

LOW-RENT HOUSING
LEASED HOUSING HANDBOOK

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CHAPTER 1. INTRODUCTION

SECTION 1. THE SECTION 23 LEASED HOUSING PROGRAM

1. LEGISLATION. The Housing and Urban Development Act of 1965 authorized a new and versatile approach for meeting the housing needs of low-income families. It is incorporated in Section 23 of the United States Housing Act of 1937, as amended, and has come to be known as Section 23 Leased Housing. Under the legislative authorization, Federal financial assistance in the form of annual contributions is given to local public housing agencies to make privately owned dwellings available to families of low-income at rents they can afford to pay.
2. FEATURES OF THE PROGRAM. The versatility of this authorization is evident in several areas:
 - a. The Administration of Leasing Programs.
 - (1) Legally constituted Local Authorities are eligible to operate leased housing, but under the terms of the Act any State, county, municipality or other governmental agency authorized to engage in the development or administration of low-rent housing or slum clearance may also undertake a leasing program. 1
 - b. Legal Requirements.
 - (1) No workable program is needed by the locality and no Cooperation Agreement is required.
 - (2) Operation of the program must be authorized by resolution of the local governing body of any locality in which units are to be leased.
 - c. The Nature of the Housing to be Leased.
 - (1) The legislation indicates a preference for scattered site housing, but authorizes Local Authorities themselves to waive this provision.
 - (2) A Local Authority may use single family houses, row houses, apartment units in multi-family

1/ Throughout this procedure, the designation "Local Authority" will refer to a local public housing agency operating a leased program.

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structures, mobile homes, and, for the elderly or handicapped, in addition to the choices above, congregate housing, or a combination of these.

d. Operating Policies.

- (1) The same rent schedules and income limits as those applied in other low-rent housing operated by the Local Authority may, but need not, be used. The 20 percent gap requirement in establishing income limits for admission is inapplicable.
- (2) Tenant selection by the owner, by the Local Authority, or by the owner from lists of eligible applicants provided by the Authority may be arranged.
- (3) Leasing arrangements can be developed under which families can be assisted within the framework of the private landlord - tenant relationship.
- (4) Local Authorities may contract with private real estate management organizations for the operation of the program.

e. Project Composition.

- (1) Within limits Local Authorities may themselves vary the unit-size composition of projects.
- (2) The total program can be administered so as to be responsive to market conditions.

3. PROGRAMING CONSIDERATIONS.

- a. General. Although the leasing program is designed to provide a supplementary form of low-rent housing, depending upon the nature of the locality and the type of housing need involved, it may represent the most suitable means for furnishing Federal assistance.
- b. Rental Housing Market. The local private housing market, which provides the source of dwellings leased under Section 23, will have a significant bearing on the size and nature of the program planned by the Local Authority. A leasing program should be so administered that it will not cause an inflationary effect on the private rental market by creating an effective demand for standard housing in excess of the supply.

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- c. Operation in Tight Market Areas. In areas where it is indicated that the leasing of standard vacant units will cause the vacancy rate of such units to drop below three percent for any given size, it is desirable to develop a plan of operations to forestall an inflationary effect. This generally would involve utilization of dwellings that would not otherwise be available as a part of the locality's supply of standard rental housing. Under these circumstances it is recommended that consideration be given to the leasing of units obtained from the following sources:
- (1) Substandard units made available for leasing through rehabilitation
 - (2) Units offered for sale only prior to leasing.
 - (3) Units which have been vacant for an extended period.
 - (4) Larger units that may be created by the combination of smaller units.
 - (5) Standard units which are occupied by families of low income who will continue to reside in such units.
 - (6) New housing constructed as a response to the leasing program.
- d. Rehabilitation of Existing Housing. While it is particularly important to do so in areas where standard housing is in short supply, actually all Local Authorities are encouraged by HUD to include in their leasing program dwellings which are below standard in structure or facilities if the owner agrees to perform the necessary rehabilitation work. This can serve as a significant contribution to community betterment. Leased housing can also be a valuable component of over-all neighborhood improvement plans.
- e. Relocation Needs. The Section 23 Program is particularly adaptable to situations where there is an immediate need for housing, such as that created by urban renewal, land clearance, code enforcement, or other governmental action. Because the housing is already existing, the time between approval of the Application and the availability of dwellings is relatively short when compared with new construction.
- f. Short-term Requirements. Housing needs occasionally are of short-term or uncertain duration. Under these circumstances it may be advantageous to initiate a leasing program because

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of its flexibility in adjusting to changing conditions in the community. Dwellings which are no longer needed for occupancy by low-income families may be eliminated from the program and returned to the private market upon the expiration of the lease agreement between the Local Authority and the owner.

- g. Rents. The rent at which housing will be available to the Local Authority for leasing is also a very significant programming consideration. This, of course, is based upon the necessity for maintaining financial stability with the contributions payable and rents that low-income families can afford.
- h. Larger Dwellings. It is considered to be in the national interest to give particular attention to the intense need for adequate housing on the part of a great many larger families. All development proposals of Local Authorities will, consequently, be reviewed in relation to that interest. This would have special application to proposals for programming leased housing; it is the HUD program in which older dwellings can most readily be used and is therefore an excellent vehicle to provide larger accommodations.

4. DWELLING UNITS.

- a. Scattered Sites. In adding Section 23 to the United States Housing Act, Congress intended that dwelling units assisted under this provision be dispersed as widely as practicable throughout the community. The project-type environment associated with, and suitable for, conventional public housing developments was to be avoided under Section 23, and to this end Congress included in the Act a provision that normally not more than ten percent of the total units in any single structure are to be leased. While the legislation authorized the local agency itself to waive this instruction, the social value in adhering to it is so great that any waiver should be in accordance with policies established by the Local Authority Board and adequately considered at a high management level. Reasons for the waiver shall be documented.
- b. Site Approval. When a Local Authority plans to lease 25 or more units in a multi-family structure or complex, it is required to submit information as to its location to the HUD Regional Office for approval. The Assistant Regional Administrator for Housing Assistance may also, at his discretion, in special cases, extend this requirement to proposals to lease where fewer than 25 units are involved. When Regional Office approval is to be obtained the review will be made in conjunction

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with the HUD site selection requirements which relate to nondiscrimination.

- c. Minimum Standards. All dwelling units to be leased must conform to the following minimum standards:
- (1) The exterior and interior of the building must be in good condition.
 - (2) The dwelling must contain adequate sanitary facilities.
 - (3) Heating, lighting, and ventilation must be satisfactory.
 - (4) Except where authorized as congregate housing, adequate private cooking facilities must be available.
 - (5) The neighborhood must be free of characteristics seriously detrimental to family life. Substandard dwellings or other undesirable elements should not predominate unless there is actively in progress a concerted program intended to upgrade the neighborhood, of which leasing is a part.
 - (6) The dwelling must be large enough to accommodate the family to be housed.
 - (7) The dwelling must be reasonably accessible to public transportation, schools, churches and stores.
 - (8) The dwelling must comply with all local standards and building code requirements.
5. CONGREGATE HOUSING.
- a. Type of Units. Hotels and motels have been quite successfully adapted as congregate housing for elderly families. As indicated above, for these accommodations private cooking facilities will not be required if the lease with the owner provides that he shall operate, or cause to be operated, congregate cooking and dining facilities, and that nutritious meals will be served at a reasonable charge specified in a written agreement with the Local Authority.
 - b. Standards. Any structure used shall comply with all local standards applicable to the proposed use. Living space available must be given careful consideration. As a minimum, for single occupancy each room should have a private bath and

a closet and be large enough to accommodate a single bed, a dresser, a desk and two chairs. There should be good ventilation

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and natural light as well as an appropriate view from the window. Rooms with an opening only to the wall of an adjacent building should not be used. Provisions necessary for the safety of the occupants, such as an adequate fire alarm and sprinkler system, must also be given attention. Convenience features, including adequacy of parking and laundry and drying arrangements, are to be considered. Several design factors of particular importance in congregate housing serving the frail elderly and handicapped are:

- (1) Access ramps to buildings.
- (2) Elevators beyond the first floor.
- (3) Railings and low lights on stairs, in hallways and where there is any change of levels, indoors or out.
- (4) Door widths and interior spaces, notably in bathrooms, adequate to accommodate a wheel chair.
- (5) Grab bars in baths and water temperature controls.
- (6) Emergency bells to a central location or to alert neighbors.

c. Management and Social Services. A congregate facility should not be considered in the absence of an assurance that there will be adequate attention to its management, including provisions for preventive health care, programming for leisure time activities, and personal care of frail occupants. Space for these activities must be available.

6. CONSTRUCTION FOR LEASING.

a. Local Authority Agreements to Lease. Since the United States Housing Act of 1937 confines the leasing program to "existing structures," there can be no specific commitment of annual contributions until the dwellings have been constructed. The powers of a Local Authority, however, to lease or enter into agreements to lease, are governed by State law and generally there would be no prohibition against the Authority itself entering into informal or formal agreements to lease units in advance of construction.

b. Applicability. This method of providing housing for

low-income families is especially useful where there is a tight market situation and other factors or legal requirements may bar the construction or acquisition of low-rent housing under conventional or Turnkey methods.

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7. HOMEOWNERSHIP OBJECTIVES.

- a. Purchase Options. Local Authorities are encouraged to make full use of the leasing program to promote homeownership by low-income families. This can be done, where the owner of the property agrees, by including in the lease an option to purchase that may be exercised by the low-income family. It may in some cases be possible to arrange that all or part of the payment to the owner under the lease may be applied to reduce the purchase price established.
- b. Purchase by Local Authorities for Resale (Section 23(g)). Pursuant to a provision of the Housing and Urban Development Act of 1968, Local Authorities may be authorized to purchase structures leased under Section 23 programs for the purpose of reselling units individually to tenants or to tenant groups the members of which occupy units aggregating in value at least 80 percent of the structure's total value. The terms and conditions of the resale can be established so as to enable tenants to make the purchase without undue financial hardship and might include provisions for deferment of any down payment and elimination of, or adjustments in, interest payments for a temporary period.
- c. Arrangements with Nonprofit Organizations. A leasing program with homeownership objectives might also be operated in conjunction with a nonprofit organization that will be willing to transfer the equity that accrues during the period of the lease to the low-income occupants. The transfer of that interest would take place at the time when the family income of the occupant is such that he can afford the necessary payments. Nonprofit organizations, in financing projects constructed or, perhaps, rehabilitated for this purpose, may be able to obtain assistance under the FHA 221(d)(3) market interest rate program.
- d. Cooperatives. In addition, there is the possibility of making use of the leasing program to help low-income families in obtaining cooperative memberships. This would be done through a contract between the Local Authority and the cooperative under which monthly payments of eligible families are subsidized.

8. FHA, VA AND SECTION 202 PROPERTIES.

- a. FHA and VA Acquired Properties may be utilized in the Section 23 leasing program and Local Authorities are expected to include among dwellings leased any such units that are suitable and available, providing that the rents are within

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the range at which economic feasibility of the program may be maintained. Arrangements have been made for distribution of lists of available units to Local Authorities by FHA Insuring Offices and VA Regional Offices.

- b. FHA and VA Insured Properties may be leased under the Section 23 program; however, in order to promote the social goal of economic integration, the number of units in any Section 221(d)(3), below market interest rate, or Section 236 project that can be made available to families assisted through the rent supplement and Section 23 leasing programs combined will generally be held to 20 percent of the total. Local Authority leasing in these projects will be limited in accordance with this guideline unless HUD Regional Office approval is obtained covering specific projects on an exception basis. Among cases for which exceptions might be considered would be those Section 221(d)(3) BMIR and Section 236 projects where there is a history of vacancies or where there were arrangements in advance between the Local Authority and the project sponsor for the construction of large units of three or more bedrooms for low-income occupancy. Arrangements of the latter type are encouraged.
- c. Units in Section 202 Projects for the elderly may be leased on the same basis as that established for Section 221(d)(3) BMIR and Section 236 projects.

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SECTION 2. THE SECTION 10(c) LEASING

1. LEGISLATION. In the case of Section 23 the language of the United States Housing Act authorizes use of existing structures leased from private owners. Concurrently with the enactment of Section 23 there was an amendment of Section 10(c) establishing

a method for computation of annual contributions when dwellings are obtained by "lease of existing structures." It has been established that in view of the amendment of Section 10(c), leasing programs can be authorized and operated under the United States Housing Act without reference to Section 23. Such programs are designated as Section 10(c) leasing programs.

2. FEATURES OF THE PROGRAM. There are several significant consequences that derive from the Section 10(c) provisions:

- a. Publicly Owned Facilities. Since there is no requirement in Section 10(c) that housing is to be privately owned, leasing programs in some cases can be operated under that section making use of existing housing that is publicly owned.
- b. Legal Requirements. The exemption from Workable Program and Cooperation Agreement requirements applicable to programs operated under Section 23 does not extend to programs operated under Section 10(c).
- c. Tax Exemption. Since real property tax exemption is required for Section 10(c) programs, a payment in lieu of taxes will be made rather than payment by the owner of full taxes as in the case of Section 23 programs. This payment generally will be lower than full real property taxes and should result in a local contribution to Section 10(c) programs that will permit achievement of financial feasibility with somewhat lower project income than in the case of Section 23 programs. Providing that the local governing body is authorized under State law to grant tax exemptions to the properties to be leased, use of Section 10(c) leasing should, therefore, receive careful consideration when rents low enough to be within reach of families to be served cannot be achieved under the Section 23 program.
- d. Term of Lease. The Act does not include a specific reference to the term of the lease with owners under Section 10(c). It does, however, limit annual contributions contracts to no more than 40 years from the date the first annual contributions are paid for a project. It is therefore possible under the Section 10(c) Leasing Program to consider leases with owners

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for periods longer than 10 years where warranted. A specific authorization from the Regional Office and revision of the Annual Contributions Contract is necessary in such instances.

3. USE OF SECTION 23 PROCEDURES AND FORMS. Separate procedures and forms covering Section 10(c) leasing programs are not contemplated. For the most part, material specified for Section 23 programs will be applicable and, where necessary, upon consultation with the Regional Office, appropriate modifications may be made by Local Authorities operating Section 10(c) programs.

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