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

SECTION 8 PROJECT-BASED VOUCHER PROGRAM PHA-OWNED CERTIFICATION

EXISTING HOUSING

PART 2 OF PHA-OWNED CERTIFICATION

The public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering, and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to U.S. Department of Housing and Urban Development, Office of the Chief Data Officer, R, Attention: Departmental Clearance Officer, 451 7th Street SW, Room 8210, Washington DC 20410-0001. Do not send completed forms to this address. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid OMB control number. This form is used in the administration of the project-based voucher (PBV) program, as authorized under section 8 of the United States Housing Act of 1937 (42 U.S.C. § 1437f). This form allows a PHA to certify that it will fulfill all of the program responsibilities of both the private owner and the PHA under HUD's PBV program requirements to provide housing assistance payments for eligible families. This information is required to obtain benefits. 24 CFR § 983.204(e)(2). This information collected will not be held confidential.

2. DEFINITIONS

Controlling interest. In the context of PHA-owned units (see definition below), controlling interest means:

(a) Holding more than 50 percent of the stock of any corporation;

(b) Having the power to appoint more than 50 percent of the members of the board of directors of a non-stock corporation (such as a non-profit corporation);

(c) Where more than 50 percent of the members of the board of directors of any corporation also serve as directors, officers, or employees of the PHA;

(d) Holding more than 50 percent of all managing member interests in a limited liability company (LLC);

(e) Holding more than 50 percent of all general partner interests in a partnership; or

(f) Equivalent levels of control in other ownership structures.

Covered units. The housing units covered by this PHA-owned certification. The

covered units are described in Exhibit A.

Existing housing. A project that meets the following criteria:

(a) All the proposed covered units in the project either fully comply or substantially comply with HQS on the proposal or project selection date, as determined per 24 CFR 983.103(a). (The units must fully comply with HQS at the time required by 24 CFR 983.103(c).) The units substantially comply with HQS if:

1. The units only require repairs to current components or replacement of equipment and/or materials by items of substantially the same kind to correct deficiencies; and
2. The PHA determines all deficiencies can reasonably be corrected within a 30-day period, taking into consideration the totality of the deficiencies in the project.

(b) The PHA determines the project is not reasonably expected to require substantial improvement and the owner certifies it has no plans to undertake substantial improvement from the proposal submission date (for projects subject to competitive selection) or the project selection date (for projects excepted from competitive selection) through the first two years of the PHA-owned certification.

Family. A person or group of persons, as determined by the PHA consistent with 24 CFR 5.403, approved to reside in a unit with assistance under the program. See family composition at 24 CFR 982.201(c).

HAP contract. A housing assistance payments contract between the PHA and an owner in connection with the PBV program.

Household. The family, foster children and adults, and any PHA-approved live-in aide.

Housing assistance payment. The monthly assistance payment for a PBV unit by a PHA, which includes: (1) a payment for rent to owner under the family's lease minus the tenant rent; and (2) an additional payment to or on behalf of the family, if the utility allowance exceeds total tenant payment, in the amount of such excess.

Housing quality standards (HQS). The minimum quality standards developed by HUD in accordance with 24 CFR 5.703 for the PBV program, including any variations approved by HUD for the PHA under 24 CFR 5.705(a)(3).

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

HUD requirements. HUD requirements which apply to the project-based voucher program. HUD requirements are issued by HUD headquarters, as regulations, Federal Register notices or other binding program directives.

Independent entity. (1) The unit of general local government; however, if the PHA itself is the unit of general local government or an agency of such government, then only the next level of general local government (or an agency of such government) or higher may serve as the independent entity; or

(2) A HUD-approved entity that is autonomous and recognized under State law as a separate legal entity from the PHA. The entity must not be connected financially (except regarding compensation for services performed for PHA-owned units) or in any other manner that could result in the PHA improperly influencing the entity.

In-place family. A family residing in a proposed covered unit on the proposal or project selection date.

PHA. Public Housing Agency. The agency that has executed the PHA-owned certification. The agency is a public housing agency as defined in the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

PHA-owned unit. A dwelling unit in a project that is:

(a) Owned by the PHA (including having a "controlling interest" in the entity that owns the project; see definition above);

(b) Owned by an entity wholly controlled by the PHA; or

(c) Owned by a limited liability company or limited partnership in which the PHA (or an entity wholly controlled by the PHA) holds a controlling interest in the managing member or general partner.

Premises. The project in which the covered unit is located, including common areas and grounds.

Principal or interested party. This term includes a management agent and other persons or entities participating in project management, and the officers and principal members, shareholders, investors, and other parties having a substantial interest in the PHA-owned certification or in any proceeds or benefits arising from the PHA-owned certification.

Program. The project-based voucher program (see authorization for project-based assistance at 42 U.S.C. 1437f(o)(13)).

Proposal or project selection date. The proposal selection date is the date on

which the PHA provides written notice to the party that submitted the competitively selected proposal under either 24 CFR 983.51(b)(1) or (2). For properties selected without competition in accordance with 24 CFR 983.51(c), the project selection date is the date of the PHA's board resolution approving the project-basing of assistance at the specific project.

Rent to owner. The total monthly rent payable by the family and the PHA under the lease for a covered unit. Rent to owner includes payment for any housing services, maintenance, and utilities to be provided by the PHA in accordance with the lease. (Rent to owner must not include charges for non-housing services including payment for food, furniture, or supportive services provided in accordance with the lease.)

Substantial Improvement. One of the following activities undertaken at a time beginning from the proposal submission date (for projects subject to competitive selection) or from the project selection date (for projects excepted from competitive selection), or undertaken during the term of the PBV PHA-owned certification, except that development activity performed for rehabilitated housing or newly constructed housing shall not also qualify as substantial improvement:

(i) Remodeling that alters the nature or type of housing units in a project;

(ii) Reconstruction; or

(iii) A substantial improvement in the quality or kind of equipment and materials. The replacement of equipment and/or materials rendered unsatisfactory because of normal wear and tear by items of substantially the same kind does not constitute substantial improvement.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent. The amount payable monthly by the family as rent to the PHA, as described in 24 CFR 983.353(b). (See also 24 CFR 5.520(c)(1).)

3. PURPOSE

a. This is a PHA-owned certification executed by the PHA.

b. The PHA signs the HUD-prescribed PHA-owned certification for a covered unit instead of executing the HAP contract for the covered unit. By signing the PHA-owned certification, the PHA certifies that it will fulfill all the required program responsibilities of the private owner under the PBV HAP contract, and that it will also fulfill all of the program responsibilities required of the PHA for the covered unit.

1. The PHA-owned certification serves as the equivalent of the HAP contract, and subjects the PHA, as owner, to all of the requirements of the HAP contract contained in 24 CFR parts 982 and 983. Where the PHA has elected to use the PHA-owned certification, all references to the HAP contract throughout 24 CFR parts 982 and 983 must be interpreted to be references to the PHA-owned certification.

2. The PHA must obtain the services of an independent entity to perform the required PHA functions identified in 24 CFR 983.57(b) before signing the PHA-owned certification.

3. The PHA may not use the PHA-owned certification if the PHA-owned PBV project is owned by a separate legal entity from the PHA (e.g., an entity wholly controlled by the PHA or a limited liability corporation or limited partnership controlled by the PHA).

c. The PHA must make housing assistance payments in accordance with the PHA-owned certification for covered units leased and occupied by eligible families during the PHA-owned certification term. HUD provides funds to the PHA to make housing assistance payments for eligible families.

4. RENT TO OWNER; HOUSING ASSISTANCE PAYMENTS

a. Amount of initial rent to owner

The initial rent to owner for each covered unit is stated in Exhibit A, which is attached to and made a part of the PHA-owned certification. At the beginning of the PHA-owned certification term, and until rent to owner is adjusted in accordance with section 5 of the PHA-owned certification, the rent to owner for each bedroom size (number of bedrooms) shall be the initial rent to owner amount listed in Exhibit A.

Place a check mark here ___ if at the beginning of the PHA-owned certification term, the PHA has elected not to reduce rents below the initial rent to owner.

If the PHA elects not to reduce rents below the initial rent to owner after execution of the PHA-owned certification in accordance with the HUD requirements at 24 CFR 983.302(c)(2), it must execute an addendum to this PHA-owned certification.

b. HUD rent requirements

Notwithstanding any other provision of the PHA-owned certification, the

rent to owner may in no event exceed the amount authorized in accordance with HUD requirements. The PHA has the right to reduce the rent to owner, at any time, to correct any errors in establishing or adjusting the rent to owner in accordance with HUD requirements. The PHA may recover any overpayment.

c. PHA payment

1. Each month, the PHA shall make a housing assistance payment for each covered unit that complies with HQS and is leased to and occupied by an eligible family in accordance with the PHA-owned certification.

2. The monthly housing assistance payment for a covered unit is equal to the amount by which the rent to owner exceeds the tenant rent.

3. Payment of the tenant rent is the responsibility of the family. The PHA is not responsible for paying any part of the tenant rent, or for paying any other claim against a family. The PHA is responsible only for making housing assistance payments on behalf of a family in accordance with the PHA-owned certification.

4. The PHA will be paid the housing assistance payment under the PHA-owned certification on or about the first day of the month for which payment is due, unless the PHA identifies a later date.

5. The PHA must pay the housing assistance payments promptly when due in accordance with the PHA-owned certification.

6. THE PHA HAS DISCRETION WHETHER TO INCLUDE A PAYMENT RECEIVED PROVISION (PARAGRAPH 4.c.6.) WHICH DEFINES WHEN THE HOUSING ASSISTANCE PAYMENT BY THE PHA IS DEEMED RECEIVED (E.G., UPON MAILING BY THE PHA OR ACTUAL RECEIPT), OR TO STRIKE THIS PROVISION FROM THE PHA-OWNED CERTIFICATION FORM.

   The PHA deems the HAP payment received by the PHA upon _____.

7. To receive housing assistance payments in accordance with the PHA-owned certification, the PHA must comply with all the provisions of the PHA-owned certification. Unless the PHA complies with all the provisions of the PHA-owned certification,

the PHA does not have a right to receive housing assistance payments.

8. The PHA will promptly account for any change of circumstances that would affect the amount of the monthly housing assistance payment and will return any payment that does not conform to the changed circumstances.

d. Termination of assistance for family

The PHA may terminate housing assistance for a family under the PHA-owned certification in accordance with HUD requirements.

5. ADJUSTMENT OF RENT TO OWNER

a. Independent entity determination of adjusted rent

1. The independent entity must redetermine the rent to owner upon the PHA's request consistent with requirements established in the PHA's Administrative Plan, or at the time of the automatic adjustment by an operating cost adjustment factor (OCAF) in accordance with 24 CFR 983.302(b)(3).

a. THE PHA HAS DISCRETION WHETHER TO INCLUDE A RENT ADJUSTMENT BY OCAF PROVISION (PARAGRAPH 5.a.1.a), WHICH INDICATES AGREEMENT FOR RENT ADJUSTMENTS USING AN OCAF ESTABLISHED BY THE SECRETARY PURSUANT TO SECTION 524(C) OF THE MULTIFAMILY ASSISTED HOUSING REFORM AND AFFORDABILITY ACT OF 1997 AT EACH ANNUAL ANNIVERSARY OF THE PHA-OWNED CERTIFICATION, OR TO STRIKE THIS PROVISION FROM THE PHA-OWNED CERTIFICATION FORM. IF THE PHA INCLUDES A RENT ADJUSTMENT BY OCAF PROVISION:

1. THE PHA HAS DISCRETION WHETHER TO INCLUDE AN ADDITIONAL INCREASE PROVISION (PARAGRAPH 5.1.a.1.a.1) WHICH REQUIRES AN ADDITIONAL INCREASE UP TO AN AMOUNT DETERMINED BY THE INDEPENDENT ENTITY PURSUANT TO 24 CFR 983.301(b) OR (c), AS APPLICABLE, IF

REQUESTED BY THE PHA IN WRITING, PERIODICALLY DURING THE TERM OF THE CERTIFICATION, OR STRIKE THIS PROVISION FROM THE PHA-OWNED CERTIFICATION FORM.

2. IF THE PHA INCLUDES A RENT ADJUSTMENT BY OCAF PROVISION (PARAGRAPH 5.a.1.a), THERE MUST BE AN ADDITIONAL INCREASE UP TO AN AMOUNT DETERMINED BY THE INDEPENDENT ENTITY PURSUANT TO 24 CFR 983.301(b) OR (c), AS APPLICABLE, AT THE POINT OF CERTIFICATION EXTENSION, IF REQUESTED BY THE PHA IN WRITING.

2. In addition, the independent entity shall adjust the rent to owner when there is a ten percent decrease in the published, applicable Fair Market Rent in accordance with 24 CFR 983.302. However, if the PHA has elected within the PHA-owned certification not to reduce rents below the initial rent to owner, the rent to owner shall not be reduced below the initial rent to owner except in those cases described in 24 CFR 983.302(c)(2).

3. The adjustment of rent to owner shall always be determined in accordance with all HUD requirements. The amount of the rent to owner may be adjusted up or down, in the amount defined by the independent entity in accordance with HUD requirements.

b. Reasonable rent

The rent to owner for each covered unit, as adjusted by the independent entity in accordance with 24 CFR 983.303, may at no time exceed the reasonable rent charged for comparable units in the private unassisted market, except in cases where the PHA has elected within the PHA-owned certification not to reduce rents below the initial rent to owner. The reasonable rent shall be determined by the independent entity in accordance with HUD requirements.

c. No special adjustments

The independent entity will not make any special adjustments of the rent to owner.

d. PHA compliance with PHA-owned certification

The independent entity may not approve and the PHA may not receive any increase of rent to owner until and unless the PHA has complied with all requirements of the PHA-owned certification, including compliance with the HQS (except that HQS compliance is not required for purposes of this provision for units undergoing development activity that complies with 24 CFR 983.157 or substantial improvement that complies with 24 CFR 983.212). The PHA may not receive any retroactive increase of rent for any period of noncompliance.

e. Documentation of rent adjustment

Rent to owner shall be adjusted by written notice by the independent entity in accordance with this section. Such documentation constitutes an amendment of the rents specified in Exhibit A.

6. PHA RESPONSIBILITY FOR COVERED UNITS

The PHA is responsible for:

a. Performing all management and rental functions for the covered units.

b. Maintaining the units in accordance with HQS.

c. Complying with equal opportunity requirements.

d. Enforcing tenant obligations under the lease.

e. Paying for utilities and housing services (unless paid by the family under the lease).

f. Collecting from the tenant:

1. Any security deposit;

2. The tenant rent; and

3. Any charge for unit damage by the family.

7. PHA CERTIFICATION

By execution of the PHA-owned certification, the PHA certifies that at such execution and all times during the term of the PHA-owned certification:

a. The PHA is maintaining the premises and all covered units in accordance with HUD's HQS requirements.

b. The PHA is providing all the services, maintenance and utilities as agreed to under the PHA-owned certification and the leases with assisted families.

c. Each covered unit for which the PHA is receiving housing assistance payments is leased to an eligible family selected from the PHA's waiting list in accordance with 24 CFR 983.251, and the lease is in accordance with the PHA-owned certification and HUD requirements.

d. To the best of the PHA's knowledge, the members of the family reside in each covered unit for which the PHA is receiving housing assistance payments, and the unit is the family's only residence, except as provided in 24 CFR 983.157(g)(6)(ii) and 983.212(a)(3)(ii).

e. The amount of the housing assistance payment is the correct amount due under the PHA-owned certification.

f. The rent to owner for each covered unit does not exceed rents charged by the PHA for other comparable unassisted units.

g. Except for the housing assistance payment and the tenant rent as provided under the PHA-owned certification, the PHA has not received and will not receive any payments or other consideration (from the family, the PHA, HUD, or any other public or private source) for rental of the covered unit.

h. The family does not own or have any interest in the covered unit. If the owner is a cooperative, the family may be a member of the cooperative.

8. CONDITION OF UNITS

a. Maintenance and operation

The PHA must maintain and operate the covered units and premises to provide decent, safe and sanitary housing in accordance with the HQS, including performance of ordinary and extraordinary maintenance. The PHA must provide all the services, maintenance and utilities set forth in Exhibits B and C, and in the lease with each assisted family.

Place a check mark here ___ if the PHA is subject to continuing compliance during the PHA-owned certification term with additional housing quality requirements specified by the PHA in accordance with 24 CFR 983.208(a)(3).

b. Inspections

1. The independent entity must inspect all covered units before the proposal or project selection date and must determine if the project meets the definition of existing housing. The PHA may not execute the PHA-owned certification until all units meet the initial inspection requirements in accordance with 24 CFR 983.103(c).

2. Before the PHA provides assistance to a new family in a covered unit, the independent entity must inspect the unit. The PHA must not provide assistance on behalf of a family for a unit that fails to comply fully with HQS.

3. At least biennially during the term of the PHA-owned certification, the independent entity must inspect a random sample, consisting of at least 20 percent of the covered units in each building, to determine if the covered units and the premises are maintained in accordance with HQS. Turnover inspections pursuant to paragraph 2 of this section are not counted toward meeting this inspection requirement. Instead of biennially, the independent entity for a small rural PHA, as defined in 24 CFR 902.101, must inspect the random sample of units in accordance with this paragraph at least once every three years, in accordance with the PHA's policy established in the PHA Administrative Plan.

4. If more than 20 percent of the sample of inspected covered units in a building fail the initial inspection, the independent entity must reinspect 100 percent of the covered units in the building.

5. A PHA may also use alternative inspections to meet the requirements for periodic inspections set forth in 24 CFR 983.103(e), subject to the procedures and requirements specified in 24 CFR 982.406(b), (c), (d), and (g).

6. When a participant family or government official notifies the PHA of a potential deficiency, the following conditions apply:

   a. If the reported deficiency is life-threatening, the independent entity must, within 24 hours, both inspect the housing unit and notify the PHA if the life-threatening deficiency is confirmed. The PHA must then make the repairs within 24 hours of independent entity notification.

   b. If the reported deficiency is non-life-threatening, the independent entity must, within 15 days, both inspect the unit and notify the PHA if the deficiency is confirmed. The PHA must then make the repairs within 30 days of the notification from the

independent entity or within any PHA-approved extension.

c. In the event of extraordinary circumstances, such as if a unit is within a presidentially declared disaster area, HUD may approve an exception of the 24-hour or the 15-day inspection requirement until such time as an inspection is feasible.

7. The independent entity must conduct follow-up inspections needed to determine if the PHA (or, if applicable, the family) has corrected an HQS violation, except where the independent entity is using a verification method as described in 24 CFR 983.103(h), and must conduct inspections to determine the basis for exercise of contractual and other remedies for PHA or family violation of the HQS. (Family HQS obligations are specified in 24 CFR 982.404(b).)

8. In scheduling inspections, the independent entity must consider complaints and any other information brought to the attention of the PHA or the independent entity.

c. Violation and enforcement of HQS

1. If the PHA fails to maintain a covered unit in accordance with HQS, the PHA must take enforcement action in accordance with 24 CFR 983.208. Such remedies include termination, suspension or reduction of housing assistance payments, and termination of the PHA-owned certification.

2. In the case of an HQS deficiency that the PHA determines is caused by the tenant, any member of the household, or any guest or other person under the tenant's control, other than any damage resulting from ordinary use, the PHA may waive its responsibility to remedy the violation. Housing assistance payments may not be withheld or abated if the PHA responsibility has been waived. However, the PHA may terminate assistance to a family because of an HQS breach beyond damage resulting from ordinary use caused by any member of the household or any guest or other person under the tenant's control, which may result in removing the unit from the PHA-owned certification.

3. In the case of an HQS deficiency that is caused by fire, natural disaster, or similar extraordinary circumstances, the independent entity may permit the PHA to undertake substantial improvement in accordance with 24 CFR 983.212. However, as long as the covered unit with deficiencies is occupied, the PHA must withhold

or abate housing assistance payments and remove units from or terminate the PHA-owned certification as described in 24 CFR 983.208.

4. A PHA may withhold housing assistance payments for an individual unit that has HQS deficiencies once the independent entity has notified the PHA in writing of the deficiencies. The PHA must abate housing assistance payments for a dwelling unit that fails to meet the HQS, unless the PHA corrects the deficiency within the period specified by the PHA and the independent entity verifies the correction. If a deficiency is life-threatening, the PHA must correct the deficiency within no more than 24 hours. For other deficiencies, the PHA must correct the deficiency within no more than 30 calendar days (or any reasonable PHA-approved extension). The PHA may choose to abate payments for all units covered by the PHA-owned certification due to a covered unit's noncompliance with the HQS, even if some of the covered units continue to meet HQS. If the PHA fails to make the repairs within 60 days (or a reasonable longer period established by the PHA) of the notice of abatement, the PHA must either remove the unit from the PHA-owned certification or terminate the PHA-owned certification in its entirety.

5. A PHA may not terminate the tenancy of any family due to the withholding or abatement of assistance. During the period that assistance is abated, the family may terminate the tenancy by notifying the PHA.

d. Maintenance and replacement—PHA's standard practice

Maintenance and replacement (including redecoration) must be in accordance with the standard practice for the building concerned as established by the PHA.

e. Substantial improvement

1. The PHA may undertake substantial improvement on a unit currently under this PHA-owned certification, if approved to do so by the independent entity. The PHA may request independent entity approval no earlier than the effective date of the PHA-owned certification. The independent entity may approve the substantial improvement only in accordance with HUD requirements and under the following circumstances:

   a. The unit has been damaged by fire or natural disaster, or

other extraordinary circumstances exist which require a unit previously compliant with HQS to urgently undergo substantial improvement. The independent entity may provide approval for substantial improvement resulting from the damage or extraordinary circumstances described in this paragraph e.1.a. after the PHA submits the request; or

b. The PHA requests to engage in substantial improvement that will commence following the first two years of the effective date of the PHA-owned certification. The independent entity may provide approval for substantial improvement occurring as described in this paragraph e.1.b after the PHA submits the request, but no earlier than twenty-one months after the effective date of the PHA-owned certification.

2. The PHA must abate housing assistance payments for a unit beginning at the time the unit has any deficiency under HUD's HQS during the period of substantial improvement. The timing for the PHA to begin withholding and abatement specified in 24 CFR 983.208(d) does not apply to deficiencies occurring during the period of substantial improvement. When all deficiencies in the unit are corrected, the PHA must recommence payments if the unit is still occupied by an assisted family, subject to 24 CFR 983.212(a)(5) and (b)(6). Additionally, the PHA must not pay vacancy payments during the period of substantial improvement.

3. The terms of the independent entity approval must be recorded in an addendum to the PHA-owned certification. The PHA may choose to temporarily remove vacant units from the PBV PHA-owned certification during the time the units will not meet HQS during the substantial improvement. If the PHA temporarily removes a unit, the PHA reinstates the unit in accordance with 24 CFR 983.207(b). PHA failure to complete the substantial improvement as approved shall be a breach of the PHA-owned certification and the PHA may exercise any of its rights or remedies under PHA-owned certification, including but not limited to certification termination pursuant to 24 CFR 983.206(c)(2).

4. Substantial improvement must be undertaken in accordance with the applicable requirements set forth at 24 CFR 983.212(b).

9. LEASING COVERED UNITS

a. Selection of tenants

1. During the term of the PHA-owned certification, the PHA must lease covered units only to eligible families selected from the waiting list for the PBV program in accordance with 24 CFR 983.251.

2. The PHA is responsible for adopting written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to perform the lease obligations.

3. Consistent with HUD requirements and Federal civil rights and fair housing requirements, the PHA may apply its own nondiscriminatory tenant selection procedures in determining whether to admit a family for occupancy of a covered unit.

4. The PHA must promptly notify in writing any rejected applicant of the grounds for any rejection.

5. The PHA must determine family eligibility in accordance with HUD requirements.

6. The covered unit leased to each family must be appropriate for the size of the family under the PHA's subsidy standards.

7. If an in-place family is determined to be eligible prior to placement of the family's unit on the PHA-owned certification, the in-place family must be placed on the PBV waiting list (if the family is not already on the list) and given an absolute selection preference. If the PHA's waiting list for PBV assistance is not a project-specific waiting list, the PHA must select the family for an appropriate-size PBV unit in the specific project.

8. The PHA is responsible for screening and selection of the family to occupy the covered unit.

b. Vacancies

1. The PHA must make reasonable, good faith efforts to minimize the likelihood and length of any vacancy in a covered unit.

2. The PHA must lease vacant covered units only to families determined eligible by the PHA.

3. If any covered units have been vacant for a period of 120 or more

days since PHA determination of vacancy, and notwithstanding the reasonable, good-faith efforts of the PHA to fill such vacancies, the PHA may amend the PHA-owned certification to reduce the number of covered units by subtracting the number of covered units (by number of bedrooms) that have been vacant for such period.

10. TENANCY

a. Lease

The lease between the PHA and each assisted family must be in accordance with HUD requirements. In all cases, the lease must include the HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

b. Termination of tenancy

The PHA may terminate a tenancy only in accordance with the lease and HUD requirements.

c. Family payment

1. The portion of the monthly rent to owner payable by the family ("tenant rent") will be determined by the PHA in accordance with HUD requirements. The amount of the tenant rent is subject to change during the term of the PHA-owned certification. Any changes in the amount of the tenant rent will be effective on the date stated in a notice by the PHA to the family.

2. The amount of the tenant rent as determined by the PHA is the maximum amount the PHA may charge the family for rent of a covered unit, including all housing services, maintenance and utilities to be provided by the PHA in accordance with the PHA-owned certification and the lease.

3. The PHA may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The PHA must immediately return any excess rent payment to the tenant.

4. The family is not responsible for payment of the portion of the rent to owner covered by the housing assistance payment under the PHA-owned certification. The PHA may not terminate the tenancy of an assisted family for nonpayment of the PHA housing

assistance payment.

5. The PHA is responsible only for making the housing assistance payments on behalf of the family in accordance with the PHA-owned certification. The PHA is not responsible for paying the tenant rent, or any other claim.

d. Other charges

1. Except as provided in paragraph 2, the PHA may not require the tenant or family members to pay charges for meals or supportive services. Nonpayment of such charges is not grounds for termination of tenancy.

2. In assisted living developments receiving project-based voucher assistance, the PHA may charge tenants, family members, or both for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of reasonable rent. Non-payment of such charges is grounds for termination of the lease by the PHA in an assisted living development.

3. The PHA may not charge the tenant or family members extra amounts for items customarily included in rent in the locality or provided at no additional cost to the unsubsidized tenant in the premises.

e. Security deposit

1. The PHA may collect a security deposit from the family.

2. The PHA must comply with HUD and PHA requirements, which may change from time to time, regarding security deposits from a tenant.

3. The PHA must not charge assisted tenants security deposits in excess of private market practice, or in excess of amounts charged by the PHA to unassisted tenants.

4. When the family moves out of the covered unit, the PHA, subject to State and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit or other amounts which the family owes under the lease. The PHA must give the family a written list of all items charged against the

security deposit and the amount of each item. After deducting the amount used as reimbursement to the PHA, the PHA must promptly refund the full amount of the balance to the family.

5. If the security deposit is not sufficient to cover amounts the family owes under the lease, the PHA may seek to collect the balance from the family. However, the PHA has no liability or responsibility for payment of any amount owed by the family.

11. FAMILY RIGHT TO MOVE

a. The family may terminate the assisted lease at any time after one year of PBV assistance. The family must give the PHA advance written notice of intent to vacate in accordance with the lease. If the family has elected to terminate the lease in this manner, the PHA must offer the family the opportunity for continued tenant-based rental assistance in accordance with HUD requirements.

b. Before providing notice to terminate the lease under paragraph a, a family must first contact the PHA to request a voucher or comparable tenant-based rental assistance if the family wishes to move with continued assistance. If a voucher or other comparable tenant-based rental assistance is not immediately available to the family upon the family's request to the PHA, the PHA must give the family priority to receive the next available opportunity for continued tenant-based rental assistance.

12. OVERCROWDED, UNDER-OCCUPIED, AND ACCESSIBLE UNITS

The PHA subsidy standards determine the appropriate unit size for the family size and composition. The PHA must comply with the requirements in 24 CFR 983.260. If the PHA determines that a family is occupying a wrong-size unit, or a unit with accessibility features that the family does not require and the unit is needed by a family that requires the accessibility features (see 24 CFR 8.27), the PHA must: (1) within 30 days from the PHA's determination, notify the family of this determination; and (2) within 60 days from the PHA's determination, offer the family continued housing assistance, pursuant to 24 CFR 983.260(b).

13. PROHIBITION OF DISCRIMINATION

a. The PHA may not refuse to lease covered units to, or otherwise discriminate against any person or family in leasing of a covered unit, because of race, color, religion, sex, national origin, disability, age or familial status.

b. The PHA must comply with the following requirements: The Fair Housing

Act (42 U.S.C. 3601–19) and implementing regulations at 24 CFR part 100 *et seq.*; Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1959–1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing Programs) and implementing regulations at 24 CFR part 107; title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations at 24 CFR part 1; the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) and implementing regulations at 24 CFR part 146; section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8; title II of the Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*; 28 CFR part 35; applicable regulations at 41 CFR chapter 60; Executive Order 11625, as amended by Executive Order 12007 (3 CFR, 1971-1975 Comp., p. 616 and 3 CFR, 1977 Comp., p. 139) (Minority Business Enterprises); Executive Order 12432 (3 CFR, 1983 Comp., p. 198) (Minority Business Enterprise Development); and Executive Order 12138, as amended by Executive Order 12608 (3 CFR, 1977 Comp., p. 393 and 3 CFR, 1987 Comp., p. 245) (Women's Business Enterprise).

c. The PHA must comply with the Violence Against Women Act, as amended, and HUD's implementing regulation at 24 CFR part 5, Subpart L, and program regulations.

d. The PHA must cooperate with HUD in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes and all related rules and regulations.

14. PHA AS ADMINISTRATOR DEFAULT AND HUD REMEDIES

If HUD determines that the PHA has failed to comply with any provision of the PHA-owned certification, or has failed to take appropriate action to HUD's satisfaction or as directed by HUD, for enforcement of the PHA's rights as administrator of the covered units under this PHA-owned certification, HUD may assume the PHA's rights and obligations as administrator of the covered units under this PHA-owned certification, and may perform the obligations and enforce the rights of the PHA under the PHA-owned certification.

15. PHA AS OWNER DEFAULT AND REMEDIES

a. PHA default

Any of the following is a default by the PHA under the PHA-owned certification:

1. The PHA has failed to comply with any obligation under the PHA-

owned certification, including the PHA's obligations to maintain all covered units in accordance with the housing quality standards.

2. The PHA has violated any obligation under any other PHA-owned certification or housing assistance payments contract under Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

3. The PHA has committed any fraud or made any false statement to HUD in connection with the PHA-owned certification.

4. The PHA has committed fraud, bribery or any other corrupt or criminal act in connection with any Federal housing assistance program.

5. If the property where the covered units are located is subject to a lien or security interest securing a HUD loan or a mortgage insured by HUD and:

   a. The PHA has failed to comply with the regulations for the applicable mortgage insurance or loan program, with the mortgage or mortgage note, or with the regulatory agreement; or

   b. The PHA has committed fraud, bribery or any other corrupt or criminal act in connection with the HUD loan or HUD-insured mortgage.

6. The PHA has engaged in any drug-related criminal activity or any violent criminal activity.

b. PHA remedies

1. If the PHA or HUD determines that the PHA has breached the PHA-owned certification, the PHA may exercise any of its rights or remedies under the PHA-owned certification, including but not limited to certification termination. Upon a request by HUD, the PHA must report to HUD violation of any provision of the certification and the actions taken in response to those violations. HUD may require that the PHA take additional specified actions, and HUD reserves the right to take direct enforcement action against the PHA. The provisions of 24 CFR 983.208 apply for PHA-owned certification breaches involving failure to comply with HQS. For any other certification termination due to breach, 24 CFR 983.206(b) on provision of tenant-based assistance applies.

2. The PHA rights and remedies under the PHA-owned certification include recovery of overpayments, abatement or other reduction of housing assistance payments, termination of housing assistance payments, and termination of the PHA-owned certification.

3. The PHA may exercise any such remedy respecting a covered unit even if the family continues to occupy the unit.

c. PHA remedy is not waived

The PHA's exercise or non-exercise of any remedy for breach of the PHA-owned certification is not a waiver of the right to exercise that remedy or any other right or remedy at any time.

16. PHA DUTY TO PROVIDE INFORMATION AND ACCESS REQUIRED BY HUD OR INDEPENDENT ENTITY

a. Required information

The PHA must prepare and furnish any information pertinent to the PHA-owned certification as may reasonably be required from time to time by HUD or the independent entity. The PHA shall furnish such information in the form and manner required by HUD or the independent entity.

b. HUD and independent entity access to premises

The PHA must permit HUD, the independent entity, or any of their authorized representatives to have access to the premises during normal business hours and, for the purpose of audit and examination, to have access to any books, documents, papers and records to the extent necessary to determine compliance with the PHA-owned certification, including the verification of information pertinent to the housing assistance payments or the PHA-owned certification.

17. PHA RELATION TO THIRD PARTIES

a. Legal relationship

The PHA-owned certification does not create or affect any relationship between the PHA and any lender or any suppliers, employees, contractors or subcontractors used by the PHA in connection with the implementation of the PHA-owned certification.

b. Exclusion of third-party claims

Nothing in the PHA-owned certification shall be construed as creating any

right of a family or other third party (other than HUD) to enforce any provision of the PHA-owned certification, or to assert any claim against HUD or the PHA under the PHA-owned certification.

c. Exclusion of PHA claims against HUD

Nothing in the PHA-owned certification shall be construed as creating any right of the PHA to assert any claim against HUD.

18. RESERVED

19. CONFLICT OF INTEREST

a. Interest of members, officers, or employees of PHA, members of local governing body, or other public officials

1. Neither the PHA nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with the HCV or PBV programs in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

    a. Any present or former member or officer of the PHA (except a participant commissioner);

    b. Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs;

    c. Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; or

    d. Any member of the Congress of the United States.

2. Any member of the classes described in paragraph a.1 of this section must disclose their interest or prospective interest to the PHA and HUD.

3. HUD may waive this provision for good cause.

b. Disclosure

The PHA has disclosed any interest that would be a violation of the PHA-owned certification. The PHA must fully and promptly update such disclosures.

c. Interest of member of or delegate to Congress

No member of or delegate to the Congress of the United States of America or resident-commissioner shall be admitted to any share or part of this PHA-owned certification or to any benefits arising from the certification.

20. EXCLUSION FROM FEDERAL PROGRAMS

a. Federal requirements

The PHA must comply with and is subject to requirements of 2 CFR part 2424.

b. Disclosure

The PHA certifies that neither the PHA nor any principal or interested party is listed on the U.S. General Services Administration list of parties excluded from Federal procurement or non-procurement programs; and none of such parties are debarred, suspended, subject to a limited denial of participation or otherwise excluded under 2 CFR part 2424.

21. TRANSFER OF PROPERTY; PROHIBITIONS ON CERTAIN OTHER TRANSFERS

a. General

Transfer includes any sale or assignment or other transfer of ownership, in any form, of the property.

1. If the PHA will no longer administer PBVs at the property upon transfer, it must terminate this PHA-owned certification in accordance with 24 CFR 983.206 no later than the date of transfer.

2. If the PHA will continue to administer PBVs at the property upon transfer, this PHA-owned certification ends at transfer. The PHA must execute a PBV HAP contract with the new owner that is effective immediately upon transfer. The end of the PHA-owned certification under paragraph a.2 of this section does not constitute a termination under 24 CFR 983.206.

b. Automatic termination

1. If any of the following apply and result in the property being owned by a separate legal entity from the PHA, this PHA-owned certification shall automatically terminate:

a. The transfer of any right to receive housing assistance payments that may be payable pursuant to this PHA-owned certification;

b. The creation of a security interest in this PHA-owned certification or the property;

c. Foreclosure or other execution on a security interest; or

d. A creditor's lien, or transfer in bankruptcy.

2. If a separate legal entity will become the owner of the property under the limited circumstances described in paragraph b.1 of this section and the PHA and new owner want the PHA to continue administering PBVs at the property, the PHA must first request and receive a determination by HUD that the PHA has capacity to administer PBVs prior to executing a PBV HAP contract with the new owner.

a. If HUD determines the PHA has capacity to administer PBVs at the project, the PHA-owned certification ends at transfer, and the PBV HAP contract with the new owner must be effective immediately upon transfer. The end of the PHA-owned certification under paragraph b.2 of this section does not constitute a termination under 24 CFR 983.206.

b. If HUD determines the PHA does not have capacity, the PHA-owned certification shall automatically terminate.

3. 24 CFR 983.206(a) does not apply to automatic terminations of the PHA-owned certification under paragraphs b.1 or b.2.b of this section.

4. 24 CFR 983.206(b) on provision of tenant-based assistance applies to automatic terminations under paragraph b.1 and b.2.b of this section; however, because an automatic termination is not a planned termination, the 60-day requirement at 24 CFR 983.206(b) is not applicable.

c. Effect of actions under this section

1. The creation or transfer of any security interest in the PHA-owned certification is limited to amounts payable under the PHA-owned certification in accordance with the terms of the PHA-owned

certification.

2. When the property is transferred along with execution of a HAP contract with the new owner, the terms which the PHA has recorded in the PHA-owned certification (other than HUD-prescribed language) must be recorded without change in the HAP contract. For instance, the vacancy payment standard in the HAP contract must be the same as the standard used in the PHA-owned certification.

3. The transfer of the property along with execution of a HAP contract with the new owner does not constitute consent to any further transfers of the HAP contract or the property, including further transfers to any successors or assigns of an approved transferee.

d. Prohibition on transfer of PHA-owned certification

The PHA is prohibited from transferring the PHA-owned certification.

e. Prohibition on transfer to certain parties

Transfer is prohibited if any transferee, or any principal or interested party is debarred, suspended subject to a limited denial of participation, or otherwise excluded under 2 CFR part 2424, or is listed on the U.S. General Services Administration list of parties excluded from Federal procurement or non-procurement programs.

22. SUBSIDY LAYERING

A subsidy layering review is not required for existing housing projects.

23. LOBBYING CERTIFICATIONS

a. The PHA certifies, to the best of its knowledge and belief, that:

1. No Federally appropriated funds have been paid or will be paid, by or on behalf of the PHA, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of the PHA-owned certification, or the extension, continuation, renewal, amendment, or modification of the PHA-owned certification.

2. If any funds other than Federally appropriated funds have been

paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the PHA-owned certification, the PHA must complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

b. This certification by the PHA is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352.

24. TERMINATION OF PHA-OWNED CERTIFICATION FOR WRONGFUL SELECTION OF COVERED UNITS

a. The PHA-owned certification may be terminated upon at least 60 days notice to the PHA by HUD if HUD determines that the PHA-owned units were not eligible for selection in conformity with HUD requirements.

b. Additionally, the PHA-owned certification may be terminated by the PHA if the PHA determines that the PHA-owned units were not eligible for selection in conformity with HUD requirements no less than 60 days after the PHA determination.

25. PHA CERTIFICATIONS

Any certification or warranty by the PHA pursuant to the PHA-owned certification shall be deemed a material representation of fact upon which reliance was placed when this transaction was made or entered into.

26. NOTICE OF TERMINATION OR EXPIRATION WITHOUT EXTENSION

a. The PHA must provide notice to the affected tenants, not less than 1 year prior to the termination of a PHA-owned certification. The term "termination" for applicability of this notice requirement means the expiration of the PHA-owned certification, termination of the PHA-owned certification per 24 CFR 983.206(e), or a PHA's refusal to renew the PHA-owned certification.

b. If the PHA fails to provide the required notice, the PHA must permit tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the PHA's inability to collect an increased tenant portion of rent. The PHA may choose to extend the terminating certification for a period of time sufficient to provide tenants with the

required notice, under such terms as HUD may require.

27. FAMILY'S RIGHT TO REMAIN

If the units continue to be used for rental housing upon termination or expiration of the PHA-owned certification without extension, each assisted family occupying a covered unit who has been issued a tenant-based voucher by the PHA may elect to use its tenant-based assistance to remain in the project, subject to the following: (1) the unit must comply with HUD's HQS; (2) the PHA must determine or have determined that the rent for the unit is reasonable; (3) the family must pay its required share of the rent and the amount, if any, by which the unit rent (including the amount allowed for tenant-paid utilities) exceeds the applicable payment standard (the limitation at 24 CFR 982.508 regarding maximum family share at initial occupancy shall not apply); and (4) the PHA may not refuse to initially lease a unit in the project to a family that elects to use their tenant-based assistance to remain in the same project, except where the PHA will use the unit for a purpose other than a residential rental unit. The PHA may not later terminate the tenancy of such a family, except for the grounds set forth in 24 CFR 983.206(b)(4).

28. ENTIRE CERTIFICATION; INTERPRETATION

a. The PHA-owned certification, including the exhibits, is the entire certification by the PHA.

b. The PHA-owned certification must be interpreted and implemented in accordance with all statutory requirements, and with all HUD requirements, including amendments or changes in HUD requirements during the term of the PHA-owned certification. The PHA agrees to comply with all such laws and HUD requirements. Any regulatory citation specifically included in this PHA-owned certification is subject to any subsequent revision of such citation.