increase in *earned* income from a previously reported employer, or an increase in cash assistance payments (e.g. SSI, SSD, TANF, etc.) will not go into effect until the next regular schedule annual examination. However, a change of employers, or a family member becoming employed after having reported being unemployed, will result in an interim re-determination of tenant rent. Other family changes resulting in an interim re-determination of tenant rent is described at section 1.02.
4. A new source of income and/or unreported increases in income (where required by this policy) that remains unreported for more than 30 days, will be considered a program violation resulting in a retroactive increase in tenant's rent. A family with a retroactive increase may be eligible for a repayment agreement. A family cannot, however, enter into multiple payment agreements with the MFHA which may result in a requirement of full payment of the amounts owed.

#### § 1.02 Family Circumstances requiring Interim Re-exams

1. For families reporting zero income, interim re-examinations will be schedule every 90 days and an affected family will be given 30 days written notice of any increase in TTP;
2. For families whose annual income cannot be projected with any reasonable degree of accuracy such as self-employed persons, interim re-examination shall be conducted every 90 days;
3. For families where Housing Agency personnel made an error at admission or re-examination an interim re-exam will be conducted upon notice by the MFHA. The family will not be charged retroactively for an increase in TTP; however, any decrease in tenant's rent be made retroactive.

4. For families who report a temporary loss of income and the income is expected to be fully restored within 30 days the Housing Agency will not perform an interim re-exam. Staff must receive 3<sup>rd</sup> party written verification that the income is expected to be fully restored.
5. For families whose rent has been based on false or incomplete information supplied by the applicant or resident an interim re-exam will be conducted upon notice by the MFHA. Any increase in TTP will be made retroactively.
6. Notice to the Housing Agency of *family income discrepancies* through HUD's *Tenant Assessment Sub-System (TASS)* will required performance of an interim reexam.

### § 1.03 Forms Used for Interim Reexaminations

Adult household members will be required to sign the applicable forms for third party verification for all factors of income or household composition **that have changed since the last certification**. Family factors impacting the rent calculation, which have not changed will not be re-verified even if the verifications are more than 120 days old. Section 8 staff will only verify the reported changes.

### § 1.04 Standard for Timely Reporting of changes and Tenant Penalties for Untimely Reporting

The family must report any required change within thirty (30) calendar days of when income or change in household composition occurs.

If the family does not bring the required information with them to the interview, a new interview date will be set within that month.

In addition, third party verification will be sent out to verify the change(s). An increase in tenant rent may be made retroactively while any decrease will be implemented prospectively, when the family does not keep the second schedule interview appointment and fails to return by the end of the month. The TTP is calculated when the verification is received, and it will be considered untimely reporting" by the tenant.

### §1.05 When the Changes is Reported in a Time Manner

When the family reports a required change in a timely manner the MFHA will notify the tenant of any change in the Tenant's rent to be effective in accordance with the following guidelines:

1. Increase in the Tenant's Rent will be made effective on the first of the month following the 30-day notice of rent increase.
2. Decrease in the Tenant's Rent will be effective the first of the month following the month the change occurred.

The change may be based on the documentation the tenant brought with them to the interview, followed up by the third party verification sent to the agency. Verbal representation alone by the tenant will not be acceptable. If the tenant has no form of documentation to support a decrease, downward rent adjustment will not be processed until

the Housing Agency has received the necessary verifications. In such cases, this result in a retroactive decrease in tenant's rent and the family is not liable for rent payment until the interim has been completed and the family has been notified of the amount and effective date of the change.

#### **§1.06 Timing of the Next Annual Re-certification**

Without regard to the number of interim re-exams conducted, the family's annual date of re-exam will remain the same.

#### **§1.07 Section 8 Staff Procedures for Conducting Annual Re-exams**

The Section 8 Housing Representatives have responsibility for initiating and completing the annual re-exams in a timely manner. This means all required actions, including the annual inspection, is conclude at least thirty (3) days prior to the anniversary date.

The staff shall:

1. Send initial notice to re-certify with schedule appointment date/time 90-120 days prior to the effective date;
2. Send follow-up notice within 5 days of a missed appointment if a family fails to show or reschedule appointment;
3. Send 30-days notice (3<sup>rd</sup> notice) of intent to terminate for non-compliance with terms of the voucher if the family has failed to respond to first and second notices. However, third notice must be sent at least 30 days prior to anniversary date. Third notice serves as the 30-days termination notice and shall be sent to both the tenant family and owner with reason(s) for proposed termination and family's right to request an informal hearing.
4. If family schedule appointment during the last 30 days Section 8 staff is to process the re-certification. Any changes in tenant's rent will be subject to timing

described at §1.04 (ie, tenant penalty for untimely reporting).

5. If family does not participate in re-exam interview by the schedule effective date Section 8 staff will follow normal termination of assistance procedures.

**V. REGULAR (ANNUAL) RE-EXAMINATION OF FAMILY'S INCOME AND CIRCUMSTANCES [24 CFR §882.212/882.515]**

1. Annual Re-examination

Re-examination of family's income and composition shall be made at least annually. If At the time of admission or re-examination, a family's income cannot be reasonably Determined for the upcoming 12 month period, the Housing Agency shall require the family to comply with its 30, 60 or 90 day re-exam schedule.

2. Re-determination of Tenant Payments and Housing Assistance Payment

The Housing Agency shall make an appropriate re-determination on the amount of Total Tenant Payment and amount of the Housing Assistance Payment. Written Notice of Tenant's Rent and HAP will be provided to both the owner and tenant with a copy to the tenant's file.

3. Termination of Payments

Termination of Housing Assistance Payments due to a determination of family's ineligibility shall be in accordance with applicable HUD guidelines.

4. Changes in Family Size and Composition

Changes in family composition that result in a change in family unit size (i.e., "voucher size") will result in issuance of voucher with a different unit size only at the time the family moves, or at the time of the regularly schedule annual reexamination of family circumstances.

5. Disclosures and Verification of Social Security Number

At re-examination, the family shall be required to disclose and verify Social Security Numbers for any family member age 6+ who has been assigned a social security number since the last certification or re-certification, as outlined in 24 CFR 5, as amended.

6. Evidence of Eligibility for Assistance Based on Citizen or Eligible Alien Status

Each family member, regardless of age, must submit a declaration of status as a U.S. citizen or a U.S. national or *evidence of eligible* immigration status, as defined at Section

214 of the U.S. Housing Act of 1980, and as amended in the Immigration Reform Act of 1996.

For citizen or nationals, all that must be submitted is a signed declaration of citizenship. Non-citizen age 62 and older, as of 6/19/95, must submit a signed declaration of eligible immigration status and proof of age. Other non-citizens must submit a signed declaration of eligible immigration status, proper documentation, and a signed verification form. Adult must sign their own forms. An adult residing in the assisted housing unit who is responsible for the child must sign applicable forms for children. [24 CFR § 5]

The Housing Agency will conduct verification of eligible immigration status when other aspects of eligibility for assistance are being verified. The primary method of verification will be the use of the computerized verification system administered by the U.S. Immigration and Naturalization Service (INS). [24 CFR §5]

Housing assistance may be denied or terminated to an applicant or recipient in accordance with 24 CFR §5. An applicant household will have their assistance delayed or denied until at least one continuing family member has established eligibility as a U.S. citizen national or an eligible immigrant. If all other factors of eligibility have been confirmed the family may be warranted a 30 day extension to comply with the Section 214 provision as amended. If the family fails to comply within this 30 day period the family will be determined ineligible for housing assistance and their HAP will be terminated.

Section 214 Compliance is a one-time requirement for each family member and is only implemented at re-exam for new family members.

Denial or termination of assistance to an applicant or participant's family can be appealed to the Housing Agency consistent with Section Y and with the INS in accordance with 24 CFR 5 subpart F.

### **§1.00 Income Determinations**

The gross annual income of the family is used to determine income eligibility and Total Tenant Payment, including sources of income as described at 24 CFR §5, and as Periodically revised by HUD.

#### **1. Income of Minors (Family members age 17 and younger)**

Only certain source of income to a minor will be included when determining the family's Gross annual income. Such income includes benefit income of a minor such as social security, TANF, or any unearned income of minor (including interest on a saving account). None of the earned/wage income of a minor will be included.

2. Income of Full Time Students

The Housing Agency will only include the first \$480 of earned income of a full-time student age 18 and older.

If the student receive grant or scholarship income the Housing Agency will not include any of the educational benefit income in calculation of annual income. In no case will the MFHA include student loans as income to the household no matter how the loan will be expended.

3. Income of Temporarily Absent Family Members

Family composition is a self-certification by the head/co-head of household. It is the policy of the Housing Agency to include:

- a. income of all persons expected to reside in the unit in the upcoming 12 month period.
- b. If one or more family members will be absent from the unit for any portion of the 12 month period covered by the certification they will be considered a temporarily absent family member.
- c. The absent family member's income will be include for the full 12 month period even if the income will not be available to the household for the period of time they expect to be absent.
- d. If the absent family member is the head or spouse their full income will be included as income to the household even if they are not expected to occupy the unit or to be listed on the lease.
- e. If the head or spouse is permanently absent from the household the Housing Representative may require verification.
- f. Acceptable forms of independent verification will include:
  - Legal separation papers
  - Divorce decree
  - Evidence of institutionalization; and
  - Document from Department of Human Services identifying current household members.

Dependent upon the circumstances the Housing Agency may consider other forms of verification that the family member is no longer a "member of the family".

In the absence of acceptable verification, the Housing Agency will continue to include the income of the absent family members as if they were only “temporarily absent”

4. Income of a Confined Family Member

If the family member has been permanently confined to a hospital or nursing home the Housing Agency will not include the income of this family members as income to the household, nor will the Housing Agency compute allowances/deductions for a permanently confined household member.

When the confined family member’s income is excluded, the confined family member must not be listed on the assisted lease agreement between the owner and tenant family. The permanently absent family member’s name can be removed from the existing lease. No new lease is required

5. Regular Recurring Cash Contributions or Gifts

The Housing Agency will include as income only those cash contributions that the family expects to receive on a regular recurring basis. Staff may use credit reports to determine the potential for such recurring gifts, in addition to signed statements by donors or affidavits by the recipient. If an adult family member “barter” their labor for goods rather than monetary compensation the MFHA may establish a cash value for the personal service and use it as income to the household.

Non-cash gifts such, as groceries will not be included.

6. Net Income From a Bussiness (or Profession) or From Rental of Real or Personal Property

The net income from a business or from rental of real or personal property will be included as income to the household.

Section 8 staff will calculate the net income from a business by deducting from the projected gross income the following expenses: straight-line depreciation, the interest portion of loan payments, and all other expenses of the business which are routine expenses of the business, and not related to business expansion or capital improvements.

If there is evidence that the family withdraws cash or assets from the business these withdrawals will be include as income to the household unless there is verification that the withdrawal is specifically for reimbursement of amounts the family invested in the business.

Verification of business expenses to be deducted from the gross income of the business will be in keeping with requirements stated at Exhibit (Statement of Acceptable forms of verification).

Adult family members engaged in the operation of business or profession will be subject to a 90 day re-exam schedule, as deemed appropriate by staff, for purpose of documenting current income. Section 8 staff may require such adults to maintain reports records of current income (gross receipts) and expenses for the period between the performance of the interim re-exam.

#### 7. Lump-sum Payments to be counted as Income

The Housing Agency will include only two types of lump-sum payments as income to the household. All other lump sum payments will be treated as an asset. The two types of lump sum payments to be include as income are:

- a. Lump-sum payments for either a delayed start of a periodic payment (such as delayed payment of unemployment benefits); or
- b. Lump-sum payments for settlement of a disputed claim of what would have been a periodic payment (such as a lump payment of back child support).

Where such lump sum payments are received, the Housing Agency will require repayment on a prospective basis rather than a retroactive basis.

This method will result in an increased TTP over 12-18 month period and allows for the Gradual repayment of the monies owed for the period of time that Housing Agency "carried" the family while they were awaiting the benefit payments.

In the event the family receives a lump-sum payment that includes payment for a period of time that the family was not receiving housing assistance the Housing Agency will not include that portion of the lump-sum payment in its prospective calculation in the amount to be repaid.

#### 8. Policy Governing Alimony and Child Support

A court-ordered decree will serve as third party verification of the amount of alimony and child support income expected to be received by the family. No other form of verification is required unless the family assert that they are receiving a amount that differs from the decree. In this instance the Housing Representative must verify the amount which is actually being received: and the family has made all reasonable effort to collect the full amount due, including evidence of filing with courts or agencies responsible for enforcement of the payments due.

If the family using the services of Legal Aid and there is documentation that the family has made an appointment for the express purpose of pursuing back payments the MFHA will consider this as an appropriate measure for taking "legal" action. Evidence of filing for enforcement of the child support order with the local child Support Enforcement Agency (CSEA) a it is also considered an appropriate form of action under this rule.

When third party verification cannot be obtained which counters the decree the amount in the decree will be considered as income to the household.

#### 9. Treatment of Military Pay

The military pay of the head of household or spouse, including allowances with the exception of combat/hazardous duty pay, will be includes as income to the household, even if the head/co-head or spouse is not listed on the lease.

- a. If the absent head/co-head has income from outside jobs or income from assets these income sources will not be counted as income to the family.
- b. If the family receives an allotment from an adult child in the military on a regular recurring basis only the amount of the allotment will be included as income and not the full military pay.
- c. In instances where the adult child in the military is listed on the lease they will be treated, as a "temporarily absent family member" and the full amount of pay, including all regular allowance, will be counted as income to the household.
- d. Verification of the military pay and regular allowances will be solicited first from the unit commander on a form developed by the Housing Agency unless the military requires a different form for verification purposes, in which case the military's form will be used.

If Section 8 staff is unable to receive third party verification (written preferred) a review of documents will be undertaken. The Section 8 staff will document the family file as to why they were unable to receive third party verification. The spouse/co-head must cooperate by providing Section 8 staff with required information such as:

- Unit identification/address,
- Rank
- Serial/social security number

Failure to cooperate will result in a denial of admission or termination of assistance fro a participating family.

## 10. Procedure for Projecting Unstable Income

Where a family member has sporadic, yet recurring income such as a business owner or temporary clerical work (i.e., “Kelly-Girl”) the Section 8 staff will include projects income based upon current income and expenses:

- a. Place family on a 90-day re-exam cycle;
- b. Require family to bring income information for the 12-week period preceding the date of certification;
- c. Calculate average weekly or monthly income and use this as a base line figure to project income for the upcoming 12-month period.
- d. Combine the income from this period with the income from the prior period to establish a new baseline weekly or monthly figure;
- e. recalculate the TTP and determine need for additional interim re-exams.

### **§1.02 Asset Determinations**

Income from assets is to be includes as income to the household. Asset income to be include can include either actual or *imputed* income from assets depending upon the total value of assets effectively owned by the family. Accordingly, the housing Representative shall establish the cash value of assets held by the family.

Assets to be considered will include the following:

- Amounts in savings and checking accounts;
- Stocks, bonds, savings certificates, moneymaker funds and other investment accounts;
- Equity in real property or other capital investments
- Cash value of trusts that are available to the household;
- IRA, Keogh and similar retirement/pension fund;
- Assets, which although owned by more than one person, allow unrestricted access by the applicant;

- Lump-sum receipts such as inheritances, capital gains, lottery winnings, cash from sale of assets, insurance settlements, Social Security and SSI lump-sum payments and other claims;
- Personal property held as an investment such as gems, jewelry, coin collections, antiques cars, etc.;
- Cash value of life insurance policies;
- Assets disposed of for less than fair market value during the two years preceding examination or re-examination.

Where there is a dispute over the effective ownership” of an asset, the Section 8 staff will Determine ownership based upon (a) who reports the asset to IRS for tax liability purposes; and (b) who receives the income from the assets as reported to the IRS.

Where the percentage of ownership is legally defined only that portion/percentage of the cash value of the asset will be include in the calculation of net family assets.

The value of necessary personal property maintained for personal use will not be included in the calculation of net family assets, including but limited to items such as clothing, furniture, jewelry, automobiles, stereo/TV equipment, etc.

If the family, however, maintains personal property for money-making purpose (i.e., investment purposes) the value of such items will be included in the calculation of net family assets. If there is a question/dispute over whether or not personal property is to be included as an asset the definition/test will be as follows:

- Necessary personal property is not expected to increase in value; and
- Necessary personal property is usually “used” by the owner.

This would include *rental property for investment purposes* as an asset to the household. In this instance, the cash value of the rental property and the *net rental income* will be include as a source of income to the household. If the property is part of an active business, as would be the case of a person where real estate is their main occupation, then the property will be treated as Assets of the business and not as a family asset.

The Section 8 staff will include both current and actual assets that family now holds as well as assets the family has disposed of for less than fair market value (i.e., imputed assets) in the two-year period preceding the date of certification or re-certification.

It is the policy of this Housing Agency to exclude the imputed assets when calculating

the net family assets in two instances. First, where the asset(s) were disposed of for less than fair Market value as the result of a legal proceeding/judgment or, second, when the value of the asset at the time of disposal was less than \$1,000.00

### **§1.03 Determining Adjusted Annual Income**

Adjusted annual income is defined as *gross annual income less allowable deductions from income.*

Congress has established the deductions and allowable expenses to be deducted from the gross annual income. Currently, the Housing Agency is implementing the following deductions from income as applicable to each family's individual circumstances:

- \$480 dependent deduction
- \$400 elderly/disabled household deduction

Neither of these deductions from income requires third party verification. Eligibility for the *dependent* and *elderly household* deduction is achieved through a Section 8 staff evaluation of the family's circumstances and prevailing HUD instructions/definitions.

*Allowance expenses*, which can be deducted from gross annual income, must be third party verified and include:

- Reasonable childcare expense
- Allowable handicapped assistance expense; and
- Allowable medical expense

### **§1.04 Housing Agency Child Care Policy**

1. Consistent with current HUD instructions at 24 CFR 5 and handbook 4350.3 CHG-1, the MFHA will deduct reasonable childcare expense when all of the following is true (and verifiable):
2. Expense able a family member to go to work, to school or to look for a job after recently losing a job; (up to 20 hours weekly with documentation acceptable to the MFHA).
3. In instances where the childcare is necessary to allow an adult family member to Seek employment, the agency will allow up to 20 hours of weekly child care expense. The family must provide documentation to support both their efforts to

gain employment, and the related childcare expense. Staff may use receipts or similar forms of verification that are dated for the period of eight weeks preceding the certification.

4. "School" is either academic or vocational and the course of study will result in a degree/diploma or a certificate;
5. Enrollment in school is either full or part-time in accordance with that institution's definition;
6. Expense is for the care of childcare in the assisted household who are age 12 or younger (including the cost of care for a foster child age 12 and younger which is not paid/reimbursed);
7. Childcare expenses cannot be paid to a family member residing in the assisted unit nor paid (or reimbursed) by an organization or individual outside of the unit;
8. Expense is reasonable in terms of cost and relationship to eligible activity (as stated in [a] above).
9. Any expense associated with the keeping of children to allow a family member to go to work does not exceed the earning of the individual who is enabled to work.
10. No adult is available or capable of providing the childcare during the hours required.
11. Childcare expense (not to exceed \$600 annually) to enable a family member to seek employment.

#### Procedures for Establishing Reasonable Cost of Child Care

To determine if the cost of the childcare is reasonable the Housing Agency will conduct a survey of childcare providers at least annually. This survey will include both "in-home" providers as well as institutional provider (e.g. Kinder Care Center). Section 8 staff will provide a schedule of "reasonable" charges and the maximum cost to be deducted will be established in light of the survey results.

If the family incurs expense in excess of the stated amounts on the Housing Agency's schedule the survey amount will become the maximum allowable expense to be deducted unless there are extenuating circumstances. In such cases the approval to exceed the schedule amounts must be approved by the supervisor of Housing Representatives on a case by case basis.

## **§1.05 Income Verification Requirements**

The Housing Representative will request only that information which is necessary to determine the family's eligibility or level of assistance. For some types of income listed in Appendix 1 of this plan, appropriate requests for information are permitted.

In deciding whether to add information to a particular verification request that is not listed below, the Housing Representative must ask:

- *Is this information necessary to determine the individual's eligibility for assistance or level of assistance?* If the answer is *yes*, then the Housing Representative may verify that information.
- If the answer is *no*, then the Housing Representative may not verify that information.

### **Y. INSPECTIONS OF DWELLING UNIT [24 CFR 982.401]**

#### **1. Initial Inspection of Unit**

Before approving any Lease Agreement, the Authority shall inspect the unit for compliance with the HUD Housing Quality Standards, as amended by local code, where applicable. Any such amendments to the HQS will be board adopted.

- a. If there are any deficiencies that must be corrected, the Housing Agency shall notify the Owner and tenant of the corrections required. The Housing Agency shall re-inspect the unit to insure that all deficiencies are corrected prior to approving a Lease or HAP Contract.
- b. The Authority shall prepare and maintain reports on initial inspections and any required re-inspections. The inspection report shall specify (i) any that must be corrected; and (ii) any other deficiencies (comments), as a factor in determining the *reasonableness* of the rent to owner.

#### **2. On-going Inspections to Determine if Unit meets HQS**

The Housing Agency shall inspect or cause to be inspected each unit at least annually, and at such other times as may be necessary, to ensure that the owner and tenant family is maintaining the unit to meet the HQS and providing the agreed upon utilities and other services.

3. Applicability of the HQS Occupancy/Space Standard

The *HQS Occupancy Standard* shall be used as *acceptability criteria* for space and security requirements. The *family unit size* on the assigned housing choice voucher shall be established in accordance with the following general criteria:

- a. Parents are not required to share a bedroom with a child 9 (regardless of age)
- b. Children of the same sex are expected to share a bedroom (regardless of age)
- c. Two children of the opposite sex, ages 6 or younger are expected to share a bedroom.
- d. Two children of the opposite sex over the age of 6 are not expected to share a bedroom.
- e. Adults of different generations (e.g. grandmother, mother, daughter) will be assumed to have separate bedrooms.
- f. An unrelated adult, such as a live-in aide, is not expected to share a bedroom with a family member.
- g. Elderly or disabled household members (related or unrelated) will be considered for separate bedrooms; and
- h. Spouse or persons operating in a *spousal type* relationship are expected to share a bedroom.

Exceptions to the above criteria will be made, when necessary, for persons with disabilities as a *reasonable accommodation* under law. For example, a husband and wife could be assigned a two bedroom voucher if there are documented disabilities/medical conditions that necessitate separate bedrooms.

Similarly, a family may actually select a unit smaller than the designated *family unit size* as long as the unit selection will not result in more than two persons sharing a *sleeping room* (as defined by HUD regulations).

The Housing Agency shall not charge the family or the owner for any inspection performed. (24 CFR §982.405).

#### 4. Determination that Unit does not meet HQS

The owner is general responsible for maintaining a unit in accordance with the HQS, and failure to carry out this responsibility can result in Housing Agency enforcement action.

When a unit does not meet the HQS and the Owner or tenant fails to take corrective action after being duly notified the Housing Agency may exercise any of its rights, including abatement of HAP (even if the family continues in occupancy), reduction of HAP and/or termination of the Contract. The Housing Agency cannot make HAP for a dwelling unit that fails to meet the HQS unless the owner corrects the defects (s) within the time period specified by the Housing Agency.

Life threatening defects must be corrected within no more than 24 hours, and other defects must be corrected within no more than 30 days or any Housing Agency-approved extension.

Life threatening defects are defined to include, but not necessarily limited to:

- Electrical hazard (e.g., exposed wiring, “shorting” open/non-functioning junction boxes, improper wiring, etc.);
- Broken/missing smoke detectors
- Severe tripping hazards (e.g., missing floorboards, severely broken/missing steps in rooms used for living, etc.
- Severe water leaks (i.e., freely running water that poses a threat to life or property)
- Noxious gases/odors
- Blocked fire exits
- Sharp edges (e.g., broken protruding glass)
- Improperly stored flammable liquids (e.g., gasoline, kerosene, etc)
- Health hazards as defined by local/county code

#### 5. Family Obligation to Comply with the HQS

The family is responsible for any HQS breach caused by its failure to maintain tenant paid utilities, by its failure to maintain tenant-supplied appliances, or damage to the unit by a family member or guest over and above ordinary wear and tear. The family, like the owner, must correct any life-threatening defect for which it is responsible within no more than 24 hours and any other defect within 30 days or any Housing Agency-approved extension.

The Housing Agency may terminate Section 8 rental assistance for a family that causes an HQS breach. {24 CFR §982.404}

6. Housing Agency and Owner Obligations for Units with *Lead-Based Paint*

Prior to execution of the HAP contract the owner must inform the Housing Agency and the family of any knowledge the owner has the presence of the presence of lead-based paint on the surfaces of the residential unit. [24 CFR§982.401].

The MFHA will inspect units constructed before January 1, 1978, **expected to be occupied by children under the age of six** to determine if there is deteriorated paint. All deteriorated paint will be made intact before the MFHA will enter into a HAP contract. If the unit will be occupied by a child with an elevated intervention blood lead level, the MFHA will perform an inspection of the determine whether there is lead-based paint on chewable surfaces or any deteriorated lead-based paint. Chewable surfaces include all painted chewable surfaces in the within reach of a six-year-old child (i.e., painted surfaces up to five feet from the floor).

The MFHA will pay for the lead-based paint testing of unit constructed before January 1, 1978 that will be occupied by children under the age of six if the local or state health agencies are unwilling or unable to do so.

A clearance test will be performed by the MFHA for initial and annual units when the amount of deteriorated paint exceed the *de minimum* levels specified in the regulations of no more than 20 square feet collectively on exterior surfaces or no more than two square feet in any one interior space or room, or no more than 10 percent of the total surface area on an interior space or exterior type of component with a small surface area such as window sills, baseboards, and trim. The MFHA will ensure that the owner is responsible for:

- a. Payment of subsequent clearance test where the initial clearance test failed the unit, and
- b. Submittal of the results of the subsequent clearance test to the MFHA and the family.

Pursuant to §982.401(j)(3) the MFHA will undertake a visual inspection for defective paint surfaces on which paint is cracking, chipping, peeling or loose, in all pre-1978 units that will be occupied by families with children under the age of six. If defective paint surfaces are found, the unit may not be approved unless surfaces have been treated in accordance with §982.401(j)(6).

When inspecting a dwelling unit (both initial and annual inspections) that was constructed before January 1, 1978, and that will be occupied by a family with a child under the age of six with an identified EBL condition, the Housing Agency will include:

- a. Visual inspection for deteriorated paint;
- b. A test for lead-based paint on chewable surfaces; and
- c. Any other test required by local or State laws.

The MFHA will also inspect and, if applicable, have the owner treat exterior chewable surfaces within five feet from the ground.

The MFHA will conduct a risk assessment of the unit in which the child, under age of six with an environmental intervention blood-lead level (EIBLL) lived at the time the blood as last sampled, unless an evaluation has already been conducted by the public health department. Risk assessments will be conducted within 15 days of being notified by the public health department or other medical health provides that a EIBLL child under age of six resides at a unit assisted by a housing choice voucher pursuant to 24 CFR §35.1350 (d).

Clearance inspections will be performed within 24 hours of the owner's notification that repairs have been completed. For initial units, if the unit fails a second time the MFHA shall notify the owner the owner that family may not lease the unit with assistance under a HAP contract, the MFHA will notify the owner that Housing Agency will abate payment and that the HAP contract will be terminated once the family is relocated.

#### 7. PHA Data Collection and Record keeping

The owner and the Housing Agency must comply with all requirements of the final rule on Lead-based paint published, effective September 15, 2000.

The Housing Agency will attempt to collect annually from local health agencies the names of children with an *elevated blood level (EBL)* and will annually attempt to match this information with the names and addresses of assisted families. If a match occurs, the Housing Agency must determine where local health officials have tested the unit for lead-based paint. If the unit has lead based paint the Housing Agency will require the owner to treat the lead based paint in accordance with 24 CFR 982.401. If the owner does not take the required corrective action in the time prescribed, the Housing Agency issue the affected family a voucher to move.

The Housing Agency will keep a copy of each unit's inspection report for at least three years. If a dwelling unit requires testing for lead-based paint, or if the dwelling unit requires treatment of chewable surfaces based on the testing, the Housing Agency will maintain the unit inspection reports indefinitely and, if applicable, the owner's certification of treatment.

The MFHA will document that it request from local and State health departments the address of families with RBL children assisted with housing choice vouchers in the tenant-based assistance programs.

## 8. Applicability of Local Code to Health and Safety

Section 8 Representative will use local code requirements for existing housing in determining the appropriate corrective action to be taken by an owner for any defects related to the health and/or safety of the occupants.

## 9. Conduct of Quality Control (QC) Inspections

The Section 8 program supervisor will re-inspect at least 6 initially inspected by the Section 8 Housing Representatives.

The QC inspections will be performed throughout the year, and a record of all such QC Inspections will be maintained in a separate file, as SEMAP documentation.

The QC sampling will include units that initially passed and failed HQS to assure:

- Consistency between Representatives
- Uniform application for HQS

### **§1.00 Overview**

The MFHA adheres to the acceptability criteria as found in 24 CFR 982.403 and the HUD Inspection Booklet (governing the Section 8 Housing Quality Inspection Standards. HUD's Housing Quality Standards are applicable to all housing assisted under any form of HAP contract.

### **§1.01 New/Move Unit Inspection Procedures**

The Housing Agency shall conduct unit inspections before lease approval and execution of a HAP Contract to ensure the units is in compliance with the HQS or HUD-approved variations for the MFH Section 8 program.

Once a Voucher-Holder and prospective owner have requested lease approval for a specific unit, the Hosing Agency is responsible for the following:

1. The Housing Inspector shall make every reasonable effort to schedule a unit inspection on the date the owner indicates the unit will be ready for inspection within seven days of receiving RFTA, or as soon thereafter as possible. Lengthy delays of inspections will be avoided since delays can cause owners and families to lose interest in program participation.
2. The Housing Inspector shall conduct a thorough inspection of the unit to determine compliance with all HQS *Performance Requirements and Acceptability Criteria* prior to lease approval.
3. marginal units (i.e., those that are likely to fall below the HQS within a year) will not be approved.

4. The Housing Inspector will inspect the unit using the long or short version of Form HUD-52580, as instructed by the supervisor of inspections.
  - If the unit fail its initial inspection the owner will be given ten (10) calendar days in which to make the required repairs.
  - If the unit fails the re-inspection and the owner cannot show “good cause” for failure to comply, the unit shall not be eligible for re-inspection under the same RFTA. Family shall be advised to search for another unit and to submit another RFTA before the expiration date of the voucher.

All determinations resulting from each inspector’s on-site inspection will be adequately documented in participant file.

### **§1.02 Additional Duties of the Inspector**

Prior to or during the inspection, the Housing Inspector (Representative) shall obtain the following information to assist the Housing Representative in making additional determinations which are required by the program:

1. The actual number of bedrooms (excluding living/sleeping rooms) contained within the unit to insure the proper FMR limitations are used and that the owner’s statements on the *Request for Tenancy Approval* regarding unit size are factual (applicable to the voucher program).

For example, an owner may have considered the unit to be a three bedroom unit, but the Housing Agency may find that only two of the bedrooms meet the applicable HQS criteria (e.g., a window, two electrical outlets or one outlet and one permanently installed light fixture).

Unless the owner is willing and able to bring the third bedroom into compliance, the unit must be considered a two-bedroom unit for rent reasonableness, and for determining whether the unit meets the HQS space and security criteria.

2. information with respect to the unit’s age, quality, amenities, location, contract and gross rents, unit type, and square footage of living space, which is necessary to determine whether the request rent to owner is reasonable.

The housing Agency’s Representatives will assist in collecting and validating the information given as they have first hand knowledge of the units and the rental marketplace.

### **§1.03 Annual Inspection Procedures**

The Housing Agency required to inspect each dwelling unit at least annually to determine if the owner and tenant and tenant family is maintaining the unit in decent, safe, and sanitary condition.

1. The Housing Agency shall conduct its annual inspection(s) within one year of the date of the previous inspection. The annual re-inspection will usually coincide with the anniversary date of the contract. In some limited circumstances the Section 8 Office may conduct the re-inspection and the family re-examination at different points in time, but both activities will occur within 12 months of the initial activity.
2. The housing Agency will also promptly conduct inspections as part of the re-exam process to ensure that any deficiencies are corrected as the anniversary date.
3. The same procedures and forms as used for initial inspections shall be used for annual inspections.
4. At re-exam, the inspector shall use the inspection form to document improvements that may have been made to unit since the last inspection to determine whether information pertaining to rent reasonableness should be updated. This documentation for Housing Agency files is specially important if the owner is requesting an annual adjustment in the contract rent on the basis of such actions.
5. The Housing Agency shall also cite recommended improvements to encourage upgrading of units above the HQS on the annual inspection form. Such improvements may be in the owner's best interest since this may justify a higher comparable rent.

### **§1.04 Special Unit Inspections**

There may be circumstances other than the initial and annual inspections which require the Housing Agency to determine a unit's compliance with the HQS criteria, as follows:

- Written or oral complaints/request from participating families, owners. Or other sources regarding the unit's condition or lack of maintenance and services by the responsible parties; or
- Owner request to determine if a unit (s) qualifies for potential participation, such preliminary inspections may not be considered as substitutions for required initial inspections that may result from the submission of a *Request of Lease Approval*.

## **§1.05 Required Actions After completed inspections**

### **1. Initial Inspections**

The following requirements apply to results of inspections performed in connection with an initial RFTA Tenancy. If the inspector has questions about the adequacy of certain items, these issues will be discussed with the family.

a. If the Housing Agency's inspection reveals that the unit meets the applicable HQS criteria, the Housing Agency may proceed with the other necessary determinations, such as rent reasonableness, preparation of HAP Contract and approval of lease, etc. The Section 8 Housing Representative shall notify the owner and family of the inspection results and may send the family a copy of the completed form.

b. If the Section 8 inspection reveals HQS violations, the Housing Agency shall notify the owner and the family that the unit may not be leased under the program until all deficiencies is corrected. A written list of the deficiencies will be provided to both the owner and the family with a prescribed time period for corrective action.

c. At the time of re-inspection of the failed unit the Section 8 inspector will re-inspect all those items that were cited in the original deficiency notice. Should the unit pass the re-inspection the Section 8 inspector will document the file accordingly and promptly notify the Housing Representative of the need to precede with other required lease-up activities. Should the unit fail the re-inspection the owner and family will both be notified that the unit will not be re-inspected under the initial RFTA and that the family is to continue their search.

d. Neither the family nor the owner is entitled to an informal review of the decision to fail the unit for non-compliance with the HQS.

### **2. Annual Inspections**

If the occupied unit fails HQS; or is otherwise not in compliance with any other provision of the HAP Contract, the Section 8 inspector will immediately notify the owner of the deficiencies, in writing. It is not the responsibility of the Section 8 Housing Inspector to prepare detailed repair specifications. The notice will describe the deficiencies which are in violation of the HQS and require that the conditions be corrected

within a time period specified by the Section 8 Inspector to be determined by the Housing Agency as follows:

- a. If there are serious deficiencies that present an immediate danger to the health and safety of the family, (e.g. exhaust fumes from heating system) the housing Agency requires the owner or tenant (to be determined by the Inspector) abate the hazardous condition within not more than 24 hours. If the owner/tenant does not take the required actions within the 24 hours time period, assistance payments will be abated until such time as the owner/tenant corrects the deficiencies.

In the event the emergency” repairs are not completed within a maximum of 72 hours (or less if so prescribed by the Housing Agency) the contract will be terminated.

If the repairs to be made by the owner/tenant are made within the prescribed time frame the HAP will resume as of the date the deficiencies are fully corrected. The Housing Agency will not make payments for the period the unit was not in compliance and the owner/tenant had been notified, in writing, of the start of the abatement period.

- b. If there are other deficiencies that do not affect the health and safety of the occupants, a determination of whether the owner or the tenant’s family must make the repairs will be made. In either case, the owner or tenant must correct the items within 30-days or less.

The time period for corrective action will be specified in the Housing Agency’s notice to the owner, and such time frame will be dependent upon the type, nature, extent of the repairs to be made.

- c. If the owner or tenant does not take the required corrective action within the specified time period, the Housing Agency will determine if an extension of time is warranted depending upon the nature of the required work and any extenuating circumstances.

If an extension is not granted, the Housing Agency will either abate the housing assistance payments or terminate the HAP contract.

- d. If the HAP Contract is terminated, the Housing Agency will determine whether to reissue the family’s voucher. If the unit deficiencies, which resulted in the termination of HAP were tenant caused the family may be terminated from the program.

If the owner fails to make any owner-requires repairs and owner has a history of HQS non-compliance the owner may be barred from future/continued program participation.

- e. During the period when payments have been abated, the Housing Agency will apprise the tenant of its responsibility to pay its share of rent the owner and will advise the owner that abatement of the HAP is not grounds for termination or other adverse action against the family.
- f. Section 8 Housing Representatives will re-inspect the unit to ensure that all HQS deficiencies have been corrected (a) as of the date of the scheduled inspection, and (b) prior to approval of any annual or special rent adjustment.

3. Special Complaint Unit Inspections

If problems similar to those discussed in the preceding sections are disclosed during a special unit inspection (e.g., performed as a result of a complaint from the family, owner, or other source), the same steps shall be taken by the Housing Agency, as outlined in the sections above, as appropriate.

If an annual or special inspection reveals that a unit or building has serious or life-threatening deficiencies, the Housing Agency will re-inspect other units in the building leased to Section 8 assisted families, even though annual inspections of these units are not yet required.

4. Inspections Which Reveal Tenant Non-compliance

If an annual or special inspection reveals that a unit is no longer in a decent, safe, and sanitary condition according to the applicable HQS criteria because of the tenant's lack of maintenance, the tenant is responsible for taking appropriate action to correct deficiencies. In addition to notifying the tenant, in writing, of any deficiencies and corrective action required, the Section 8 Housing Representative shall also advise of the possible consequences of non-compliance.

If the owner or Housing Agency is unable to get compliance from the family, the Housing Representative shall either abate the HAP payments or terminate the HAP Contract and the family's housing voucher. If the family remains in occupancy the family will become responsible for the full payment of the rent and the *assisted lease agreement* shall automatically terminate.

**§1.06 Termination of Payment and Contracts**

If the Housing Agency finds the owner or tenant in continued non-compliance with the HQS both parties will be sent advance written notice of abatement of HAP and/or termination of the HAP contract.

When it has been determined that a unit fails to meet the HQS and the

owner/tenant has failed to correct the failed items within the prescribed time frame, the housing assistance payment for the unit will be abated.

The abatement will continue until all failed items have been corrected or for 30 days from the date of abatement, whichever is the earlier.

The Housing Agency will re-inspect the abated units as soon as possible after the date of the owner's contact with the Housing Agency to report the completed work.

The abatement will end if it is confirmed at the re-inspection that all required repairs have been satisfactorily accomplished. Owner or tenant's failure to make required repairs during the abatement period will result in the issuance of the 30 days notice of termination.

While the termination notice is running the abatement will remain in effect. Once the HAP contract is terminated it will not be reinstated for the same family, at the same unit.

The participating family will be reissued a Voucher to allow for a move with continued assistance if the HQS non-compliance was solely related to the owner's failure to act.

If the repairs are completed before the effective date of the termination, the termination notice can be rescinded if the tenant choose to stay in the unit.

## **X. GROUNDS FOR DENIAL OR TERMINATION OF ASSISTANCE**

The Housing Agency may deny assistance to an applicant or terminate assistance for a participant family because of the family's action or failure to act.

Grounds for denial or termination of assistance may include violation of obligation under the program, prior eviction from public housing or prior termination of voucher assistance , a debt to the Housing Agency or another Housing Agency in connection with the Section 8 or public housing program and drug related or violent criminal activity.[24CFR §982.552-553].

The Housing Agency will terminate HAP Contract as stipulated in 24 CFR 982.454, in the event that there are insufficient funding levels from HUD. The Housing Agency will notify in writing the landlord and participant on the date of effectiveness of termination. Once the Housing Agency regains sufficient levels of funding the Agency will re-instate participants if their circumstance have not changed.

## **Y. MFHA POLICY GOVERNING**

The Housing Agency has a Policy of Zero Tolerance for “*Drug Related or Violent Criminal Activity*”. If the tenant, any member of the tenant’s household, any guest or other person under the tenant’s control engages in (a) Criminal Activity that threatens the health, safety, or right of the peaceable enjoyment of Their resident by persons residing in or near the participants resident. Drug related Criminal Activity means the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use of controlled substance, as defined in sec.102 of the Controlled Substance Act (21 U.S.C. §802). Tenant and persons of the age of majority listed in the tenant’s household engages in one and only one such act of Criminal Activity shall be cause for termination of Assistance and cause for refusal of subsequent housing application for a period of three (3) years. The MFHA may utilize without regard to federal or local preferences it’s available voucher Housing Agency, or any such Housing Agency/assistance made available through HUD’S national pool of subsidy, to assist persons who are cooperating with a federal, state or local law enforcement investigation involving drug-related criminal activity, and when the applicant or participant is under a threat assessment and recommended for relocation to minimize or eliminate the potential for harm to the family.

### **AA. INFORMAL REVIEW OR HEARING ON AGENCY ACTION OR DECISION [24 CFR §982.554-555]**

A family who feels adversely affected as a result of an agency determination is entitled to an *informal hearing*. The request for an informal discussion must be filed in writing fourteen (14) days from the date of the written notification of the Housing Agency’s action or decision.

Under the Section 8 program policies, the Housing Agency is not required to provide a hearing for determinations involving administrative discretion, general policy issues or class grievances, utility allowance schedules, refusal to extend or suspend a voucher term, refusal to approve a new lease, noncompliance with the HQS, or exercising or not exercising any right or remedy against the owner under the HAP contract. [24 CFR §982.555(b)]

#### **§1.00 Informal Hearing for Participant (24 CFR §982.555)**

*When hearing is required:*

1. The MFHA will give a participant’s family an opportunity for an informal hearing to consider whether the following PHA decisions relating to the individual circumstances of a participant’s family are in accordance with the law, HUD regulations and PHA policies.:

- a. A determination of the family annual or adjusted income, and the use of such income to compute the Housing Assistance Payment.
  - b. A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule.
  - c. A determination of the family unit size under the PHA subsidy standards.
  - d. A determination that a voucher program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the PHA subsidy standards, or the PHA determination to deny the family's request for an exception from the standards.
  - e. A determination to terminate assistance for a participant family because of the family's action or failure to act (see §982.552).
  - f. A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules.
2. In the cases described in paragraphs (a) (1) (iv), (v) and (vi) of this section, the PHA will give the opportunity for an informal hearing before the PHA terminates housing assistance payments for the family under an outstanding HAP Contract.

*Notice to Family:*

1. In the cases described in paragraphs (a)(1) (i), (ii) and (iii) of this section, the PHA will notify the family that the family may ask for an explanation of the basis of the PHA determination, and that if the family does not agree with the determination, the family may request an informal hearing on the decision.
2. In the cases described in paragraphs (a)(1) (iv), (v) and (vi) of this section, the PHA will give the family prompt written notice that the family may request a hearing. This notice will:
  - Contain a brief statement of reasons for the decision.
  - State that if the family does not agree with the decision, the family may request an informal hearing on the decision, and
  - State the deadlines for the family to request an informal hearing.

*Expeditious Hearing Process:*

Where a hearing for a participant's family is required under this section, the PHA will proceed with the hearing in a reasonably expeditious manner upon the request of the family. (i.e., 3-5 working days)

*Participant's Hearing Procedure:*

1. *Discovery*

- a. By family. The family will be given the opportunity to examine before the PHA hearing any PHA documents that are directly relevant to the hearing. The family will provide requested copies at the cost of five cents per page payable in cash at the office of the Central Administrative Office of the MFHA. If the PHA does not make the document available for examination on request of the family, MFHA may not rely on the document at the hearing.
- b. By PHA. The HA hearing procedures do provide that the PHA must be given the opportunity to examine at PHA offices before the PHA hearing any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the documents at the hearing.
- c. Documents. The term "documents" includes records and regulations.

2. *Representation of family.* At the family's own expense, the family may be represented by a lawyer or other representative.

3. *Hearing officer: Appointment and Housing Agency.*

- The hearing may be conducted by any person or persons designated by the PHA, other than a person who made or approved the decision under review or a subordinate of this person.
- The person who conducts the hearing may regulate the conduct of the hearing accordance with the PHA hearing procedures.

4. *Evidence.* The PHA and family must be given the opportunity to present evidence, and may question any witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

5. *Issuance of decision.* The person who conducts the hearing must issue a written decision(s), stating briefly the reason(s) for the decision. Factual determinations relating to the individual circumstance of the family shall be based on a preponderance of the evidence presented at the hearing. A copy of the hearing decision shall be furnished within seven (7) working days to the family.

*Effect of Decision.* The PHA is not bound by a hearing decision.

1. Concerning a matter for which the PHA is not required to provide an informal hearing under this section, or that otherwise exceeds the Housing Agency of the person conducting the hearing under the PHA hearing procedures.
2. Contrary to HUD regulations or requirements, or otherwise contrary Federal, State, or Local laws.

If the PHA's general counsel determines that it is not bound by a hearing decision, the general counsel must notify the family within seven (7) working days of the determination, and of the reasons for the determination.

**BB. USE OF SECTION 8 VOUCHERS FOR WITNESS RELOCATION PURPOSES**

Families who have cooperated as witnesses in efforts to combat crime in public, Indian, and other assisted housing, including Section 8 Tenant-Based assisted housing, will assigned consistent with the policies and procedures prescribed in HUD-Notice 96-83.

The MFHA may utilize its own voucher funding for this same purpose on case-by-case basis upon approval of the HUD Regional office.

In all such instance, the MFHA may maintain the tenant's files of these families separate from the remaining tenant files and under a fictitious name to ensure the confidentiality and security of all such families. These files may be maintained in the office of the Manager or the Office of General counsel of MFHA.

**CC. HOUSING FOR PERSONS WITH AIDS/HIV**

**ADDENDUM**

# HOPWA PROGRAM

Each new participant to the "Tenant Based Rental Assistance (TBRA) of the HOPWA State Program must meet the minimum requirements of eligibility to participate in said the program. These requirements are: certification as a patient of HIV/AIDS, and the family income is within the 80 percent income median in effect in the municipality where he/she resides.

Participants of the TBRA must be receiving some support service to assist him/her manage the illness and must submit evidence of receiving such service at the time of the initial application and in each successive housing recertification year.

The Administrative procedure of the State HOPWA TBRA program are set forth below and are included in the Section 8 Voucher Administrative Plan administered by the Municipality of Fajardo.

## ***SERVICE AREA OF THE MUNICIPALITY OF FAJARDO***

In addition to the Municipality of Fajardo, and because of the lack of available housing in its jurisdiction, the Municipality services its housing contracts in the following adjoining towns/cities: Ceiba, Naguabo, Luquillo, and Río Grande.

## ***SPECIAL ADMISSIONS***

### Order of Admissions and Waiting List

Applicants to the HOPWA-TBRA program will be selected from a special list created by the Municipality. Applicants will be chosen from that special list and in the order of application was received and recorded in said waiting list. The list will contain the full name of the applicant, present address, date and hour that the application was received. The HOPWA-TBRA voucher will be issued immediately upon receipt of the documentation which establishes their eligibility to participate in the program.

In order to qualify for the waiting list, either the head of the household, spouse or a minor/adult child, must be a certified HIV/AIDS patient. In addition, the level of income of that family must be within the 80 percent of earning in effect for the Fair Market rent applicable for the Municipality of Fajardo.

### Housing Quality Standards (HQS)

The HQS of the HOPWA program will be identical to the HQS used for the "Vouchers" program. Inspection, resolution of complaints, contract cancellations, re-inspections, and new contract will be completed applying the same criteria as the "Vouchers" program.

### Housing Occupancy

One independent bedroom will be provided for the HIV/AIDS patient. The head of the household or his/her spouse will decide if they wish separate bedrooms in the event that one of them is in an advanced stage of the illness.

### Fair Market Rent (FMR)

The FMR used for the HOPWA program will be 100 % of the FMR in effect at the time of applicant for the "Voucher" program.

### Payment Standard

The "Payment Standard" for participants of the HOPWA program will be 100% of the Fair Market Rent as set forth the Section 8 Administrative Plan of the Municipality.

### Subsidy Standard

The total tenant payment will be thirty percent (30%) of the family's monthly income.

### HAP Payment

Housing assistance payments will be made to the owner in accordance with the terms of the HAP contract, and the owner must comply with the provisions of the HAP contract in order to receive such payments. The minimum rent established will be \$50.00.

**DD. CONDUCT AN ANNUAL SURVEY OF UTILITY SUPPLIERS**

The MFHA will undertake an annual survey of local utility suppliers. Said survey will establish the need to retain, increase and/or decrease tenant allowances based on a review of area rates and consumption.

The survey results will be formatted and submitted to the MFHA Board of Housing Agency with staff's recommendation.

Whether the allowances remains the same or change, an allowance schedule will be published with a current date.

**EE. EQUAL OPPORTUNITY REQUIREMENTS**

The MFHA will administer its programs in a non-discriminatory manner. The Housing Agency shall not provide disparate services or treatment to any applicant, participant or owner based upon *race, color, creed, national origin, sex, handicap, or familial status*. The Housing Agency shall comply with all applicable provisions of federal, state and local fair housing laws. Further, the Housing Agency affirms its ongoing compliance with non-discriminatory requirements governing assisted housing. [24 CFR §1 and 24 CFR §8]

**FF. EXPENDITURES FROM OPERATING RESERVE**

A budget is prepared by the Housing Agency for expenditures from the operating reserve (Section 8 administrative fees from prior years) for other housing purposes each fiscal year and approved by the Board of Housing Agency.

**GG. SEVERABILITY**

If any rule, section, sentence, clause or phare of the rules and regulations or its application to any person or circumstance or property is held to be unconstitutional or invalid, the remaining portions of these rules and regulations or the application of these rules and regulations to other persons or circumstances or property shall not be affected. The housing Agency hereby declares that it would have adopted these rules and regulations, and each and every rule, section, sentence, clause or phrase thereof, irrespective of the fact that any one or more of the others rules, sections sentences, clause, or phrases is declared unconstitutional or invalid.

**HH. REPAYMENT POLICY AND PROCEDURE**

Repayment Agreements may be used to modify the terms (periodic amount and timing) of delinquent amounts owed. The circumstances under which repayment agreements are

acceptable are under the discretion of the Section 8 manager as long as the family meets the basic eligibility requirements, as stated below, for a repayment agreement. The Section 8 manager is cautioned against the indiscriminate use of these agreements as they can become an obstacle to timely collection of monies due and owing the Housing Agency.

### **§1.00 Purpose of Repayment Agreement**

Repayment agreement sets up an legally binding agreement between a delinquent tenant and the MFHA under which the tenant agrees to pay current rent and charges plus a fairs amount each month toward delinquent rent or charges until the delinquency is repaid in full.

The MFHA, for its part, agrees not to terminate the lease of the delinquent tenant for nonpayment unless the tenant break the terms of the repayment agreement.

### **§1.01 Eligibility to Enter into a Repayment Agreement**

A tenant is eligible to execute a repayment agreement when all of the following conditions are met:

1. No other repayment agreement is in force,
2. Any repayment agreements executed within the past 12 months have been fully satisfied in the manner prescribed by the agreement,
3. The tenant has not been delinquent 3 times within the preceding 12 month period,
4. The repayment agreement is requested within the 14 day delinquency remedy period which is concurrent with the running of the 14 day notice (this requirement may be waived if the tenant can prove that he/she was physicalle incapable of requesting this agreement during this period of time through no fault of his/her own),
5. The tenant is not under any actual or pending eviction proceding,
6. There are no carryover balances from the previous month, and
7. The reason for the request for the repayment agreement is valid and fully substantiated and documented.

Generally, these agreements should be restricted to clear cases of hardship (e.g. death in the immediate family, serious illness of tenant/lease holder, lost or stolen benefit

check/paycheck, an unexpected MFHA charge that exceed the tenant's ability to pay in one sum). The Section 8 supervisor shall document the reason for granting each request for a repayment agreement.

**§1.02 Terms of Repayment Contracts**

The maximum duration of any repayment agreement that the Section 8 manager may approve shall be 12 months, inclusive of the month in which the down payment is made. The terms of all MFHA repayment contracts shall be as follows:

<u>Balance Due</u>	<u>Down payment</u>	<u>Payment Due</u>
\$100-\$500	\$50-\$250	\$25-75/month
\$501-\$1000	\$251-\$500	\$50-100/month
\$1001 +	\$501+	\$125-275+/month

When the down payment required exceed \$125, the Section 8 supervisor may approve arrangements resulting in the payment of the portion that exceed \$125 in equal installments over a two-month period.

**§1.03 Preparation to Negotiate a Repayment Agreement**

The Section 8 supervisor will conduct a file review before meeting with the tenant to determine whether the tenant's rent was computed correctly, whether the tenant is entitled to some interim reduction in rent not yet granted, whether the tenant utility allowance schedule has been reviewed within the past year as required by HUD regulations (24 CFR, Part 965), or whether the tenant might be entitled to a rent abatement because of documented conditions hazardous of life, health or safety.

Any of these situations might reduce or alter the amount delinquent (or eliminate the delinquency) so all these possibilities must be checked before meeting with the tenant. If any of these conditions are present and warrant a reduction in the amount of rent or charges due, an adjustment is to be made and any resulting rent credit shall be applied retroactively to the time that the circumstances arose.

The Section 8 supervisor's file review should also include an examination of the tenant's payment history, any pending eviction actions, special circumstance and income. The Section 8 supervisor should be thoroughly familiar with the specific tenant's circumstances and be able to fully document the tenant's eligibility and sufficiency of justification for a repayment agreement.

#### **§1.04 Negotiating a Repayment Agreement**

Once the Section 8 manager has determined that the tenant is eligible the parties will meet to address the terms of the agreement. The primary topics for the negotiation are the down payment and the amount of the subsequent monthly payments under the agreement. The negotiation shall be carried out in a professional and non-threatening manner.

The Section 8 supervisor should attempt to shorten the duration of the agreement by seeking the largest down payment and subsequent monthly payments that the tenant can afford. Under no circumstances may the Section 8 manager agree to a term that is in excess of 12 months or which requires a down payment of less than what is specified by the MFHA policy.

The Section 8 supervisor shall emphasize to the tenant that the repayment agreement being negotiated must be paid off in full and in accordance with the terms before the tenant can be considered for any other repayment agreement. The Section 8 supervisor should also inform the tenant that failure to abide by the terms of the agreement will be grounds for termination of rental assistance for amounts due and owing the Housing Agency.

#### **§1.05 Executing the Repayment Agreement**

When the terms of the Agreement have been settled, the Section 8 Housing Representative will complete the Repayment Agreement for approval and signature of the Section 8 supervisor. The form will then be explained to the tenant and both parties will sign it in the appropriate places. Two copies of the executed Agreement will be made and given to the tenant. The supervisor will place the original of the agreement in the tenant's file.

The Section 8 supervisor shall provide accounting with the pertinent information from all executed repayment agreements.

**TABLE OF CONTENTS****SAMPLE FORMATS FOR OBTAINING WRITTEN OR ORAL THIRD PARTY  
VERIFICATIONS****APPENDICES:**

- A. Employment Income
- B. Military Employment
- C. Social Security, Pensions, SSI, SSD
- D. Unemployment Compensation
- E. Public Assistance
- F. Alimony or child Support
- G. Net Income From a Business
- H. Regularly recurring Cash Contributions
- I. Family Assets (Current)
- J. Family Assets Disposed of For Less than Fair Market Value
- K. income from Sale of Property Pursuant to a Purchase Money  
Mortgage or Similar Arrangement
- L. Rentak income from Property
- M. Full-Time Student Status
- N. Child Care Expense
- O. Medical Expenses
- P. Need for a Larger unit Due to Handicap
- Q. Handicapped Assistance Expense
- R. family Type and Membership in Family
- S. Local Preferences
- T. Handicap/Disability Status
- U. Citizen/Eligible Immigrant Status
- V. Required Warning Statement for Each Verification Form

A. Employment Income.

1. Relevant information to Verify with Third Party:
  - a). Nonmilitary employment
    1. Date first employed: \_\_\_\_\_
    2. Base Pay Rate (Gross) (check one)  
 Per Hour \$ \_\_\_\_\_ ; OR Per Week \$ \_\_\_\_\_ OR  
 Per Month \$ \_\_\_\_\_ .  
 Date present rate effective: \_\_\_\_\_  
 Expected Average Hours to be worked during next 12  
 Calendar month at Base Pay Rate:  
 Per Week \$ \_\_\_\_\_ OR Per Month \$ \_\_\_\_\_
    3. Overtime Pay Rate  
 Per hour \$ \_\_\_\_\_  
 Expected average number of hours to be worked per week  
 During next twelve calendar months \_\_\_\_\_ hours.
    4. Other Compensation not included above (Specify for Housing  
 Agency's, bonuses, tips, etc.)  
 For \_\_\_\_\_ \$ \_\_\_\_\_  
 Per \_\_\_\_\_
    5. Total Anticipated Base Pay Earning for the next 12 calendar  
 months. \$ \_\_\_\_\_ .  
 Total Anticipated Overtime Earning for the next 12 calendar  
 months. \$ \_\_\_\_\_ .
    6. Medical Insurance Premium Deducted (if any) \_\_\_\_\_  
 (Currently, applicable to elderly families only)
    7. Has Employment been terminated? \_\_\_ Y \_\_\_ N  
 If yes, is Individual Eligible for unemployment benefits? \_\_\_ Y \_\_\_ N

Military Employment

1. Years \_\_\_\_\_ and months \_\_\_\_\_ of service for pay purposes.  
Number of Dependents Claimed \_\_\_\_\_.
2. Monthly Income from the following sources:  
Base Pay \$ \_\_\_\_\_ and Longevity Pay \$ \_\_\_\_\_  
Proficiency Pay \$ \_\_\_\_\_  
Sea \$ \_\_\_\_\_ and Foreign Duty Pay \$ \_\_\_\_\_  
Hazardous Duty Pay \$ \_\_\_\_\_  
Imminent Danger Pay \$ \_\_\_\_\_  
Subsistence Allowance \$ \_\_\_\_\_  
Quarters Allowance (Include only amount contributed by Government)  
Other (Explain)  
Total amount received Monthly \$ \_\_\_\_\_
3. Acceptable forms of verification include:
  - a. Employment verification form completed by the employer verifying frequency of pay; effective date of the last pay increase; and probability and effective date of any increase during the next 12 months.
  - b. Check stubs or earning statements showing employee's gross pay per pay period and frequency of pay.
  - c. W-2 forms if applicant has had the same job for at least two years and pay increase can be accurately projected.
  - d. Notarized statements, affidavits or income tax returns signed by the applicant describing self-employment and amount of income or income from tips and other gratuities.
4. Date Employment Terminated: \_\_\_\_\_.
5. Relevant Information to verify with third party:  
Date of Hire: \_\_\_\_\_  
Date of termination: \_\_\_\_\_  
Last Day Actually Worked: \_\_\_\_\_  
Do you anticipate rehiring this employee? \_\_\_ Y \_\_\_ N  
If yes, when.

Will the employee receive additional paychecks for workman's compensation?  
If yes, provide the name and address of the company through which this can be verified.

Is employee eligible for unemployment benefits? \_\_\_ Y \_\_\_ N

Total Severance Pay Anticipated for next 12 months.

6. Acceptable forms of verification

Termination of employment verification.

Letter from employer stating date of termination.

Letter from an Housing Agency providing unemployment compensation stating that the individual's employment terminates and that unemployment benefits will begin.

Social Security

1. Relevant Information to Verify with Third Party:
  - a. Name of Original Annuittant: \_\_\_\_\_
  - b. Pension Claim Number or SSN of Person receiving the Pension Claim  
\_\_\_\_\_.
  - c. Current monthly gross amount of pension or annuity.  
\_\_\_\_\_.
  - d. Deductions from gross for medical insurance premiums.  
\_\_\_\_\_.
  - e. Date benefits began: \_\_\_\_\_.
  - f. Effective date of current amount: \_\_\_\_\_.
  - g. Did the individual invest in an annuity? If yes, what is the amount invested? Does the individual receive regular payments? When are they received (monthly, annually)?
  - h. For pensions and annuities, Is the individual reimbursed for medical cost?
  - i. Has the monthly payment been reduced for overpayment of previous benefits? If so, by how much?
2. Acceptable forms of verification:
  - a. Benefit verification form completed by Housing Agency providing the benefits.
  - b. Award or benefit notification letter prepared and signed by the authorizing housing Agency. (Since checks or bank deposit slips show only net amounts remaining after deducting SII or Medicare, they may be used only when award letters cant's be obtained.)

Unemployment Compensation:

1. Relevant Information to Verify with Third Party:
  - a. Gross Weekly Payment
  - b. State of Initial Payment
  - c. Duration of benefits: \_\_\_\_\_ weeks
  - d. Is the claimant eligible for further benefits? \_\_\_\_ Y \_\_\_\_ N  
If no, what is the date the benefits are terminated?
2. Acceptable forms of verification
  - a. Verification form completed by the unemployment compensation Housing Agency.
  - b. Records from unemployment office stating payment dates and amounts.

Public Assistance:

1. Relevant Information to Verify with Third Party:
  - a. Number of Members in the Family: \_\_\_\_\_
  - b. Names of the children for whom benefits are received and their social security number:
  - c. Date of Initial Assistance: \_\_\_\_\_
  - d. is recipient covered by Medicaid? If yes, what is the Medicaid spend down amount?
  - e. Does the recipient meet his/her spend down each period?
  - f. What is the Rate per month under the following grant?
  - g. Aid to families with Dependent Children
    - (ii) General Assistance
    - (iii) Supplemental Social Security
    - (ix) Other Assistance – Type TANF
  - h. The Following question applies only to “as-paid” states only: Amount Specifically Designated for Shelter and Utilities (This is the Maximum allowance for rent and utilities)
  - i. The Grant is increased by the following Amounts: (Specify purpose)
 

Employment income:	\$ _____
Children allowance	\$ _____
Transportation	\$ _____
Other	\$ _____
  - j. The grant is reduced by the following amounts:
 

Alimony	\$ _____
Child Support	\$ _____
Other (specify)	\$ _____
  - k. Is there any thing else that will influence the amount of the grant? If yes, specify purpose and amount.

1. Has the monthly payment been reduced for overpayment of previous benefits? If so, by how much?
- m. Total Monthly Grant \$ \_\_\_\_\_
2. Acceptable forms of verification
  - a). All Welfare Program. Welfare Housing Agency's written statements as to type and amount of assistance family is now receiving, and any changes in assistance expected during the next 12 months.
  - b). Additional Information for As-Paid Programs:  
Welfare housing Agency's written schedule or statement that describes how the "as-paid" system works, the maximum amount a family may receive for shelter and utilities and, if applicable, any factor used to reduce the client's grant.

Alimony or Child Support Payments:

- 1). Relevant information to Verify with Third Party:
  - a). Amount of alimony or child support being provided to the family.
  - b). Will such amount be terminated within the next 12 months. IF so, when?
- 2). Acceptable forms of verification
  - a). Copy of a separation or settlement agreement or divorce decree stating amount and type of support and payment schedules.
  - b). A letter from the person paying the support.
  - c). Copy of latest check. PHA must record the date, amount and number of check.
  - d). Applicant's notarized statement or affidavit of amount received or that support payments are not received and the likelihood of support payments being received in the future.

Net Income from a Business: The following documents show income for the prior years.

Housing Representatives must consult with tenants and use this data to estimate income for the next 12 months.

- 1). IRS Tax Return, Form 1040, including any:
  - a). Schedule C (Small Business)
  - b). Schedule E (Rental Property Income)
  - c). Schedule P (Farm Income)
- 2). An accountant's calculation of depreciation expense, computed using straight-line depreciation rules. ( required when accelerated depreciation was used on the tax return or financial statement).
- 3). Audited or unaudited financial statement(s) of the business.
- 4). Loan Application listing income derived from the business during the previous 12 months.
- 5). Applicant's notarized statement or affidavit as to net income realized from the business during the previous years.

Recurring Gift: Acceptable forms of verification.

- 1). Notarized statement or affidavit signed by the person providing the assistance. It must give the purpose, dates and value of gifts.
- 2). Applicant's notarized statement or affidavit that provides the purpose, dates and value of gifts.

Family Assets Now Held:

- 1). Relevant Information to Verify with third Party:

For non-liquid assets, collect enough information to determine the current cash value the net amount the family would receive if the asset were converted to cash.

- a). Type of Account
  - b). Current balance or, for checking accounts, the average balance for the last 6 months.
  - c). Date account opened
  - d). Date account closed
  - e). Is this an interest bearing account? If so, what is the interest-rate?
  - f). For trust funds:
    - (i) What is the value of the trust fund?
    - (ii) What is the anticipated amount of income to be earned by the trust over the next 12 months?
  - g). For property, what is the equity value?
- 2). Acceptable forms of verification
- a). Verification forms, letters, or documents from a financial institution, broker, etc.

NOTE: When financial institutions charge a fee to the applicant or tenant for providing verifications, the forms of verification in paragraph (b) below would be the preferred method.

- b). Account statements, passbooks, broker's quarterly statements showing value of stocks or bonds, etc., and the earning credited the applicant account statements, or financial statements completed by a financial institution or broker.

NOTE: The PHA must adjust the information provided by the financial institution to project earning expected for the next 12 months.

- c). Quotes from a stockbroker or realty agent as to net amount family would receive if the liquidated securities or real estate.

- d). Copy of IRS Form 1099 prepared by the financial institution showing the amount of income provided by the asset.
- e). Real estate tax statements if tax Housing Agency uses approximately market value.
- f). Copies of closing documents showing the selling price, the distribution of the sales proceed and the net amount to the individual.
- g). Appraisals of personal property held as an investment.
- h). Applicant's notarized statements or signed affidavits describing assets or to verify cash held at the applicant's home or in safe deposit boxes.

Asset Disposed of For Less than Fair Market Value During Two Years Preceding Effective Date of Certification or Re-certification: Suggested information to obtain, as acceptable forms of verification are included below.

- 1). Family's certification as to whether any member has disposed of assets for less than fair market value during the two years preceding effective date of the certification or re-certification.
- 2). If the family certifies that they did dispose of assets for less than fair market value a certification that show:
  - a). All assets disposed of for less than fair market value;
  - b). The date they disposed of the assets;
  - c). The amount the family received; and
  - d). The asset's market value at the time of disposition

**MUNICIPALITY OF FAJARDO  
FEDERAL PROGRAMS OFFICE  
FAJARDO, PUERTO RICO 00738**

**ADMINISTRATIVE PLAN**  
POLICIES AND PROCEDURES FOR SECTION 8 RENTAL  
CERTIFICATE AND VOUCHERS PROGRAMS

**FOR THE PROGRAM YEAR BEGINNING ON JULY 1, 2010**

**HON. ANIBAL MELENDEZ RIVERA  
MAYOR**

**MABEL COSME NIEVES  
DIRECTOR**

**REVIEW FEBRUARY 2010**

## **AVISO AL PUBLICO**

SI USTED ESTA INTERESADO EN VER UNA COPIA DEL PLAN ADMINISTRATIVO 2009-2010 Y/O PLAN PHA VIGENTE DE LA OFICINA DE SECCION 8 FAVOR DE CONTACTARSE CON LA SRA. MABEL COSME-NIEVES, DIRECTORA DE LA OFICINA ASUNTOS FEDERALES.

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## **PUBLIC NOTICE**

IF YOU ARE INTERESTED IN SEEING A COPY OF THE ADMINISTRATIVE PLAN 2010-2011 AND/OR ACTUAL PHA PLAN OF THE SECTION 8 PROGRAM. PLEASE CONTACT MRS. MABEL COSME NIEVES FEDERAL AFFAIRS OFFICE DIRECTOR.