

PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

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AUTHORITY: Secs. 3, 5, 6, and 16, U.S. Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437d, 1437n); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

SOURCE: 40 FR 33446, Aug. 8, 1975, unless otherwise noted. Redesignated at 49 FR 8714, Feb. 23, 1984.

Subpart A—[Reserved]

Subpart B—Admission, Rent and Reexamination

§ 960.201 Purpose and scope.

The purpose of this subpart is to prescribe standards and criteria for tenant selection and annual reexamination of income and family composition by each public housing agency

(PHA) in accordance with the U.S. Housing Act of 1937 (the Act) and the Annual Contributions Contract (ACC).

[49 FR 31491, May 21, 1984]

§ 960.202 Applicability.

This subpart is applicable to all dwelling units assisted under the U.S. Housing Act of 1937 in projects owned by or leased to PHAs and leased or subleased by PHAs to tenants, and is not applicable to Section 23 and Section 10(c) leased housing projects, the Section 23 Housing Assistance Payments Program, and the Section 8 Housing Assistance Payments Program where the owners enter into leases directly with the tenants. This subpart is not applicable to the Low-Rent Housing Homeownership Opportunities Program (Turnkey III), to the Mutual Help Homeownership Opportunities Program, or to Indian Tribal Housing Authorities.

§ 960.203 Nondiscrimination requirements.

The tenant selection criteria and requirements pursuant to this subpart shall be established and implemented in a manner compatible with the objectives of Title VI of the Civil Rights Act of 1964 and HUD regulations and requirements pursuant thereto. PHAs which have adopted tenant selection and assignment plans pursuant to HUD regulations and requirements implementing Title VI of the Civil Rights Act of 1964 which require revision to comply with this subpart shall submit such revisions for HUD approval. Any such request must be supported by a demonstration that the objectives of the Civil Rights Act of 1964 and the objectives of the U.S. Housing Act of 1937 can be achieved under the revised plan.

§ 960.204 PHA tenant selection policies.

(a) In addition to policies and regulations including preferences and priorities established by the PHA for eligibility and admission to its public housing projects pursuant to the Act and the ACC with respect thereto, each PHA shall adopt and implement policies and procedures embodying standards and criteria for tenant selection

which take into consideration the needs of individual families for public housing and the statutory purpose in developing and operating socially and financially sound public housing projects which provide a decent home and a suitable living environment and foster economic and social diversity in the tenant body as a whole.

(b) Such policies and procedures shall be designed to: (1) Avoid concentrations of the most economically and socially deprived families in any one or all of the PHA's public housing projects; (2) preclude admission of applicants whose habits and practices reasonably may be expected to have a detrimental effect on the tenants or the project environment; and (3) subject to the requirements and limitations of Part 913 of this chapter, attain, within a reasonable period of time, a tenant body in each project composed of families with a broad range of incomes and rent-paying ability that is generally representative of the range of incomes of lower income families in the PHA's area of operation, as defined in State law.

(c) Such policies and procedures shall:

(1) Not automatically deny admission to a particular group or category of otherwise eligible applicants (e.g., unwed mothers or families with children born out of wedlock);

(2) Assure that selection by the PHA among otherwise eligible applicants is objective and reasonable;

(3) Be consistent with the PHA's responsibilities as a public body; and

(4) Be in compliance with State, local and Federal laws and regulations, including the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964, and the provisions of the ACC.

(d) Such policies and procedures shall:

(1) Be duly adopted;

(2) Be publicized by posting copies thereof in each office where applications are received and by furnishing copies to applicants or tenants upon request;

(3) Be specific and describe in detail the criteria, standards and preferences to be applied; and

(4) Provide for verification and documentation of information relevant to acceptance or rejection of an applicant.

(e) Requirements or preferences for those living in the jurisdiction of the PHA at the time of application are permissible subject to the following: No requirement or preference may be based upon the identity or location of the housing which is occupied or proposed to be occupied by the applicant nor upon the length of time the applicant has resided in the jurisdiction; applicants who are working or who have been notified that they are hired to work in the jurisdiction shall be treated as residents of the jurisdiction.

[40 FR 33446, Aug. 8, 1975, as amended at 45 FR 44267, July 1, 1980. Redesignated at 49 FR 6714, Feb. 23, 1984, and amended at 49 FR 21491, May 21, 1984; 50 FR 9369, Mar. 7, 1985]

§ 960.206 Standards for PHA tenant selection criteria.

(a) The criteria to be established and information to be considered shall be reasonably related to individual attributes and behavior of an applicant and shall not be related to those which may be imputed to a particular group or category of persons of which an applicant may be a member. See, e.g., § 960.204(c).

(b) The criteria to be established in relation to avoiding concentration of families with serious social problems in PHA projects and information to be considered shall be reasonably related to whether the conduct of the applicant in present or prior housing has been such as would not be likely to interfere with other tenants in such a manner as to diminish their enjoyment of the premises by adversely affecting their health, safety or welfare or to affect adversely the physical environment or the financial stability of the project if the applicant were admitted to the project. Relevant information respecting habits or practices to be considered may include, but is not limited to:

(1) An applicant's past performance in meeting financial obligations, especially rent;

(2) A record of disturbance of neighbors, destruction of property, or living

or housekeeping habits at prior residences which may adversely affect the health, safety or welfare of other tenants; and

(3) A history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety or welfare of other tenants.

(c) Subject to the requirements and limitations of Part 913 of this chapter, the criteria to be established shall be reasonably related to achieving the basic objective of attaining, within a reasonable period of time, a tenant body in each project composed of families with a broad range of income, generally representative of the range of income, and rent paying ability of lower income families in the PHA's area of operation, as defined in state law. To accomplish the objective PHAs shall:

(1) Conduct studies, as necessary, directed to the distribution of incomes of all lower income families (elderly and nonelderly) in the PHA's area of operation, as defined in state law, based upon the most recent census or other reliable data on family income;

(2) Ascertain the actual distribution of incomes of all tenant families in residence in the PHA's projects;

(3) Ascertain the distribution of incomes of families on the PHA's waiting list;

(4) Ascertain the average operating costs of the PHA's project or projects and the average rent required to meet such costs;

(5) Ascertain the average rent which would be achieved based upon the incomes of lower income families in accordance with the distribution of incomes of all lower income families (elderly and nonelderly) in the PHA's area of operation, as defined in state law;

(6) Ascertain the average rent which can be achieved based upon the income of families in tenancy in the PHA's project or projects;

(7) Ascertain the average rent which could be achieved based upon the incomes of the families on the PHA's waiting list.

(8) Utilizing the above information, develop criteria, by preference or otherwise,

which will be reasonably calculated to attain the basic objective. The criteria developed shall be sufficiently flexible to assure administrative feasibility. A dwelling unit should not be allowed to remain vacant for the purpose of awaiting application by a family falling within the appropriate range.

(d) In the event of the receipt of unfavorable information with respect to an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct and to factors which might indicate a reasonable probability of favorable future conduct or financial prospects. For example:

(1) Evidence of rehabilitation;

(2) Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs and the availability of such programs;

(3) Evidence of the applicant family's willingness to attempt to increase family income and the availability of training or employment programs in the locality.

(40 FR 33448, Aug. 8, 1975. Redesignated at 49 FR 6714, Feb. 23, 1984, and amended at 49 FR 21492, May 21, 1984; 50 FR 9269, Mar. 7, 1985)

§ 960.206 Verification procedures.

(a) *General Adequate procedures* shall be developed to obtain and verify information with respect to each applicant. (See Part 913 of this chapter.) Information relative to the acceptance or rejection of an applicant shall be documented and placed in the applicant's file.

(b) *Suggested sources of information.* Sources of information may include, but are not limited to, the applicant (by means of interviews or home visits), landlords, employers, family social workers, parole officers, court records, drug treatment centers, clinics, physicians or police departments where warranted by the particular circumstances.

(c) *Tenant advisory boards.* The PHA may establish Tenant Advisory Boards for consultation in connection with the tenant selection process.

[40 FR 33446, Aug. 2, 1975. Redesignated at 49 FR 5714, Feb. 23, 1984, and amended at 49 FR 21492, May 21, 1984]

§ 960.207 Notification to applicants.

(a) The PHA shall promptly notify any applicant determined to be ineligible for admission to a project of the basis for such determination and shall provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination.

(b) When a determination has been made that an applicant is eligible and satisfies all requirements for admission including the tenant selection criteria, the applicant shall be notified of the approximate date of occupancy insofar as that date can be reasonably determined.

§ 960.208 Rent; utility reimbursement.

The amount of rent payable by the tenant to the PHA shall be the Tenant Rent, as defined in and calculated in accordance with Part 913 of this chapter. Where applicable, the Utility Reimbursement (as defined in § 913.102 of this chapter) will be paid to the tenant by the PHA. If the Family and the utility company consent, a PHA may pay the Utility Reimbursement jointly to the Family and the utility company or directly to the utility company.

[49 FR 21492, May 21, 1984]

§ 960.209 Reexamination of family income and composition.

(a) *Regular reexaminations.* The PHA shall reexamine the income and composition of all tenant families at least once every 12 months and determine whether the Family's unit size is still appropriate. After consultation with the Family and upon verification of the information, the PHA shall make appropriate adjustments in the Total Tenant Payment and Tenant Rent in accordance with Part 913 of this chapter.

(b) *Interim reexaminations.* The Family must comply with provisions in its lease regarding interim reporting of changes in income. If the PHA receives information concerning a

change in the Family's income or other circumstances between regularly scheduled reexaminations, the PHA must consult with the Family and make any adjustments determined to be appropriate. Any change in the Family's income or other circumstances that results in adjustment in the Total Tenant Payment or Tenant Rent must be verified.

[49 FR 21492, May 21, 1984]

§ 960.210 Restriction on eviction of families based upon income.

No PHA shall commence eviction proceedings, or refuse to renew a lease, based on the income of the tenant family unless: (a) It has identified, for possible rental by the family, a unit of decent, safe, and sanitary housing of suitable size available at a rent not exceeding the Tenant Rent as defined and calculated in accordance with Part 913 of this chapter, or (b) it is required to do so by local law.

[49 FR 21492, May 21, 1984]

**Subpart C—Continued Occupancy
[Reserved]**