

**HOUSING AUTHORITY OF THE TOWN OF  
MORRISTOWN**

**HOUSING CHOICE VOUCHER PROGRAM  
ADMINISTRATIVE PLAN**

**200 SOUTH STREET – 4<sup>TH</sup> FLOOR  
MORRISTOWN, NEW JERSEY 07960**

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## **Chapter 1**

### **STATEMENT OF POLICIES AND OBJECTIVES**

#### **INTRODUCTION**

The Housing Choice Voucher Program (formerly Section 8) was enacted as part of the Housing and Community Development Act of 1974, which recodified the U.S. Housing Act of 1937. The Act has been amended from time to time, and its requirements, as they apply to the Housing Choice Voucher Program, are described in and implemented through this Administrative Plan.

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

#### **A. LOCAL OBJECTIVES**

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

1. To provide decent, safe, and sanitary housing for very low-income families while maintaining their rent payments at an affordable level.
2. To provide an incentive to private property owners to rent to very low-income families by offering timely assistance payments.
3. To encourage self-sufficiency of participant families.

#### **B. PURPOSE OF THE PLAN**

The purpose of the Administrative Plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local objectives. The Plan covers both admission and continued participation in these programs. Policies are the same for both the certificate and voucher programs unless otherwise noted.

The HA is responsible for complying with all changes in HUD regulations pertaining to these programs. If such changes conflict with this Plan, HUD regulations will have precedence. The original Plan and any changes must be approved by the Board of Commissioners of the agency.

#### **C. FAIR HOUSING POLICY [24 CFR 982.54(d)(6)]**

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

The HA shall not deny any family or individual the opportunity to apply for or receive assistance under the Housing Choice Voucher Program on the basis of race, color, sex, religion, creed, national or ethnic origin, age, family or marital status, handicap or disability, or sexual orientation.

The HA shall: (1) advertise widely in the community for open positions, (2) market the program to all eligible persons, including persons with disabilities and persons with limited English proficiency, (3) ensure buildings and communications that facilitate applications and service delivery are accessible to persons with disabilities, (4) provide the “Understanding Fair Housing” brochures, fair housing counseling services or referrals to fair housing agencies, (5) inform participants of how to file a fair housing complaint, including providing the toll-free number for the Housing Discrimination Hotline: 1-800-669-9777, and (6) if the program has a goal of homeownership or housing mobility, recruiting landlords and service providers in areas that expand housing choice to program participants. Recordkeeping covers, but is not limited to, the race, ethnicity, familial status, and disability status of program participants.

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

Except as otherwise provided in 24 CFR 8.21(c)(1), 8.24(a), 8.25, and 8.31, no individual with disabilities shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination because the HA's facilities are inaccessible to or unusable by persons with disabilities.

Posters and housing information are displayed in locations throughout the HA's office in such a manner as to be easily readable from a wheelchair.

The HA's office at 200 South Street, Morristown, NJ, is accessible to persons with disabilities.

#### **D. SERVICE POLICY /ACCOMMODATIONS**

This policy is applicable to all situations described in this Administrative Plan when a family initiates contact with the HA, when the HA initiates contact with a family including when a family applies, and when the HA schedules or reschedules appointments of any kind.

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

The HA's policies and practices will be designed to provide assurances that all persons with disabilities will be provided reasonable accommodation so that they may fully access and utilize the housing program and related services. The availability of specific accommodations will be

made known by including notices on HA forms and letters to all families, and all requests will be verified so that the HA can properly accommodate the need presented by the disability.

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

#### **Verification of a Request for Accommodation.**

All requests for accommodation or modification will be verified with a reliable knowledgeable, professional.

#### **E. TRANSLATIONS OF DOCUMENTS**

The Housing Authority has bilingual staff to assist non-English speaking families in the following languages: Spanish.

In determining whether it is feasible to translate documents into other languages, the HA will consider the following factors:

Number of applicants and participants who are not sufficiently proficient in English to understand the content of HA documents.

Cost of translation into the other language per number of clients that speak the language.

Availability of bilingual staff to translate documents to non-English speaking clients.

#### **F. FAMILY OUTREACH**

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

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

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

#### **G. OWNER OUTREACH [24 CFR 982.54(d)(5)]**

The HA encourages owners of decent, safe and sanitary housing units to lease to Section 8 families. The HA maintains a list of participating landlords for the Housing Choice Voucher Program and updates this list at least annually. When listings from owners are received, they

will be compiled by the HA staff by bedroom size.

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

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

The HA maintains a list of participating landlords who act as references for the HA's Housing Choice Voucher program and, upon request, will promote the program to prospective new landlords. The HA staff is available to meet with prospective new owners to discuss procedures and policies and to review all required lease, contract and HQS documents.

## **H. PRIVACY RIGHTS**

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

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

Any and all information that would lead one to determine the nature and/or severity of a person's disability must be kept in a separate folder and marked "confidential." The personal information in this folder must not be released except on an "as needed" basis in cases where an accommodation is under consideration. The Senior Housing Assistant Manager for the Housing Choice Voucher Program must approve all requests for access and granting of accommodations based on this information.

In accordance with HUD requirements, the HA will furnish prospective owners with the family's current address as shown in the HA's records and, if known to the HA, the name and address of the landlord at the family's current and prior address.

A statement of the HA's policy on release of information to prospective landlords will be included in the briefing packet which is provided to the family.

## **I. EQUAL EMPLOYMENT OPPORTUNITY**

The HA practices affirmative action in hiring, promotion and conditions of employment. The HA's recruitment practices will apply aggressive outreach to community-based African American and Latino groups so that the composition and culture of the staff reflects the composition and culture of the community, to the extent possible. All HA job postings will display the affirmative action/equal employment opportunity logo and slogan prominently.

**J. RULES AND REGULATIONS**

This Administrative Plan is set forth to define the HAs local policies for operation of the housing programs in the context of Federal laws and Regulations. Federal regulations, HUD Memos, Notices and guidelines, or other applicable law governs all issues related to the Housing Choice Voucher Program that are not addressed in this document.

**K. JURISDICTION**

The jurisdiction of the HA is the Town of Morristown, County of Morris, New Jersey.

**L. MONITORING PROGRAM PERFORMANCE**

Reports are maintained for:

- Monitoring funding availability to ensure the HA is at maximum lease up but not over-leased;
- Tracking outstanding Vouchers for expiration or suspension under the 90-day rule;
- Timeliness of annual activities
- Claim payments made
- Number of new vouchers issued and number of vouchers terminated. Repayment of amounts owed the HA

In order to ensure quality control, supervisory staff audits the following functions:

- At least 5% of reexaminations
- At least 5% of new applications
- At least 5% of the HQS inspections completed by each inspector
- 8% of claims processed

## **Chapter 2**

### **ELIGIBILITY FOR ADMISSION [24 CFR Part 5, Subparts B, D & E; Part 982, Subpart E]**

#### **INTRODUCTION**

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

#### **Eligibility Factors**

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

The HUD eligibility criteria are:

An applicant must be a "family"

An applicant must be within the appropriate Income Limits

An applicant must furnish Social Security Numbers

An applicant must furnish evidence of Citizenship/Eligible Immigrant Status

For the HA's additional criteria for eligibility, see Section E, "Other Criteria for Admission."

The Family's initial eligibility for placement on the waiting list will be made in accordance with the eligibility factors.

Evidence of Citizenship/ Eligible Immigrant Status will not be verified until the family is selected from the waiting list for issuance of a Certificate or Voucher.

#### **A. FAMILY COMPOSITION [24 CFR 5.403, 982.201]**

The applicant must qualify as a Family. A Family may be a single person or a group of persons. Discrimination on the basis of familial status is prohibited, 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.

A group of persons may be:

- Two or more persons who intend to share residency whose income and resources are available to meet the family's needs and who have a history as a family unit or show evidence of a stable family relationship.
- Two or more elderly or disabled persons living together, or one or more elderly or disabled persons living with one or more live-in attendants.
- A child who is temporarily away from home because of placement in foster care is considered a member of the family. This provision only pertains to the foster child's temporary absence from the home, and is not intended to artificially enlarge the space available for other family members.

A single person may be:

- An elderly person
- A displaced person
- A person with a disability
- Any "other single" person

#### **Head of Household**

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

A family may designate an elderly or disabled adult 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.

#### **Spouse of Head**

Spouse means the husband or wife of the head. For proper application of the Noncitizens Rule, the definition of spouse is the marriage partner who, in order to dissolve the relationship, would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

#### **Live-In Attendants**

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

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

- Is not obligated for the support of the person(s); and,
- Would not be living in the unit except to provide care for the person(s).

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

1. Income of the live-in attendants will not be counted for purposes of determining eligibility or level of benefits.
2. Live-in attendants are not subject to Non-Citizen Rule requirements.
3. Live-in attendants may not be considered a remaining member of the tenant's family.

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

Family members of a live-in attendant may also reside in the unit providing doing so does not increase the subsidy by the cost of an additional bedroom and that the presence of the attendant's family members does not overcrowd the unit.

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

The HA has the right to disapprove a request for a live-in attendant based on the "Other Criteria for Eligibility" described in this Chapter.

### **Split Households Prior to Certificate Voucher Issuance**

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

1. Which family unit retains the children or any disabled or elderly members.
2. Role of domestic violence in the split.
3. Recommendations of social service agencies or qualified professionals such as children's protective services.

Documentation of these factors is the responsibility of the applicant families.



### **Multiple Families in the Same Household**

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

### **Joint Custody of Children**

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

### **Separation with Children**

If an applicant or current program participant is separated from a person and has children by that person or former spouse, the applicant or current program participant must provide at least one of the verifications listed below:

- A FINAL divorce decree
- Verification of court-ordered child support through Probation
- TANF records indicating child support/efforts to obtain child support
- Notarized statement from current landlord verifying that applicant and spouse/non-custodial parent of child(ren) have not lived together for the last six months
- Income tax statements from both applicant and spouse/non-custodial parent of child(ren) indicating that both filed income taxes separately from different addresses.
- Written statement from lawyer that applicant has filed suit for divorce.

If no other documentation is available, applicant must complete *Absent Parent Information* form.

### **B. INCOME LIMITATIONS [24 CFR 982.201, 982.353]**

In order to be eligible for assistance, an applicant must be either:

1. A very low-income family; or
2. A low-income family in any of the following categories:
  - A low-income family that is continuously assisted under the 1937 Housing Act.

- An applicant is continuously assisted if the family has received assistance under any 1937 Housing Act program within 120 days of certificate/voucher issuance. Programs include public housing, all Section 8 programs, all Section 23 programs.
- A low-income family physically displaced by rental rehabilitation activity under CFR part 511.
- A low-income non-purchasing family residing in a HOPE 1 or HOPE 2 project.
- A low-income non-purchasing family residing in a project subject to a homeownership program under 24 CFR 248.173.
- A low-income family displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165.
- A low-income family residing in a HUD-owned multifamily rental housing project when the project is sold, foreclosed or demolished by HUD. (Certificate program only)

To determine if the family *is* income-eligible, the HA compares the Annual Income of the family to the applicable income limit for the family's size.

Families whose Annual Income exceeds the income limit will be denied admission and offered an informal review.

Single jurisdiction HA's: The applicable income limit to be used at initial issuance of a certificate or voucher is the income limit of the HA.

Multi-jurisdictional HA's: The applicable income limit used for initial issuance of a certificate or voucher is the highest *income* limit within the HA's jurisdiction.

For admission to the program (initial lease-up), the family must be within the *very* low-income limit of the jurisdiction where they want to live.

Portability: For initial lease-up, families who exercise portability must be within the very low-income limit for the jurisdiction of the receiving HA in which they want to live.

Participant families who exercise portability, and request or require a change in their form of assistance (voucher or certificate), must be within the low-income limit of the receiving HA if they are to receive the alternate form of assistance.

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

Families are required to provide verification of Social Security Numbers for all family members age 6 and older prior to admission. This requirement also applies to persons joining the family after admission to the program.

Failure to furnish verification of social security numbers is grounds for denial or termination of assistance.

D. **CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS** [24 CFR Part 5, Subpart E]

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

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

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

**Non eligible members.** 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.

**Non-citizen students** defined by HUD in the noncitizen regulations are not eligible for assistance.

**Appeals.** For this eligibility requirement only, the applicant is entitled to a hearing exactly like those provided for participants.

E. **OTHER CRITERIA FOR ADMISSION** [24 CFR 982.552 (b)]

The HA may apply the following criteria, in addition to the HUD eligibility criteria, as grounds for denial of admission to the program.

1. Certificate Program family's Total Tenant Payment, computed in accordance with the federal regulations, may not exceed the current Fair Market Rent as set by HUD for the family's certificate size in the area.

2. The Family must not have violated any family obligation during a previous participation in the Section 8 program.

When the HA denies assistance to an applicant with a disability, the applicant may request a review of the family obligation that was violated if the violation was a result of the disability.

An exception may be granted by the HA if the family member who violated the family obligation is not a current member of the household on the application.

3. No family member may have committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
4. Family must have paid any outstanding debt owed the HA or another HA as a result of prior participation in any federal housing program.

An exception may be granted if the family has entered into a Repayment Agreement. If the family's payments are current at the time of final eligibility determination, the family will be issued a certificate or voucher, and the family can continue to make payments.

If a Repayment Agreement falls into arrears as defined in this policy, the family will be required to pay the balance in full prior to final eligibility determination.

The HA reserves the right, in the case of extreme hardship, to amend the Repayment Agreement in accordance with its procedures. Full documentation of the hardship will be required. In no case will the debt be forgiven.

5. No member of the family may have engaged in drug related or violent criminal activity.

The HA will not be obligated to ferret out information concerning a family's criminal activities as part of the processing of an application for assistance. Initial screening will be limited to routine inquiries of the family and any other information provided to the HA regarding this matter. The inquiries will be standardized and directed to all applicants by inclusion in the application form.

If, as a result of either the standardized inquiry or the receipt of a verifiable referral, there is indication that the family or any family member is engaged in drug-related criminal activity or violent criminal activity, the HA may conduct closer inquiry to determine whether the family should be denied admission.

6. No family member may have been evicted from public housing for any reason.
7. No family member may have engaged in or threatened abusive or violent behavior toward HA personnel.

**F. SUITABILITY OF FAMILY [24 CFR 982.202 (b)(1)]**

The HA may take into consideration any of the additional criteria for admission in Section E above, but may not otherwise screen for factors which relate to the suitability of the applicant family as tenants. It is the responsibility of the owner to screen the applicants as to their suitability for tenancy.

The HA will advise families how to file a complaint if they have been discriminated against by an owner. The HA will advise the family to make a Fair Housing complaint. The HA could also report the owner to HUD (Fair Housing/Equal Opportunity) or the local Fair Housing Organization.

**G. CHANGES IN ELIGIBILITY PRIOR TO EFFECTIVE DATE OF THE CONTRACT**

Changes that occur during the period between placement on the waiting list and issuance of a certificate or voucher may affect the family's eligibility or Total Tenant Payment. For example, if a family goes over the income limit prior to lease up, the applicant will not continue to be eligible for the program. They will be notified in writing of their ineligible status and their right to an informal review.

**H. INELIGIBLE FAMILIES**

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

**I. TIME FRAMES FOR DENIAL**

As a general rule, applicants may be denied admission to the Section 8 program for the following time frames:

- Denied admission for one year for illegal use, or possession for personal use, of a controlled substance or alcohol.
- Denied admission for three years for persons evicted from public housing, Indian Housing, Section 8 or Section 23 programs because of drug-related criminal activity.
- Denied admission for five years for acts of fraud and/or program violations in

connection with public housing, Indian Housing or Section 8 programs.

- Denied admission for five years for an arrest or conviction in connection with violent criminal activity. The five years shall begin on the date of completion of sentence and/or probation period.
- Denied admission for ten years for a conviction of drug trafficking.
- Denied admission for life to any household that includes any individual who is subject to a lifetime registration requirement under a state sex offender registration program.
- Denied admission for life to any applicant who has been convicted of manufacture or producing methamphetamine on the premises of assisted housing. "Premises" is defined as the building or complex in which the dwelling unit is located, including common areas and grounds.

## **Chapter 3**

### **APPLYING FOR ADMISSION**

#### **INTRODUCTION**

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

#### **A. HOW TO APPLY**

Families who wish to apply for any of the HA's programs must complete a written application form when the waiting list is open. Applications will be made available in an accessible format upon request from a person with a disability.

#### **B. OPENING/CLOSING OF APPLICATION TAKING [24 CFR 982.206, 982.54(d)(1)]**

When the HA opens the waiting list, the HA will advertise through public notice in the local paper of record, "minority" newspapers, and other locations including:

The Daily Record, Morris County Urban League, Morris County Fair Housing Council, Morris County Organization for Hispanic Affairs, Morristown Neighborhood House, Morristown City Hall, and local churches.

The notice will contain:

The dates, times, and the locations where families may apply.

The programs for which applications will be taken.

Limitations, if any, on whom may apply.

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

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

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover and new allocations over the next 24 months. When the period for accepting applications is over, the HA will add the new applicants to the list by:

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

### **Limits on Who May Apply**

Any family asking to be placed on the waiting list for Section 8 rental assistance will be given the opportunity to complete an application.

### **C. TIME OF SELECTION**

When funding is available, families will be selected from the waiting list in their preference-determined sequence, regardless of family size, in accordance with the Deconcentration Rule.

When there is insufficient funding available for the family at the top of the list, the HA will not admit any other applicant until funding is available for the first applicant. Applicants will not be passed over on the waiting list, except to satisfy the Deconcentration Rule.

### **D. DECONCENTRATION RULE**

Every fiscal year, the HA must reserve a minimum of 75% of its Section 8 new admissions for families "whose incomes do not exceed 30 percent of the area median income" (H.R. 4194-83 Sec. 518)(b)(1):

Of the families initially provided tenant-based assistance under Section 8 by a public housing agency in any fiscal year, not less than 75 percent shall be families whose incomes do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families; except that the Secretary may establish income ceilings higher or lower than 30 percent of the area median income on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.



## **E. COMPLETION OF A FULL APPLICATION**

All Federal, Ranking, or Local Preferences claimed on the application or while the family is on the waiting list will be verified:

After the family is selected from the waiting list, and prior to completing the full application.

The qualification for preference must exist at the time the preference is verified regardless of the length of time that an applicant has been on the waiting list because the preference is based on current status.

### **Requirement to Attend Interview**

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

All adult family members are required to attend the interview and to certify by signature that all of the information is complete and accurate. (Exceptions may be made for students attending school out of state/for members for whom attendance would be a hardship.)

It is the applicant's responsibility to reschedule the interview if s/he misses the appointment. If the applicant does not reschedule or misses two scheduled meetings, the HA will reject the application.

Applicants who fail to appear and want to reschedule a missed appointment must make the request to reschedule no later than 14 days from the original appointment date.

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

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

All adult members must sign the HUD form 9886, Release of Information, the declarations and consents related to citizenship/immigration status, a certification statement and any other documents required by the HA. Applicants will be required to sign specific verification forms for information that is not covered by the HUD form 9886. Failure to do so will be cause for denial of the application for failure to provide necessary certifications and release as required by the HA.

Information provided by the applicant will be verified including information related to family composition, income, allowances and deductions, assets, eligible immigration status, full time student status and other factors related to preferences, eligibility and rent calculation. Verifications may not be more than 60 days old at the time of certificate/voucher issuance.

If the HA determines at or after the interview that additional information or document(s) are needed, the HA will request the document(s) or information in writing. The family will be given 14 days to supply the information. If the information is not supplied in this time period, the HA will provide the family a notification of denial for assistance. (See Chapter 19, "Complaints and Appeals")

#### **F. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY**

After the verification process is completed, the HA will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by the HA, and the current eligibility criteria in effect. If the family is determined to be eligible, the HA will mail a notification of eligibility. A briefing will be scheduled for the issuance of a certificate or voucher and the family's orientation to the housing program.

#### **G. HOUSING CHOICE VOUCHER**

Effective October 1, 1999, the Section 8 tenant-based Certificate and Voucher programs are merged into the Housing Choice Voucher Program in accordance with the Quality Housing and Work Responsibility Act of 1998, (Section 8(0) of the USH Act, 42 U.S.C. 1437f(o)).

#### **H. ORGANIZATION OF WAIT LIST**

All eligible applicants will be placed on the waiting lists based on the date and time the application was received. There will be one (1) waiting list maintained for the Section 8 Housing Choice Voucher Program, one (1) for the Moderate Rehabilitation Program and one (1) for the Project-Based Voucher Program. The Waiting lists will be assembled in sequential order with the applicant's name, family unit size, and time of application receipt, annual income, qualification for any local preference, and racial or ethnic designation of the head of household noted. The Moderate Rehabilitation and Project Based Voucher waiting list represents different bedroom sizes, as the program is unit based.

#### **I. OPENING AND CLOSING OF WAITLIST**

The waiting lists will be opened or closed at the discretion of the Executive Director considering the available funding, length of the waiting lists, and whether the waiting list includes a sufficient number of extremely low-income families. See attached Equal Housing Opportunity Policy Affirmative Marketing/Outreach to Families for the Authority's practice on encouraging full participation of the public when the waiting lists are opened. When the Executive Director determines that the waiting lists contain.

## **Chapter 4**

### **ESTABLISHING PREFERENCES AND MAINTAINING THE WAITING LIST**

[24CFR Part 5, Subpart D; 982 .54(d)(1); 982.204, 982.205, 982.206]

#### **INTRODUCTION**

It is the HA's objective to ensure that the families are placed in the proper order on the waiting list so that an offer of assistance is not delayed to any family, or made to any family prematurely.

This chapter defines the eligibility criteria for the local preferences and explains the HA's system of applying them.

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

#### **A. APPLICATION POOL**

The waiting list will be maintained in accordance with the following guidelines:

1. The application will be a permanent file.
2. All applicants in the pool will be maintained in the order of preference. Applications equal in preference will be maintained by date sequence.
3. All applicants must meet "Very Low Income" eligibility requirements as established by HUD. The HUD Field Office must previously approve any exceptions to these requirements, other than those outlined in Chapter 2, "Eligibility for Admission".

#### **Special Admissions** [24CFR 982.54(d)(e), 982.203]

Applicants who are admitted under Special Admissions, rather than from the waiting list, are not maintained on separate lists.

Applicants who are admitted under targeted funding which are not identified as a Special Admission are not maintained on separate waiting lists.

#### **B. WAITING LIST PREFERENCES** [24 CFR 982.207]

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

The HA may grant an exception to such a family if:

- The evicted person was not involved in the drug-related activity that occasioned the eviction.
- If an applicant makes a false statement in order to qualify for a Ranking or Local preference, the HA will reject the application.

**C. EXCEPTIONS FOR SPECIAL ADMISSIONS [24CFR 982.203, 982.54(d)(3)]**

If HUD awards a HA program funding that is targeted for specifically named families, the HA will admit these families under a Special Admission procedure.

Special admissions families will be admitted outside of the regular waiting *list* process. They do not have to qualify for any preferences, nor are they required to be on the program waiting list. They are not counted in the limit on non-federal preference admissions. The HA maintains separate records of these admissions.

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

1. A family displaced because of demolition or disposition of a public or Indian housing project;
2. A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;
3. For housing covered by the Low-Income Housing Preservation and Resident Homeownership Act of 1990;
4. A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and
5. A non-purchasing family residing in a HOPE 1 or HOPE 2 project;
6. A household whose members will not reside together unless they receive assistance.

**D. PREFERENCE ELIGIBILITY [24 CFR 5.410]**

**Change in Circumstances**

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

The HA will merge its waiting lists for the Certificate/Voucher programs.

E. **ORDER OF SELECTION** [24 CFR 5.415, 982.207 (e)]

The order of selection is based on the HA's system for weighing preferences. It is a HUD requirement that elderly and disabled families and displaced singles will always be selected before other singles.

**Local Preferences**

Local preferences will be used to select families from the waiting list. These categories will receive a local preference:

- **Residency preference:** Applicants who either live, work or have been hired to work in the jurisdiction of the Housing Authority.
- **Working preference:** Families with at least one adult who is employed. This preference is extended equally to elderly families or families whose head or spouse is receiving income based on their inability to work.

The HA has selected the following system to apply local preferences: Local preferences will be ranked as follows:

1. Applicant with both residency and working preference.
2. Applicant with residency preference.
3. Applicant with working preference.

**Among Applicants with Equal Preference Status**

Among applicants with equal preference status, the waiting list will be organized by date.

Under the singles rule, elderly and disabled families and displaced singles will always be selected before other singles without regard to preference status.

F. **FINAL VERIFICATION OF PREFERENCES** [24 CFR 5.415]

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

**G. PREFERENCE DENIAL [24 CFR 5.415]**

If the HA denies a preference, the HA will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for an informal meeting. If the preference denial is upheld as a result of the meeting, or the applicant does not request a meeting, the applicant will be placed on the waiting list without benefit of the preference. Applicants may exercise other rights if they believe they have been discriminated against.

If the applicant falsifies documents or makes false statements in order to qualify for any preference, they will be removed from the Waiting List.

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

If an applicant fails to respond to a mailing from the HA, they will be removed from the waiting list. An extension will be considered an accommodation if requested by a person with a disability. If a letter is returned by the Post Office without a forwarding address, the applicant will be removed and the envelope and letter will be maintained in the file. If a letter is returned with a forwarding address, it will be re-mailed to the address indicated.

The waiting list will be purged at least every two years by a mailing to all applicants to ensure that the waiting list is current and accurate. The mailing will ask for current information and confirmation of continued interest.

The same guidelines will be used for failure to respond to this mailing. Notices will be made available in accessible format upon the request of a person with a disability.

The HA allows a grace period of 30 days after completion of the purge. Applicants who respond during this grace period will be reinstated.

## Chapter 5

### SUBSIDY STANDARDS

[24 CFR 982.54(d)(9)]

#### **INTRODUCTION**

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

#### **A. DETERMINING VOUCHER SIZE** [24 CFR 982.402]

The HA does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the Certificate or Voucher. The HA's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines.

All standards in this section relate to the number of bedrooms on the Voucher, not the family's actual living arrangements.

The unit size on the Voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

1. One bedroom will be assigned for each two family members who are:
  - Adults in a spousal relationship;
  - Siblings of the same gender;
  - Persons 17 years old or younger of the same gender.
2. Generally, the HA assigns bedrooms *within* the following guidelines:
  - Persons of different generations and unrelated adults should be allocated a separate bedroom.
  - Separate bedrooms should be allocated for persons of the opposite sex other than adults who have a spousal relationship and children under 6.
  - Space may be provided for a child who is away at school but who lives with the family during school recesses.
  - Space will not be provided for a family member who will be absent most of the time, such as a member who is away in the military.

Single person families shall be allocated one bedroom.

#### GUIDELINES FOR DETERMINING VOUCHER SIZE

<u>Certificate/Voucher Size</u>	<u>Persons in Household</u> (Minimum#)	<u>Persons in Household</u> (Maximum#)
0 Bedroom	1	1
1 Bedroom	1	2
2 Bedrooms	2	4
3 Bedrooms	3	6
4 Bedrooms	4	8
5 Bedrooms	6	10
6 Bedrooms	8	12

#### **B. CHANGES IN VOUCHER SIZE [24 CFR. 982.403 (a) & (b)]**

##### **Changes for Applicants**

The voucher size is determined prior to the briefing by comparing the family composition to the HA subsidy standards. If an applicant requires a change in the certificate/voucher size, the following guidelines will apply:

##### **Requests for Exception to Subsidy Standards for Applicants**

HA shall grant exceptions from the standards if the family requests and the HA determines the exceptions are justified by the relationship, age, sex, health or disability of family members, or other individual circumstances.

Circumstances may dictate a larger size than the Subsidy Standards permit when persons cannot share a bedroom because of an accommodation which has been requested, such as:

- Persons who cannot occupy a bedroom because of a verified medical or health reason;
- Elderly persons or Persons with disabilities who may require a live-in attendant;
- Requests based on health-related reasons must be verified by a medical or social service professional.

If the HA errs in the bedroom size designation, the family will be issued a Certificate or Voucher of the appropriate size so that the family is not penalized.

##### **Changes for Participants**

The members of the family residing in the unit must be approved by the HA. The family must obtain approval of any additional family member before the person occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform the HA within 10 days.



### Requests for Exception to Subsidy Standards for Participants

The HA will grant an extension upon request as an accommodation for person with disabilities. When a change in family composition requires the issuance of another size Voucher, and funds are not available for the program in which the family is assisted, the family will be placed on a transfer list. The HA may not issue a larger size Voucher due to additions to the family other than by birth, adoption, marriage, or court-awarded custody.

### Under-housed and Over-housed Families

If a unit does not meet HQS space standards due to an increase in family size, (unit too small), the HA will issue a new voucher and assist the family in locating a suitable unit.

### Transfer Waiting List

When a change in family composition requires the issuance of another size Voucher, and funds are not available for the type of assistance the family has, the family will be placed on a Transfer List. Families will be selected from the Transfer List before families are selected from the applicant waiting list. This assures that families who are already on the program are in the appropriately sized units.

### **C. UNIT SIZE SELECTED**

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

1. For the Voucher Program, the HA uses the Payment Standard for the Voucher size or the unit size selected by the family, *whichever is less*.
2. Utility Allowance: The utility allowance used to calculate the gross rent is based on the actual size of the unit the family selects, regardless of the size authorized on the family's Certificate or Voucher.
3. Housing Quality Standards: The standards allow two persons per living/sleeping room and permit maximum occupancy levels (assuming a living room is used as a living/sleeping area) as shown in the table below. The levels may be exceeded if a room in addition to bedrooms and living room is used for sleeping.

### **HQS GUIDELINES FOR UNIT SIZE SELECTED**

	<u>Maximum # of Persons in Household</u>
0 Bedroom	1
1 Bedroom	4
2 Bedrooms	6
3 Bedrooms	8
4 Bedrooms	10
5 Bedroom	12
6 Bedrooms	14

## Chapter 6

### FACTORS RELATED TO TOTAL TENANT PAYMENT DETERMINATION

[24 CFR Part 5, Subparts E and F; 887.361, 982.153, 982.317, 982.551]

#### **INTRODUCTION**

The accurate calculation of Annual Income and Adjusted Income will ensure that families are not paying more or less money for rent than their obligation under the Regulations. This chapter defines the allowable deductions from Annual Income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). Income and TTP are calculated in accordance with 24 CFR Part 5, Subparts E and F, and further instructions set forth in HUD Notices, Memoranda and Addenda. The formula for the calculation of TTP is specific and not subject to interpretation. The HA's policies in this Chapter address those areas which allow the HA discretion to define terms and to develop standards in order to assure consistent application of the various factors that relate to the determination of TTP.

#### **A. INCOME AND ALLOWANCES**

**Income:** In accordance with federal regulations, HUD defines the types of money that are to be used as income for purposes of calculating the TTP. Income from all HUD defined sources of each member of the household is counted.

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

**Adjusted Income** is defined as the Annual income minus any HUD allowable deductions.

HUD has five allowable deductions from Annual Income:

1. Dependent allowance: \$480 each for family members (other than the head or spouse), who are minors, and for family members age 18 and older who are full-time students or who are disabled.
2. "Elderly" allowance: \$400 for families whose head or spouse is 62 or over or disabled.
3. Allowable medical expenses for all family members are deducted for "elderly" families.
4. Child care expenses for children under 13 are deducted when child care is necessary to allow an adult member to work, attend school, or actively seek employment.
5. Expenses for attendant care or auxiliary apparatus for persons with disabilities if needed to enable the individual or an adult family member to work.

"Minimum Rent" and Minimum Family Contribution.

"Minimum rent" in the Certificate is \$25.00. Minimum rent includes the combined amount (TTP) a family pays towards rent and/or utilities.

Minimum family contribution in the voucher program is \$25.00.

**A. MAXIMUM INITIAL RENT BURDEN**

A family must not pay more than 40% of adjusted income for rent when the family first receives Section 8 tenant-based assistance for occupancy of a particular unit. This new requirement, effective October 1, 1999, only applies for a family that initially receives tenant-based assistance for occupancy of a unit after the effective date of this ruling. However, the maximum initial rent burden requirement is not applicable if the family stays in the same unit where the family initially received certificate or voucher assistance for occupancy of the unit before the effective date of this rule. The maximum initial rent burden requirement is applicable each time a participant moves to a new unit.

**B. DEFINITION OF TEMPORARILY/PERMANENTLY ABSENT**

[24 CFR 982.54 (d)(10), 982.317, 982.551]

The HA must compute all applicable income of every family member who is on the lease, including those who are temporarily absent. In addition, the HA must count the income of the spouse or the head of the household if that person is temporarily absent, even if that person is not on the lease.

Income of persons permanently absent will not be counted. If the spouse is temporarily absent and in the military all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

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

**Absence of Entire Family**

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

Families are required both to notify the HA before they move out of a unit and to give the HA information about any family absence from the unit. Families must notify the HA if they are going to be absent from the unit for more than 21 consecutive days.

If the entire family *is* absent from the assisted unit for more than 30 consecutive days, the unit will be considered vacated and the assistance will be terminated.

HUD regulations require the HA to terminate assistance if the entire family is absent from the unit for a period of more than 180 consecutive calendar days.

“Absence” means that no family member *is* residing in the unit. In order to determine if the family is absent from a unit, the HA may:

- Write letters to the family at the unit
- Telephone the family at the unit
- Interview neighbors
- Verify if utilities are in service

A person with a disability may request an extension of time as an accommodation, provided that the extension does not go beyond the HUD-allowed 180 consecutive calendar day limit.

### **Absence of Any Member**

Any member of the household will be considered permanently absent if s/he is away from the unit for three consecutive months or 90 days in a 12-month period except as otherwise provided in this Chapter.

### **Absence due to Medical Reason**

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the HA will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than 90 consecutive days, the family member will not be considered permanently absent.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the HA’s “Absence of Entire Family” policy.

### **Absence due to Incarceration**

If the sole member is incarcerated for more than 30 consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for 3 consecutive months or 90 days in a twelve-month period. The HA will determine if the reason for incarceration is for drug-related or violent criminal activity.

## **Foster Care and Absences of Children**

If the family includes a child or children temporarily absent from the home due to placement in foster care, the HA will determine from the appropriate agency when the child/children will be returned to the home.

If the time period is to be greater than three months from the date of removal of the child/children, the Certificate/Voucher size will be reduced. If all children are removed from the home permanently, the certificate or voucher size will be reduced in accordance with the HA's subsidy standards.

## **Absence of Adult**

If neither parent remains in the household and the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the HA will treat that adult as a visitor for the first 30 days.

If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, the Certificate or Voucher will be transferred to the caretaker.

If the appropriate agency cannot confirm the guardianship status of the caretaker, the HA will review the status at 30-day intervals.

If custody or legal guardianship has not been awarded by the court, but the action is in process, the HA will secure verification from social services staff or the attorney as to the status.

The HA will transfer the certificate or voucher to the caretaker, in the absence of a court order, if the caretaker has been in the unit for more than 90 days and it is reasonable to expect that custody will be granted.

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

If a member of the household is subject to a court order that restricts him/her from the home for more than three months, the person will be considered permanently absent.

If an adult family member leaves the household for any reason, the family must report the change in family composition to the HA within 10 days.

The family member will be determined permanently absent if verification is provided.

Upon request, the HA will grant a time extension as an accommodation for a person with a disability.

If an adult child goes into the military and leaves the household, they will be considered permanently absent.

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

Full time students who attend school away from the home and live with the family during school recess will be considered temporarily absent from the household.

### **Visitors**

Any adult not included on the HUD 50058 who has been in the unit more than 30 consecutive days, or a total of 150 days in a 12-month period, will be considered to be living in the unit as an unauthorized household member.

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

Statements from neighbors and/or the landlord will be considered in making the determination.

Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the family and the HA will terminate assistance since prior approval was not requested for the addition.

In a joint custody arrangement, the minor will be considered to be an eligible family member.

### **Reporting Additions to Owner and HA**

Reporting changes in household composition to the HA is both a HUD and an HA requirement.

The family obligations require the family to request HA approval to add any other family member as an occupant of the unit and to inform the HA of the birth, adoption or court- awarded custody of a child. The family must request prior approval of additional household members in writing.

If the family does not obtain prior written approval from the HA, any person the family has permitted to move in will be considered an unauthorized household member.

Families are required to report any additions to the household in writing to the HA within 10 days of the move-in date.

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

In addition, the lease may require the family to obtain prior written approval from the owner when there are changes in family composition.

### **Reporting Absences to the HA**

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

If a family member leaves the household, the family must report this change to the HA, in writing, within 10 days of the change and certify as to whether the member is temporarily absent or permanently absent.

The HA will conduct an interim evaluation for changes which affect the TTP in accordance with the interim policy.

### **C. AVERAGING INCOME**

When Annual Income cannot be anticipated for a full twelve months, the HA may:

- Annualize current income and conduct an interim reexamination if income changes.
- If there are bonuses or overtime that the employer cannot anticipate for the next twelve months, bonuses and overtime received the previous year will be used.
- Income from the previous year may be analyzed to determine the amount to anticipate when third party or pay stub verification is not available.
- If by averaging, an estimate can be made for those families whose income fluctuates from month to month, this estimate will be used so that the housing payment will not change from month to month.

The method used depends on the regularity, source and type of income.

### **D. MINIMUM INCOME**

There is no minimum income requirement. However, a family will be required to pursue sources of income such as TANF, municipal welfare, State unemployment Insurance and State Disability Insurance where the family is eligible for this type of assistance. If a family chooses not to comply with the requirements of a social program providing a source of income to the family, and where the family would otherwise be eligible for the benefit, the HA will calculate the family's income at the eligible benefit rate.

**E. INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME**

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, the HA will calculate the Total Tenant Payment.

Remove from the lease and exclude the income of the person permanently confined to the nursing home.

**G. REGULAR CONTRIBUTIONS AND GIFTS [24 CPR 5.609]**

Regular contributions and gifts received from persons outside the household are counted as income for calculation of the Total Tenant Payment.

Any contribution or gift received every three months or more frequently will be considered a "regular" contribution or gift, unless the amount is less than \$1000.00 per year. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts. (See Chapter 7, "Verification Procedures," for further definition.)

If the family's expenses exceed its known income, the HA will question the family about contributions and gifts.

**H. ALIMONY AND CHILD SUPPORT [24 CFR 5.609]**

Regular alimony and child support payments are counted as income for calculation of Total Tenant Payment.

If the amount of child support or alimony received *is* less than the amount awarded by the court, the HA must use the amount awarded by the court unless the family can verify that they are not receiving the full amount.

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

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



## **I. LUMP-SUM RECEIPTS [24 CFR 5.609]**

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

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

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

The HA will always calculate retroactively to date of receipt.

### **Retroactive Calculation Methodology**

1. The HA will go back to the date the lump-sum payment was received, or to the date of admission, whichever is closer.
2. The HA will determine the amount of income for each certification period, including the lump sum, and recalculate the tenant rent for each certification period to determine the amount due the HA.

The family may pay this "retroactive" amount to the HA in a lump sum or, at the HA's option, the HA may enter into a Repayment Agreement with the family.

The amount owed by the family *is* a collectible debt even if the family becomes unassisted.

### **Attorney Fees**

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

## **J. CONTRIBUTIONS TO RETIREMENT FUNDS - ASSETS**

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

1. While an individual is employed, count as assets only amounts the family can withdraw without retiring or terminating employment.
2. After retirement or termination of employment, count any amount the employee

elects to receive as a lump sum.

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

#### **K     ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**

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

#### **L.     CHILD CARE EXPENSES [24 CFR 5.603]**

Child care expenses for children under 13 may be deducted from annual income if they enable an adult to work or attend school full time, or to actively seek employment.

In the case of a child attending private school, only after-hours care can be counted as child care expenses.

Allowability of deductions for child care expenses is based on the following guidelines:

Child care to work: The maximum child care expense allowed must be less than the amount earned by the person enabled to work. The "person enabled to work" will be the adult member of the household who earns the least amount of income from working.

Child care for school: The number of hours claimed for child care may not exceed the number of hours the family member is attending school (including one hour travel time to and from school).

#### **M.     MEDICAL EXPENSES**

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

Nonprescription medicines must be doctor-recommended in order to be considered a medical expense.

Acupressure, acupuncture and related herbal medicines, and chiropractic services will be considered allowable medical expenses.

**N. PRORATION OF ASSISTANCE FOR “MIXED” FAMILIES [24 CFR 5.520]**

**Applicability**

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

“Mixed” families that were participants on June 19, 1995, and that do not qualify for continued assistance must be offered prorated assistance. (See Chapter 12, “Recertifications.”) Applicant mixed families are entitled to prorated assistance. Families that become mixed after June 19, 1995 by addition of an ineligible member are entitled to prorated assistance.

**Prorated Assistance Calculation**

Prorated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying by the percent of the family members who actually are eligible. Total Tenant Payment is the gross rent minus the prorated assistance.

**O. REDUCTION IN BENEFITS**

If the family's benefits, such as social security, SSI or AFDC, are reduced through no fault of the family, the *HA* will use the net amount of the benefit.

If the family’s benefits were reduced due to family error, omission, or misrepresentations, the *HA* will use the gross amount of the benefit.

**P. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS [24 CFR 887.361, 982.153]**

The same Utility Allowance Schedule is used for both Certificates and Vouchers.

The Utility allowance is intended to help defray the cost of utilities not included in the rent and is subtracted from Total Tenant Payment to establish the family's rent to the landlord. The allowances are based on actual rates and average consumption studies, not on a family's actual consumption. The *HA will* review the Utility Allowance Schedule on an annual basis and revise it if needed.

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

Where the Utility Allowance exceeds the family’s Total Tenant Payment, the *HA* will provide a Utility Reimbursement Payment for the family each month.

**Q. MINIMUM TENANT RENT PAYMENT**

The minimum tenant rent payment will be 10% of the family's monthly income or \$50.00, whichever is greater.

**R. MINIMUM RENT HARDSHIP EXEMPTIONS**

The HA shall immediately grant an exemption from application of the minimum monthly rent to any family making a proper request in writing who is unable to pay because of financial hardship, which shall include:

The family has lost eligibility for, or is awaiting aneligibility determination from a federal, state, or local assistance program, including a family that includes a member who is an alien lawfully admitted for permanent residence under the immigration and naturalization act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

The family would be evicted as a result of the implementation of the minimum rent (this exemption is only applicable for the initial implementation of a minimum rent or increase to the existing minimum rent).

The income of the family has decreased because of changed circumstance, including loss of employment.

A death in the family has occurred which affects the family circumstances. Other circumstances may be decided by the HA on a case-by-case basis.

**Reduction of Welfare Benefits**

If the Section 8 participant requests an income reexamination and the rent reduction is predicated on a reduction in tenant income from welfare, the request will be denied, but only after obtaining written verification from the welfare agency that the family's benefits have been reduced because of:

- Noncompliance with economic self-sufficiency program
- Noncompliance with work activities requirements
- Fraud

## **Chapter 7**

### **VERIFICATION PROCEDURES**

[24 CFR Part 5, Subparts B, D, E and F; 982.108]

#### **INTRODUCTION**

HUD regulations require that the factors of eligibility and Total Tenant Payment be verified by the HA. Applicants and program participants must furnish proof of their statements whenever required by the HA, and the information they provide must be true and complete. The HA's verification requirements are designed to maintain program integrity. This Chapter explains the HA's procedures and standards for verification of preferences, income, assets, allowable deductions, family status, and when there are changes in family members. The HA will ensure that proper authorization from the family is always obtained before making verification inquiries.

#### **A. METHODS OF VERIFICATION AND TIME ALLOWED**

The MHA will utilize the Department of Labor's "SWICA" and EIV systems to facilitate computer matching and upfront verification of employment income.

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

1. Third-Party Written
2. Third-Party Oral
3. Review of Documents
4. Certification/Self-Declaration

The HA will allow three weeks for return of third-party verifications and two weeks to obtain other types of verifications before going to the next method.

For applicants, verifications may not be more than 60 days old at the time of Certificate/Voucher issuance. For participants, they are valid for 120 days from date of receipt.

#### **Third-Party Written Verification**

Third-party verification *is* used to verify information directly with the source. Third-party written verification forms will be sent and returned via first class mail. The family will be required to sign an authorization for the information source to release the specified information.

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

Third-party verification forms will not be hand carried by the family under any circumstances except in a sealed envelope where the signature of the author appears over the seal. The HA will accept verifications delivered by the family from the following agencies:

- Social Security Administration
- Veterans Administration
- Welfare Assistance
- Unemployment Compensation Board City or County Courts
- Disability Compensation Board

### **Third-Party Oral Verification**

Oral third-party verification will be used when written third-party verification is delayed or not possible. When third-party oral verification is used, staff will be required to complete a Certification of Document Viewed or Person Contacted form, noting with whom they spoke, the date of the conversation, and the facts provided. If oral third-party verification is not available, the HA will compare the information to any documents provided by the Family. If provided by telephone, the HA must originate the call.

### **Review of Documents**

In the event that third-party written or oral verification is unavailable, or the information has not been verified by the third party within three weeks, the HA will document the file accordingly and utilize documents provided by the family as the primary source if the documents provide complete information.

All such documents, excluding government checks; will be photocopied and retained in the applicant file. In cases where documents are viewed which cannot be photocopied, staff viewing the document(s) will complete a Certification of Document Viewed or Person Contacted form.

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

- Printed wage stubs
- Computer printouts from the employer
- Signed letters
- Other documents noted in this Chapter as acceptable verification

The HA will accept faxed documents. The HA will not accept photocopies.

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

The HA will not delay the processing of an application beyond 21 days because a third-party information provider does not return the verification in a timely manner.

### **Self-Certification/Self-Declaration**

When third-party verification or review of documents cannot be provided, families will be required to submit a self-certification. Self-certification means a notarized certification statement.

### **B. RELEASE OF INFORMATION**

The family will be required to sign specific authorization forms when information is needed that is not covered by the HUD form 9886, Authorization for Release of information.

Each member requested to consent to the release of information will be provided with a copy of the appropriate forms for their review and signature.

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

### **C. COMPUTER MATCHING**

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

### **D. ITEMS TO BE VERIFIED**

All income not specifically excluded by the regulations. Zero-income status of household.

Full-time student status including High School students who are 18 or over.

Current assets including assets disposed of for less than fair market value in the preceding three years.

Child care expense where it allows an adult family member to be employed or to further his/her education.

Total medical expenses of all family members in households whose head or spouse is elderly or disabled.

Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus that allow an adult family member to be employed.

### **Identity**

Disability for determination of preferences, allowances or deductions.

U.S. citizenship/eligible immigrant status.

Social Security Numbers for all family members over 6 years of age.

"Preference" status based upon Local preferences.

Marital status when needed for head or spouse definition.

## **E. VERIFICATION OF INCOME**

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

### **Employment Income**

Verification forms request the employer to specify the:

- Dates of employment
- Amount and frequency of pay
- Date of the last pay increase
- Likelihood of change of employment status and effective date of any known salary increase during the next 12 months
- Year-to-date earnings
- Estimated income from overtime, tips, bonus pay expected during next 12 months

Acceptable methods of verification include, in this order:

- i. *Employment verification form completed by the employer.*
- ii. Check stubs or earning statements that indicate the employee's gross pay, frequency of pay or year- to-date earnings:
- iii. W-2 forms plus income tax return forms.
- iv. Self-certifications and income tax returns signed by the family may be used for verifying self-employment income, or income from tips and other gratuities.

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

### **Social Security, Pensions, Supplementary Security Income (SSI), Disability Income**

Acceptable methods of verification include, in this order:

1. Benefit verification form completed by agency providing the benefits.
2. Award or benefit notification letters prepared and signed by the providing agency.
3. Computer report electronically obtained or in hard copy.
4. Bank statements for direct deposits.



### **Unemployment Compensation**

Acceptable methods of verification include, in this order:

1. Verification form completed by the unemployment compensation agency.
2. Computer printouts from unemployment office stating payment dates and amounts.
3. Payment stubs.

### **Welfare Payments or General Assistance**

Acceptable methods of verification include, in this order:

1. HA verification form completed by payment provider.
2. Written statement from payment provider indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months.
3. Computer-generated Notice of Action.

### **Alimony or Child Support Payments**

Acceptable methods of verification include, in this order:

1. Copy of a separation or settlement agreement or a divorce decree stating amounts and types of support and payment schedules.
2. A notarized letter from the person paying the support.
3. Copy of latest check and/or payment stubs from Court Trustee.
4. Family's notarized self-certification *of* amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.
5. If payments are irregular, the family must provide:
  - A copy of the separation or settlement agreement, or a divorce decree stating the amount and type of support and payment schedules.
  - A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement.
  - A notarized affidavit from the family indicating the amount(s) received.
  - A welfare notice of action showing amounts received by the welfare agency for child support.

### **Net Income from a Business**

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

Acceptable methods of verification include:

1. IRS Form 1040, including:  
Schedule C (Small Business) Schedule E (Rental Property Income) Schedule F (Farm Income)
2. Accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense computed using straight-line depreciation rules.
3. Audited or unaudited financial statement(s) of the business.
4. Documents such as manifests, appointment books, cash books, bank statements, and receipts will be used as a guide for the prior six months (or lesser period if not in business for six months) to project income for the next 12 months. The family will be advised to maintain these documents in the future if they are not available.
5. Family's self-certification as to net income realized from the business during previous years.

### **Child Care Business**

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

If the family has filed a tax return, the family will be required to provide it.

If child care services were terminated, the HA will seek third-party oral verification from the parent whose child was cared for.

### **Recurring Gifts**

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

- The person who provides the gifts
- The value of the gifts
- The regularity (dates) of the gifts
- The purpose of the gifts

### **Zero Income Status**

Families who claim to have no income will be required to execute verification forms to determine that forms of income such as unemployment benefits, TANF, SSI, General Assistance, etc. are not being received by the household. Where a family is eligible for such forms of assistance, the family will be required to pursue the assistance.

### **Full-Time Student Status**

Only the first \$480 of the earned income of full-time students, other than head or spouse, will be counted towards family income. "Full-time" status is defined as a minimum of 12 credits per semester.

Financial aid, scholarships and grants received by full time students are not counted towards family income.

Verification of full-time student status includes:

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

### **F. INCOME FROM ASSETS**

Acceptable methods of verification include, in this order:

#### **Savings Account Interest Income and Dividends**

Will be verified by:

1. Account statements, passbooks, certificates of deposit, or HA verification forms completed by the financial institution.
2. Broker's statements showing value of stocks and/or bonds and the earnings credited the family. Earnings can be obtained from current newspaper quotations or oral broker's verification.
3. IRS Form 1099 from the financial institution, provided that the HA must adjust the information to project earnings expected for the next 12 months.

### Interest Income from Mortgages or Similar Arrangements

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

### Net Rental Income from Property Owned by Family

1. IRS Fann 1040 with Schedule E (Rental Income).
2. Copies of latest rent receipts, leases, or other documentation of rent amounts.
3. Documentation of allowable operating expenses of the property: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

## **G. VERIFICATION OF ASSETS**

### **Family Assets**

The HA will require the necessary information to determine the current cash value, (the net amount the family would receive if the asset were converted to cash).

1. Verification forms, letters, or documents from a financial institution or broker.
2. Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.
3. Quotes from a stockbroker or realty agent as to net amount family would receive if they liquidated securities or real estate.
4. Real estate tax statements if the approximate current market value can be deduced from assessment.
5. Financial statements for business assets.
6. Copies of closing documents showing the selling price and the distribution of the sales proceeds.
7. Appraisals of personal property held as an investment.
8. Family's self-certification describing assets or cash held at the family's home or in safe deposit boxes.

### Assets Disposed of for Less than Fair Market Value [FMV]

1. For all Certifications and Recertifications, the HA will obtain the Family's certification as to whether any member has disposed of assets for less than fair market value during the three years preceding the effective date of the certification or recertification.
2. If the family certifies that they have disposed of assets for less than fair market value, verification [or certification] is required that shows: (a) all assets disposed of for less than FMV, (b) the date they were disposed of, (c) the amount the family received, and (d) the market value of the assets at the time of disposition. Third party verification will be obtained wherever possible.

## **H. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME**

### **Child Care Expenses**

1. Written verification from the person who receives the payments is required. If the child care provider is an individual, s/he must provide a statement of the amount they are charging the family for their services.
2. Verifications must specify the child care provider's name, address, telephone number, the names of the children cared for, the number of hours the child care occurs, the rate of pay, and the typical yearly amount paid, including school and vacation periods.
3. Family's certification as to whether any of those payments have been or will be paid or reimbursed by outside sources.

### **Medical Expenses**

Families who claim medical expenses or expenses to assist a person(s) with disability will be required to submit a certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source. One or more of the methods listed below will serve to verify all expense claims:

1. Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and (b) extent to which those expenses will be reimbursed by insurance or a government agency.
2. Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.
3. Written confirmation from the Social Security Administration's written of Medicare premiums to be paid by the family over the next 12 months. A computer printout will be accepted.

4. For attendant care:
  - a. A reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.
  - b. Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or stubs from the agency providing these services.
5. Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months.
6. Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next 12 months.
7. Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses. HA may use this approach for "general medical expenses" such as non-prescription drugs and regular visits to doctors or dentists, but not for one-time, nonrecurring expenses from the previous year.
8. The HA will use mileage at the IRS rate, or cab, bus fare, or other public transportation. cost for verification of the cost of transportation directly related to medical treatment.

#### **Assistance to Persons with Disabilities**

1. In All Cases:
  - (a) Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another family member to be employed.
  - (b) Family's certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.
2. Attendant Care:
  - (a) Attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided.
  - (b) Certification of family and attendant and/or copies of canceled checks family used to make payments.
3. Auxiliary Apparatus:
  - (a) Receipts for purchases or proof of monthly payments and maintenance expenses for auxiliary apparatus.
  - (b) In the case where the person with disabilities is employed, a statement from the employer that the auxiliary apparatus is necessary for employment.

## **I. VERIFYING NON-FINANCIAL FACTORS**

### **Verification of Legal Identity**

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

The documents listed will be considered acceptable verification of legal identity for adults. If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required: Certificate of Birth, Naturalization Papers, Valid New Jersey Photo Driver's License, U.S. Passport.

Documents considered acceptable for the verification of legal identity for minors may be one or more of the following - Certificate of Birth, Adoption papers, Custody agreement, Health and Human Services ID.

### **Verification of Marital Status**

Verification of divorce status will be a certified copy of the divorce decree, signed by a Court Officer.

Verification of a separation may be a copy of court-ordered maintenance or other records.

Verification of marriage status is a marriage certificate.

### **Familial Relationships**

Certification will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification.

The following verifications will always be required, if applicable - Verification of relationship: Official Identification Showing Names, Birth Certificates.

### **Verification of Permanent Absence of Adult Member**

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

1. Husband or wife institutes divorce action.
2. Husband or wife institutes legal separation.
3. Order of protection/restraining order obtained by one family member against another.
4. Proof of another home address, such as utility bills, canceled checks for rent, driver's license, and lease or rental agreement.
5. Statements from other agencies such as social services or a written statement from the landlord or manager that the adult family member is no longer living at that location.
7. If the adult family member is incarcerated, a document from the Court or prison should be obtained stating how long they will be incarcerated.

### **Verification of Change in Family Composition.**

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

### **Verification of Disability**

Verification of disability must be receipt of SSI or SSA disability payments under Section 223 of the Social Security Act or 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7) or verified by appropriate diagnostician such as physician, psychiatrist, psychologist, therapist, rehab specialist, or licensed social worker, using the HUD language as the verification format.

### **Verification of Citizenship/Eligible Immigrant Status**

To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants. Individuals who are neither may elect not to contend their status. Eligible immigrants must fall into one of the categories specified by the regulations and must have their status verified by Immigration and Naturalization Service (INS). Each family member must declare his or her status once. Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while the HA hearing is pending.

- (a) Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury. The HA will require citizens to provide documentation of citizenship.
- (b) Eligible Immigrants who were Participants and 62 or over on June 19, 1995 are required to sign a declaration of eligible immigration status and provide proof of age.
- (c) Noncitizens with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents which are copied front and back and returned to the family. The HA verifies the status through the INS SAVE system. If this primary verification fails to verify status, the HA must request within ten days that the JNS conduct a manual search.
- (d) Ineligible family members who do not claim to be citizens or eligible immigrants must be listed on a statement of ineligible family members signed by the head of household or spouse.
- (e) Noncitizen students on student visas are ineligible members even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they do not sign a declaration but are listed on the statement of ineligible members.



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

Time of Verification. For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same time as verification of other factors of eligibility for final eligibility determination. For participants, it is done at the first regular recertification after June 19, 1995. For family members added after other members have been verified, the verification occurs at the first recertification after the new member moves in. Once verification has been completed for any covered program, it need not be repeated (except for portable families where the initial HA does not supply the documents)

Extensions of Time to Provide Documents. The HA will grant an extension of 15 days for families to submit evidence of eligible immigrant status.

Acceptable Documents of Eligible Immigration. The regulations stipulate that only the following documents are acceptable unless changes are published in the Federal Register:

Resident Alien Card (I-551)

Alien Registration Receipt Card (I-151)

Arrival-Departure Record (I-94)

Temporary Resident Card (I-688)

Employment Authorization Card (T-688B)

Receipt issued by the INS for issuance of replacement of any of the above documents that shows individual's entitlement has been verified.

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

If the HA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside permanently in the family's unit, the family's assistance will be terminated.

### **Verification of Social Security Numbers**

Social security numbers must be provided as a condition of eligibility for all family members age six and over. Verification of Social Security numbers will be done through a Social Security Card issued by the Social Security Administration. If a family member cannot produce a Social Security Card, only the documents listed below showing his or her Social Security Number may be used for verification. The family is also required to certify in writing that the document(s) submitted in lieu of the Social Security Card information provided is/are complete and accurate:

- A driver's license
- Identification card issued by a Federal, State or local agency
- Identification card issued by a medical insurance company or provider (including Medicare and Medicaid)
- An identification card issued by an employer or trade union
- An identification card issued by a medical insurance company
- Earnings statements or payroll stubs
- Bank Statements
- IRS Form 1099
- Benefit award letters from government agencies Retirement benefit letter
- Life insurance policies
- Court records such as real estate, tax notices, marriage and divorce, judgment or bankruptcy records
- Verification of benefits or Social Security Number from Social Security Administration

New family members ages six and older will be required to produce their Social Security Card or provide the substitute documentation described above together with their certification that the substitute information provided is complete and accurate. This information is to be provided at the time the change in family composition is reported to the HA.

If an applicant or participant is able to disclose the Social Security Number but cannot meet the documentation requirements, the applicant or participant must sign a certification to that effect provided by the HA. The applicant/participant or family member will have an additional 10 days to provide proof of the Social Security Number. If they fail to provide this documentation, the family's assistance will be terminated.

In the case of an individual at least 62 years of age, the HA may grant an extension for an additional 60 days to a total of 120 days. If, at the end of this time, the elderly individual has not provided documentation, the family's assistance will be terminated.

If the family member states they have not been issued a number, the family member will be required to sign a certification to this effect, and must immediately apply for one.

### **Medical Need for Larger Unit**

A written certification that a larger unit is necessary must be obtained from a reliable, knowledgeable professional.

## **J. WAITING LIST PREFERENCES [24 CFR 5.410-5.430]**

### **Local Preferences**

Local preferences will be used to select families from the waiting list.

These categories will receive a local preference:

1. **Residency Preference:** For families who live, work or have been hired to work in the jurisdiction of the HA.

In order to verify that an applicant is a resident, the HA will require a minimum of four of the following documents: rent receipts, lease, utility bills, employer or agency records, school records, driver's license, voters registration card, credit reports, notarized statement from household with whom the family is residing.

For families who have been hired to work in jurisdiction of the HA, a statement from the employer will be required.

2. **Working preference:** This preference is available for families with at least one member who is employed. The HA will require a statement from the employer.

## Chapter 8

### VOUCHER ISSUANCE AND BRIEFINGS

#### **INTRODUCTION**

The HA's objectives are to assure that families selected to participate are successful in obtaining an acceptable housing unit, and that they have sufficient knowledge to derive maximum benefit from the program and to comply with program requirements. When families have been determined to be eligible, the HA will conduct a mandatory briefing to ensure that families know how the program works. The briefing will provide a broad description of owner and family responsibilities, HA procedures, and how to lease a unit. The family will also receive a briefing packet, which provides more detailed information about the program. This Chapter describes how briefings will be conducted, the information that will be provided to families, and the policies for how changes in the family composition will be handled.

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

When funding is available, the HA will issue Vouchers to applicants whose eligibility has been determined. The issuance of Vouchers must be within the dollar limitations set by the ACC budget.

The number of Vouchers issued must ensure that the HA stays as close as possible to 100% lease-up. The HA performs a monthly calculation manually to determine whether applications can be processed, the number of Vouchers that can be issued, and to what extent the HA can over-issue (issue more Vouchers than the budget allows).

The HA may over-issue Vouchers only to the extent necessary to meet leasing goals. All Vouchers that are over-issued must be honored. If the HA finds it is over-leased, it must adjust future issuance of Vouchers in order not to exceed the ACC budget limitations over the fiscal year.

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

##### **Initial Applicant Briefing**

A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in individual meetings. Briefings will be conducted in English. The purpose of the briefing is to explain the documents in the Voucher holder's packet to families so that they are fully informed about the program. This will enable them to utilize the program to their advantage, and it will prepare them to discuss it with potential owners and property managers.

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

### **Briefing Packet**

The documents and information provided in the briefing packet for the Voucher program will comply with all HUD requirements.

The family is provided with the following information and materials:

1. The term of the voucher, and the HA policy for requesting extensions to the term of the voucher or suspensions of the voucher.
2. A description of the method used to calculate the assistance payment, information on payment standards (voucher program), and utility allowances.
3. How the maximum allowable rent is determined.
4. Guidance and materials to assist the family in selecting a unit, such as proximity to employment, public transportation, schools, shopping, and the accessibility of services. Guidance will also be provided to assist the family to evaluate the prospective unit, such as the condition, whether the rent is reasonable, average, utility expense, energy efficiency, and security.
5. The boundaries of the geographical area in which the family may lease a unit including an explanation of portability.
6. The HA model lease and HUD lease addendum.
7. The Request for Lease Approval form, and a description of the procedure for requesting approval for a unit.
8. The HA policy on providing information about families to prospective owners.
9. The Subsidy Standards and when and how exceptions are made.
10. The HUD brochure on how to select a unit and/or the HUD brochure "A Good Place to Live" on how to select a unit that complies with HQS.
11. The HUD brochure on lead-based paint.

12. Information on federal, state and local equal opportunity laws, the form for reporting suspected discrimination and the phone numbers of the local fair housing agency and the HUD enforcement office.
13. A list of landlords or other parties willing to lease to assisted families or help in the search and/or known units available for the size certificate or voucher issued.
14. If the family includes a person with disabilities, notice that the HA will provide a list of available accessible units known to the HA.
15. The Family Obligations under the program.
16. The grounds for termination of assistance because of family action or failure to act.
17. When the HA is required to offer an informal hearing, how to request the hearing, and the hearing procedures.
18. Requirements for reporting changes between certifications.
19. Information on security deposits and legal referral services.

#### Other Information to be Provided at the Briefing

The person conducting the briefing will also describe how the program works and the relationship between the family and the owner, the family and the HA, and the HA and the owner.

The briefing presentation emphasizes, family and owner responsibilities, where a family may lease a unit inside and outside its jurisdiction, how portability works for families eligible to exercise portability, advantages to moving to area with low concentration of poor families if family *is* living in a high poverty census tract in the HA's jurisdiction.

If the family includes a person with disabilities, the HA will ensure compliance with CFR 8.6 to ensure effective communication.

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

At the briefing, families are encouraged to search for housing in non-impacted areas and the HA will provide assistance to families who wish to do so. The assistance provided to such families includes:

- Direct contact with landlords.

- Counseling with the family.
- Providing information about services in various non-impacted areas.
- Meeting with neighborhood groups to promote understanding.
- Formal or informal discussions with landlord groups.
- Formal or informal discussions with social service agencies
- Meeting with rental referral companies or agencies.
- Meeting with fair housing groups or agencies.

**D. ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION**

**Fair Housing Laws**

The HA provides the family with the telephone number and location of the local Fair Housing office. If HUD Fair Housing makes a finding of discrimination against an owner, the HA will restrict the owner from future participation.

**E. SECURITY DEPOSIT REQUIREMENTS [24 CFR 982.313]**

**Leases Effective Prior to October 2, 1995**

The amount of Security Deposit that could have been collected by owners under contracts effective prior to October 2, 1995 is:

Under the Certificate Program, the owner could have collected a Security Deposit in an amount not to exceed Total Tenant Payment or \$50.00, whichever is greater, for non-lease-in-place families.

For the Voucher Program, the owner at his/her discretion, could have collected a Security Deposit in an amount not to exceed (HA policy): The tenant's monthly portion of rent.

**Leases Effective on or after October 2, 1995**

Security deposits charged by owners may not exceed the maximum prescribed by State or local law.

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

**F. TERM OF VOUCHER [24 CFR 982.303, 982.54(d)(11)]**

During the briefing session, each household will be issued a Certificate or Voucher which represents a contractual agreement between the HA and the Family specifying the rights and responsibilities of each party. It does not constitute admission to the program, which occurs when the lease and contract become effective.

**Expirations**

The Voucher is valid for a period of sixty calendar days from the date of issuance. The family must submit a Request for Lease Approval and Lease within the sixty-day period unless an extension has been granted by the HA.

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

### **Suspensions**

When a Request for Lease Approval is received, the HA will not deduct the number of days required to process the request from the 60-day term of the certificate/voucher.

### **Extensions**

A family may request an extension of the Voucher time period. All requests for extensions must be received prior to the expiration date of the Voucher, either by telephone or in writing. No more than two extensions of 30 days will be granted.

Exception extensions are permissible at the discretion of the HA up to a maximum of 120 days, primarily for these reasons:

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

The family was prevented from finding a unit due to disability accessibility requirements or large size [over three] bedroom unit requirement.

### **Assistance to Voucher Holders**

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

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

## **G. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS [24 CFR 982.315]**

In those instances when a family assisted under the Housing Choice Voucher program becomes divided into two otherwise eligible families due to divorce, legal separation, or the division of the family, and the new families cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, the HA shall consider the following factors to determine which of the families will continue to be assisted:

1. Which of the two new family units has custody of dependent children.



2. The composition of the new family units; and which unit contains elderly or disabled members.
3. Whether domestic violence was involved in the breakup.
4. Which family members remain in the unit.
5. Recommendations of social service professionals.

Documentation of these factors will be the responsibility of the requesting parties.

If documentation is not provided, the HA will terminate assistance on the basis of failure to provide information necessary for a recertification.

Where the breakup of the family also results in a reduction of the size of the Voucher, the family will be required to move to a smaller unit if the current landlord is unwilling to accept the rent level of the smaller sized certificate.

**R. REMAINING MEMBER OF TENANT FAMILY - RETENTION OF VOUCHER**

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

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

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

## Chapter 9

### REQUEST FOR LEASE APPROVAL AND CONTRACT EXECUTION

#### **INTRODUCTION** [24 CFR 982.305 (a)]

After families are issued a voucher, they may search for a unit anywhere within the jurisdiction of the HA, or outside of the HA's jurisdiction if they qualify for portability. The family must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a Housing Assistance Payments Contract with the HA. This Chapter defines the types of eligible housing, the HA's policies which pertain to initial inspections, lease requirements, owner disapproval, and the processing of Requests For Lease Approval (RLA).

#### **A. REQUEST FOR LEASE APPROVAL** [24 CFR 982.305 (b)]

The family must submit the Request for Lease Approval (RLA) and a copy of the proposed Lease during the term of the certificate or voucher.

Both the owner and Voucher holder must sign the Request for Lease Approval. The lease may be executed up to 60 days prior to contract execution but cannot be executed without approval of the HA.

The HA will review the documents to determine whether or not they are approvable. The

Request will be approved if:

1. The unit is an eligible type of housing
2. The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan)
3. The rent is reasonable
4. The security deposit amount is within the limits of State law.
5. The proposed lease complies with HUD and HA requirements and State and Local Law
6. The owner is approvable, not on the HUD disbarred list, and there are no conflicts of interest.

### **Disapproval of Request for Leave Approval (RLA)**

If the HA determines that the Request cannot be approved for any reason, the landlord and the family will be notified in writing. The HA will instruct the owner and family of the steps that are necessary to approve the Request.

The owner will be given 14 calendar days to submit an approvable RLA from the date of disapproval. When, for any reason, an RLA is not approved, the HA will furnish another RLA form to the family along with the notice of disapproval so that the family can continue to search for eligible housing. The time limit on the Voucher will be suspended while the RLA is being processed.

### **B. ELIGIBLE TYPES OF HOUSING** [24 CFR 982.353, 982.54(d)(15)]

The HA will approve any of the following types of housing in the Voucher program:

- All structure types can be utilized.
- Manufactured homes where the tenant leases the mobile home and the pad.
- Manufactured homes where the tenant owns the mobile home and leases the pad (Certificate Program only).
- Independent Group Residences Single Room Occupancy
- A family can own a rental unit but cannot reside in it while being assisted, except in the Certificate program for manufactured homes when the tenant owns the mobile home and leases the pad. A family may lease in and have an interest in a cooperative housing development.
- Families may not lease properties owned by relatives, unless as an accommodation for a disabled family as stipulated in HUD regulations, unless contract was effective prior to October 2, 1995.
- The HA may not permit a Voucher holder to lease a unit which is receiving Project-Based Section 8 assistance or any duplicative rental subsidies.

The HA will not approve:

- Nursing homes or other institutions that provide care.
- School dormitories and institutional housing.
- Any other types of housing prohibited by HUD.

**C. LEASE REVIEW** (24 CFR 982.308)

The HA will review the lease, particularly noting the approvability of optional charges and compliance with regulations and State/local law. Responsibility for utilities, appliances and optional services must correspond to those provided on the Request For Lease Approval.

Owners may either submit their own lease or permit the HA to furnish the lease. In cases where the owner's lease is used, the HUD lease addendum must be attached and executed.

**Separate Agreements**

Separate agreements are not necessarily illegal side agreements. Families and owners will be advised of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease.

Owners and families may execute separate agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by the HA.

Any appliances, services or other items that are routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit, cannot be put under separate agreement and must be included in the lease. For there to be a separate agreement, the family must have the option of not utilizing the service, appliance, or other item.

The HA is not liable for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, so long as those charges are reasonable and not a substitute for higher rent they will be allowed.

All agreements for special items or services must be attached to the lease approved by the HA. If agreements are entered into at a later date, they must be approved by the HA and attached to the lease.

**D. INITIAL INSPECTIONS** [24 CFR 982.305 (a) & (b)] See Chapter 10, "Housing Quality Standards and Inspections."

**E. RENT LIMITATIONS** [24 CFR 882.106 (a)]

The HA may approve exception rents that are up to 10% above the FMR for no more than 20% of budgeted units [or 30% if HUD-approved].

Exception Rents will be utilized to increase the housing choices available to low-income

families.

Rent reasonableness will still be used as a measure of whether the rent is approvable.

The HA will manually track all units for which an Exception Rent is approved, to assure that not more than 30% of the units under the Voucher program (based on the number of units shown on Line 4 of the last budget submitted to HUD) have received approval for rents which exceed the FMR by up to 10%.

For the Voucher program, the HA will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market, and the rent charged by the owner for a comparable assisted or unassisted unit in the building or premises.

#### **F. DISAPPROVAL OF PROPOSED RENT**

In the Voucher Program, if the Gross Rent proposed exceeds the FMR, the HA may suggest that the owner reduce the Contract Rent or include some or all utilities in Contract Rent.

If the owner accepts the offer of a revised rent, the HA will continue processing the Request for Lease Approval and Lease. If the revised rent involves a change in the provision of utilities, the owner must submit a new Request for Lease Approval form.

If the owner is not willing to reduce or adjust the rent and the 1-IA is satisfied that the requested rent meets the test of rent reasonableness and is less than 110% of FMR, and the HA has remaining "Exception Rent" authority, the HA may approve the Exception Rent. If the unit chosen has more bedrooms than the Voucher size, Exception Rent will not be granted.

If the owner does not agree on the Contract Rent after the HA has tried and failed to negotiate a revised rent, the HA will inform the family and owner that the lease is disapproved.

#### **G. INFORMATION TO OWNERS [24 CFR 982.307 (b), 982.54 (d)(7)]**

The HA is required to provide prospective owners with the address of the applicant and the names and addresses of the current and previous landlord if known.

The HA will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, eviction history, damage to units, and other factors related to the family's suitability as a tenant.

Only the HA staff may provide this information. The HA's policy on providing information to owners is included in the briefing packet and will apply uniformly to all families and owners.

## **H. SECURITY DEPOSIT**

The owner establishes the amount of the security deposit to be charged, subject to state and local law. The security deposit should be consistent with those that the owner charges for comparable unassisted units. If the security deposit is not sufficient to cover amounts the tenant owes under the lease, the owner may seek to collect the balance from the tenant. The HA is not responsible for any damages to the unit and will not process any damage claims for HAP contracts signed after October 2, 1995.

## **I. OWNER DISAPPROVAL [24 CFR 982.306]**

For purposes of this section, "owner" includes a principal or other interested party. The HA will disapprove the owner for the following reasons:

- HUD [or other agency directly related] has informed the HA that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.
- HUD has informed the HA that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending.
- HUD has informed the HA that a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.
- The owner has violated obligations under a housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 14371).
- The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.
- The owner has engaged in drug trafficking.
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program.
- The owner has a history or practice of renting units that fail to meet State or local housing codes.
- The owner has not paid State or local real estate taxes, fines or assessments.

**J. CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE**

When the family reports changes in factors that will affect the Total Tenant Payment (TTP) prior to the effective date of the HAP contract, the information will be verified and the TIP will be recalculated. If the family does not report any change, the HA need not obtain new verifications before signing the HAP Contract, even if verifications are more than 60 days old.

**K. CONTRACT EXECUTION PROCESS [24 CFR 982.305(c)]**

The HA prepares the Housing Assistance Contract for execution. The family and the owner will execute the Lease agreement, and the owner and the HA will execute the HAP Contract. Copies of the documents will be furnished to the parties who signed the respective documents.

The HA makes every effort to execute the HAP Contract before the commencement of the lease term. The HAP Contract may not be executed more than 60 days after commencement of the lease term and no payments will be made until the contract is executed.

Owners must provide an Employer Identification Number or 'Social Security.

**L. CHANGE IN OWNERSHIP**

A change in ownership does not require execution of a new contract.

The HA will process a change of ownership only upon the written request of the new owner and only if accompanied by a copy of the escrow statement or other document showing the transfer of title and the Employee Identification Number or Social Security number of the new owner.

## Chapter 10

### HOUSING QUALITY STANDARDS AND INSPECTIONS

#### **INTRODUCTION**

Housing Quality Standards (HQS) are the HUD minimum quality standards for tenant-based programs. HQS standards are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as the unit.

These minimum Standards may be enhanced by the HA, provided that by doing so, the HA does not overly restrict the number of units available for lease under the program. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and HA requirements. This Chapter describes the HA's procedures for performing HQS and other types of inspections; and standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of non-compliance with HQS requirements for both families and owners.

#### **A. GUIDELINES/TYPES OF INSPECTIONS [24 CFR 982.401 (a), 982.405]**

All units must meet the minimum standards set forth in the Town of Morristown's Building/Housing Code. In cases of inconsistency between the Code and these HQS, the stricter of the two shall prevail.

Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards. All utilities must be in service when the unit is inspected. The stove and refrigerator must be present when the unit is inspected regardless of who is supplying the appliances.

There are five types of inspections the HA will perform:

1. Initial/Move-in: Conducted upon receipt of Request For Lease Approval. HQS inspections will be conducted within 15 days of request by owner or family, unless access to the unit is denied by current tenant or impeded by owner absence.
2. Annual: Must be conducted within 12 months of the previous annual HQS inspection.
3. Special/Complaint: At request of owner, family or an agency or third party.
4. Quality Control: The Executive Director or Deputy Executive Director will conduct a quality control inspection for 5% of all units that have been inspected.



**B. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS [24CFR982.401(a)]**

The HA adheres to the acceptability criteria in the program regulations and HUD Inspection Booklet.

**C. INSPECTIONS**

The HA conducts an inspection in accordance with Housing Quality Standards at least annually, prior to the anniversary month of the contract. Special inspections may be scheduled between anniversary dates.

The landlord must correct HQS deficiencies that cause a unit to fail unless it is a fail for which the tenant is responsible. The family is only responsible for breaches of HQS that are caused by:

- Non-payment of utilities paid by the family,
- Not providing, or failing to maintain, appliances not provided by the owner, and
- Damages to the unit or premises caused by a household member or guest beyond normal wear and tear.

The family must allow the HA to inspect the unit at reasonable times with reasonable notice. [24 CFR 982.51(d)] Inspections will be conducted on business days only. Reasonable hours to conduct an inspection are between 9:00 a.m. and 4:00 p.m.

At the time of the Annual Recertification interview the HA staff will instruct the family to schedule a convenient time for the housing inspection when at least one adult family member can be present.

If the family misses three inspection appointments, the HA will consider the family to have violated a Family Obligation and their assistance will be terminated in accordance with the termination procedures in the Plan.

The family is also notified that it is a Family Obligation to allow the HA to inspect the unit. If the family was responsible for a breach of HQS identified in Chapter 15, "Denial or Termination of Assistance," they will be advised of their responsibility to correct.

**All Inspections:** The family will receive notice that an annual inspection has been scheduled, which will include the date and time the inspection will occur. If the appointment is not convenient for the family, then another appointment will be scheduled that is mutually convenient for the family and the HA staff.

### **Time Standards for Repairs**

1. Emergency items which endanger the family's health or safety must be corrected within 24 hours of notification.
2. For non-emergency items, repairs must be made within 30 days.
3. For major repairs, the HA may approve an extension beyond 30 days.

#### **D. EMERGENCY REPAIR ITEMS [24 CFR 982.401 (a)]**

The following items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notice by the Inspector:

- Waterlogged ceiling in imminent danger of falling Major plumbing leaks or flooding
- Natural gas leak or fumes
- Electrical problem which could result in shock or fire
- No heat when outside temperature is below 40° F and temperature inside unit is below 50° F
- Utilities not in service
- Broken glass where someone could be injured
- Lack of functioning toilet

The HA may give a short extension (not more than 48 additional hours) whenever the responsible party cannot be notified or it is impossible to affect the repair within the 24-hour period.

In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to affect the repair, proper authorities will be notified by the HA.

If the emergency repair item(s) are not corrected in the time period required by the HA, and the owner is responsible, the housing assistance payment will be abated and the HAP contract will be terminated.

If the emergency repair item(s) are not corrected in the time period required by the HA, and it is an HQS breach which is a family obligation, the HA will terminate the assistance to the family and the owner's payment will not be abated for the breach of HQS.

#### **E. CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS)**

When it has been determined that a unit on the program fails to meet Housing Quality Standards, and the owner is responsible for completing the necessary repair(s) in the time period specified by the HA, the assistance payment to the owner will be abated.

## **Abatement**

A Notice of Abatement will be sent to the owner, and the abatement will be effective from the day after the date of the failed inspection. The notice is generally for 14 days, depending on the nature of the repair(s) needed.

The HA will inspect abated units within three days of the owner's notification that the work has been completed.

If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection.

No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The notice of abatement states that the tenant is not responsible for the HA's portion of rent that is abated.

## **Reduction of Payments**

The HA will grant an extension in lieu of abatement in the following cases:

- The owner has a good history of HQS compliance.
- The failed items are minor in nature.
- There is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services.
- The owner makes a good faith effort to make the repairs.
- The repairs are expensive (such as exterior painting or roof repair) and the owner needs time to obtain the funds.
- The repairs must be delayed due to climate conditions.

The extension will be made for a period of time not to exceed 120 days. At the end of that time, at the HA's discretion, if the work is not substantially completed the HA will begin the abatement.

## **Termination of Contract**

If the owner is responsible for repairs, and fails to correct all the deficiencies cited prior to the end of the abatement period, the owner will be sent a HAP Contract Proposed Termination notice. Prior to the effective date of the termination, the abatement will remain in effect.

If repairs are completed before the effective termination date, the termination **may** be rescinded by the HA if the tenant chooses to remain in the unit. Only **two** Housing Quality Standards inspections will be conducted after the termination notice is issued.

**F. DETERMINATION OF RESPONSIBILITY [24 CFR 982.404, 982.54(d)(14)]**

Certain deficiencies are considered the responsibility of the family:

- Tenant-paid utilities not in service
- Failure to provide or maintain family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear.

The owner is responsible for all other HQS violations. The owner is responsible for vermin infestation even if caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. The HA may terminate the family's assistance on that basis.

If the family is responsible but the owner carries out the repairs, the owner will be encouraged to bill the family for the cost of the repairs and the family's file will be noted.

**G. CONSEQUENCES IF FAMILY IS RESPONSIBLE**

If non-emergency violations of HQS are determined to be the responsibility of the family, the HA will require the family make any repair(s) or corrections within 30 days. If the repair(s) or correction(s) are not made in this time period, the HA will terminate assistance to the family. Extensions in these cases must be approved by the HA. The owner's rent will not be abated for items that are the family's responsibility. If the tenant is responsible and corrections are not made, the HAP Contract will terminate when assistance is terminated.

**H. INITIAL HQS INSPECTION**

The Initial Inspection will be conducted to:

- Determine if the unit and property meet the HQS defined in this Plan.
- Document the current condition of the unit as a basis to evaluate whether the future condition of the unit exceeds normal wear and tear.
- Document the information to be used for determination of rent-reasonableness.
- If the unit fails the initial Housing Quality Standards inspection, the owner will be advised to notify the HA once repairs are completed.
- On an initial inspection, the owner will be given up to 60 days to correct the items noted as Fail, at the Inspector's discretion, depending on the amount and complexity of work to be done.
- The owner will be allowed up to three re-inspections for repair work to be completed.

If the time period given by the Inspector to correct the repairs has elapsed, or the maximum number of failed re-inspection has occurred, the family must select another unit.

## **I. ANNUAL HOSINSPECTION**

### **Rent Increases**

The HA will conduct an inspection using the Housing Quality at least annually, prior to the anniversary month of the contract. Contract rent increases in the Certificate program may not be given until the unit passes the HQS. Rent increase requests in the Voucher program will not be approved if the unit is in a failed condition.

## **J. SPECIAL/COMPLAINT INSPECTIONS**

If at any time the family or owner notifies the HA that the unit does not meet Housing Quality Standards, the HA will conduct an inspection.

The HA will inspect only the items which were reported, but if the Inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs.

If the anniversary date is within 120 days of a special inspection, the special inspection will be categorized as annual and all annual procedures will be followed.

## **K. Quality Control Inspections**

The Executive Director will assign the Program Administrator, Manager or other designee to perform Quality Control inspections on five percent (5%) of the units inspected. This is to ensure that inspections are being completed and done accurately, and also to make certain that there is consistency in the application of HQS.

## **L. Inspection of PHA-Owned Unit**

The Authority must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in an Authority-owned unit. An Authority - owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of each inspection to the family and the Authority.

## **M. Enforcing Family Compliance with HQS**

Families are responsible for correcting any HQS violations listed in the above section-Family Responsibilities. If the family fails to correct a violation within the period allowed by the Authority (and any extensions), the Authority will terminate the family's assistance, according to the policies described in this Policy. If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

## **Chapter 11**

### **OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS**

#### **INTRODUCTION**

The HA is responsible to ensure that the rents charged by owners are reasonable based upon objective comparables in the rental market. When the HA has determined that the unit meets the minimum HQS, that the lease is approvable, and that the rent is reasonable, it will make timely payments to the owner and notify the owner of the procedures for rent adjustments in the and Voucher programs. This Chapter explains the MHA's procedures for determination of rent- reasonableness, payments to owners, adjustments to the Payment Standards, and rent adjustments.

#### **A. OWNER PAYMENT IN THE VOUCHER PROGRAM**

The maximum subsidy for each family is determined by the Payment Standard for the Voucher size issued to the family, less 30% of the family's Monthly Adjusted Income. The actual subsidy level could be less if the family is required to pay the Minimum Total Tenant Payment (10% of the family's Monthly Income).

The Voucher size issued to the family is based on the HA's Subsidy Standards. The payment standard for the family is based on the lesser of the Payment Standard for the Voucher size issued and the Payment Standard for the unit selected.

The Housing Assistance Payment to the owner is the lesser of the subsidy described above or the rent charged by the owner.

#### **B. MAKING PAYMENTS TO OWNERS**

Once the HAP Contract is executed, the HA begins processing payments to the landlord. A HAP Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made to the HAP Register for the following month. Checks are disbursed by the HA to the owner each month. Checks that are not received will not be replaced until a stop payment has been put on the check.

#### **C. RENT REASONABLENESS DETERMINATIONS [24 CFR 882.106 (b), 982.4]**

Rent reasonableness determinations are made when units are placed under HAP Contract for the first time, when owners request annual or special contract rent adjustments under the Certificate Program, and when an owner requests a rent increase for the Voucher Program.

For the Voucher Program, the HA will determine and document on a case-by-case basis that the approved rent:

1. Does not exceed rents currently charged by the same owner for an equivalent assisted or unassisted unit in the same building or complex, and
2. Is reasonable in relation to rents currently charged by other owners for comparable units in the unassisted market.

The data for other unassisted units will be gathered from newspapers, Realtors, inquiries of owners, and other available sources.

The market areas for rent reasonableness are neighborhoods within the HA's jurisdiction. Subject units within a defined housing market area will be compared to similar units within the same area.

The following items will be used for rent reasonableness documentation:

Square Footage  
Number of Bedrooms  
Facilities Location  
Number of Bathrooms Quality  
Amenities Date Built Unit Type  
Management and Maintenance Services

The HA maintains a file which includes data on unassisted units for use by staff in making rent reasonableness determinations. The data is updated on an ongoing basis and purged when it is more than 24 months old.

**D. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM**  
[24 CFR 887.351 (a)(b)]

The Payment Standard was initially set by the HA at the Fair Market Rent in effect at the time the Annual Contributions Contract for the first increment of Voucher funding was approved by HUD. The Payment Standard is used to determine the maximum subsidy which can be paid by the Authority on behalf of the family.

**E. ADJUSTMENTS TO PAYMENT STANDARDS [24 CFR 887.209 (b), 887.351 (c)(d)]**

Payment Standards may be adjusted to increase Housing Assistance Payments in order to keep families' rents affordable. The HA will not raise the Payment Standards so high that the number of families that can be assisted under available funding is substantially reduced. Nor will the HA raise Standards if the need is solely to make "high end" units available to Voucher holders.

The HA will review the Payment Standard annually to determine whether an adjustment should be made for some or all unit sizes. The Payment Standard will be reviewed according to HUD's requirements and this policy and if an increase is warranted, the payment standard will be adjusted within 90% to 110% of the HUD-published Fair Market Rent. HUD may approve payments standards higher than 110%.

The HA may use some or all of the measures below in making its determination whether an adjustment should be made to the Payment Standards.

**Assisted Families' Rent Burdens**

The HA will review reports showing the percent of income used for rent by Voucher families to determine the extent to which the rent burden is more than 40% of income.

**Quality of Units Selected**

The HA will review the quality of units selected by participant families before determining any change to the Payment Standard to ensure that Payment Standard increases are only made when needed to reach the mid-range of the market.

**HA Decision Point**

The HA will review the quality and size of units where the Rents to Owner are above the Payment Standard by more than 20%. If more than 40% of families have selected above-average units or have selected larger units than the Voucher size, the HA may elect not to increase the Payment Standard or continue the analysis.

**Rent to Owner Increases**

The HA may review a sample of the units to determine how often owners are increasing rents after the first year of the lease and the average percent of increase by bedroom size. The sample will be divided into units with and without the highest cost utility included.

A comparison will then be made to the applicable annual adjustment factor to determine whether owner increases are excessive in relation to the published annual adjustment factor.



### Time to Locate Housing

The HA may consider the average time period for families to lease up under the Voucher program as compared to the Certificate program. If the average for Voucher holders exceeds that for Certificate holders by 25%, the Payment Standard may be adjusted.

### Rent Reasonableness Data Base/Average Contract Rents

The HA will compare the Payment Standards to average rents in its Rent Reasonableness file and to the average Contract Rents by unit size. The Payment Standards should be less than these amounts.

### Lowering of the Payment Standard

Statistical analysis may reveal the Payment Standard should be lowered, in which case, the Payment Standard should not be less than 80% of the current FMR. If the FMR is lowered, the Payment standard may not exceed the FMR except in those cases where families are held harmless until they move to a different dwelling unit or have a change in family composition that would affect their Voucher size.

### Financial Feasibility

Before increasing the Payment Standard, the HA may review the budget and the project reserve, to determine the impact projected subsidy increases would have on funding available for the program and number of families served.

For this purpose, the HA will compare the number of families who could be served under a higher Payment Standard with the number assisted under current Payment Standards.

### File Documentation

A file will be retained by the HA for at least three years to document the analysis and findings to justify whether or not the Payment Standard was changed.

## **F. RENT ADJUSTMENTS [24 CFR 882.108]**

### Voucher Program

The HA will notify residents of their right to request a rent adjustment 80 days in advance of the anniversary date. The approval or disapproval decision regarding the adjustment will be based on HUD-required calculations, a rent reasonable determination and the Rent Leveling of the Board of the Town of Morristown.

Owners must request the rent adjustment in writing to the Town of Morristown's Rent Leveling Board. Upon the Board's approval of the increase, a copy must be submitted to the HA 60 days prior to the effective date of the annual increase.

Owner occupied units must request permission for an annual increase in writing to the HA, 60 days in advance to their annual rent increase. Rent adjustments to owners under the Program are effective on the anniversary date of the HAP Contract (unless the unit is in a failed condition at that time). The change in rent does not affect the automatic renewal of the lease and does not require a new lease or contract or even an executed amendment. A notice of rent change will be sent to the owner and the family.

Rent increases must pass the rent reasonableness test and may not exceed the Section 8 Annual Adjustment Factor published annually by HUD (even if justified by rent reasonableness) unless the owner requests a Special Adjustment to be approved by HUD and the HA to cover increases in property taxes, assessments, or utility rates.

Notwithstanding any other provisions of this part, adjustments as provided for in this section shall not result in material differences between the rents charged for assisted and comparable unassisted units.

Owners may not request rent adjustments in the Voucher Program to be effective prior to the expiration of the first year of the lease. Rent adjustments are effective:

Once annually, with a sixty-day notice to the family and a copy to the HA. The HA will advise the family as to whether the rent is reasonable and shall approve or disapprove the rent increase.

### **Disapproval of Requests for Adjustment**

If the HA rejects the owner's request for rent adjustment as exceeding rent reasonableness and the owner rejects the HA's determination, the owner may offer the tenant a new lease (after receiving the HA's approval) with a sixty-day notice to the tenant. If the tenant refuses or the owner does not offer a new lease, the owner may institute court action to terminate tenancy for a business or economic reason in accordance with the lease after giving 90 days' notice to the HA, HUD, and the family as required by law. The HA will issue a new Certificate to the family.

After the tenant has begun searching for a new housing unit and/or after court action has been initiated, the owner may decide to accept the current lease. If the owner and tenant agree, the lease can continue.

If the tenant accepts the offer of a new lease, an RLA must be submitted and the requested rent subjected to rent reasonableness and, for the certificate program, the FMR limitations.

If a new lease is executed, a new Contract must also be executed.

## **G. INSUFFICIENT FUNDING**

The Authority may terminate HAP contracts if the Authority determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program. If the Authority determines there is a shortage of funding, prior to terminating any HAP contracts, the Authority determines there is a shortage of funding, prior to terminating any HAP contracts, the Authority will determine if any other actions can be taken to reduce program costs. If after implementing all reasonable cost cutting measures there is a not enough funding available to provide continued assistance for current participants, the Authority will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, the Authority will inform the local HUD field office. The Authority will terminate the minimum number needed in order to reduce HAP costs to a level within the Authority annual budget authority. If the Authority must terminate HAP criteria and instructions: HAP Contracts in place on behalf of HCV program participants who have been on the program the longest will be the first HAP Contracts terminated in the event of insufficient program funding. In accordance with HUD requirements, the Authority will protect the interests of the near-elderly, elderly, and disabled. These families will not have their HAP Contracts terminated due to insufficient program funding.

## **Chapter 12**

### **RECERTIFICATIONS**

#### **INTRODUCTION**

HUD requires that the HA recertify the income and household composition of all families at least annually. In addition, the HA is required to inspect the assisted unit at least annually, and to process requests for rent adjustments in the Voucher program. These activities must be coordinated to ensure that they are completed in accordance with the regulation. It is a HUD requirement that families report all changes in household composition, but the HA decides what other changes must be reported, and the procedures for reporting them. This Chapter defines the HA's policy for conducting annual recertifications and coordinating the three annual activities. It also explains the interim reporting requirements for families, and the standards for timely reporting.

#### **A. ANNUAL ACTIVITIES [24 CFR 882.212 (a), 887.355]**

There are three activities the HA must conduct on an annual basis. These activities will be coordinated whenever possible:

1. Recertification of Income and Family Composition
2. HQS Inspection
3. Contract Rent Adjustment when requested by Owner (Certificate only)

The HA produces a monthly listing of units under contract to ensure that timely reviews of contract rent, housing quality, and factors related to Total Tenant Payment can be made.

Annual activities for contracts that did not commence on the first of the month must be conducted no later than the first of the month in which the lease was effective.

Annual inspections: See Chapter 10, "Housing Quality Standards and Inspections"

Rent Adjustments: See Chapter 11, "Owner Rents, Rent Reasonableness and Payment Standards"

#### **B. ANNUAL RECERTIFICATION/REEXAMINATION [24 CFR 882.212 (a), 887.355]**

Families must recertify at least annually. At the first interim or annual certification on or after June 19, 1995, family members must report and verify their U.S. citizenship/eligible immigrant status.

When families move to another dwelling unit:

An annual recertification will be scheduled (unless a recertification has occurred in the last 120 days) and the anniversary date will be changed.

Income limits are not used as a test for continued eligibility at recertification unless the family is moving under portability and changing their form of assistance.

### **Reexamination Notice to the Family**

The HA will maintain a reexamination tracking system and the household will be notified by mail of the date and time for their interview at least 90 days in advance of the anniversary date. If requested as an accommodation by a person with a disability, the HA will provide the notice in an accessible format. The HA will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

### **Procedure**

The HA's procedure for conducting annual recertifications will be:

Letters sent to the family scheduling appointment date and time; if the date and time are not good for the family, then an appointment will be scheduled that has been mutually agreed upon.

### **Persons with Disabilities**

Persons with disabilities, who are unable to come to the HA's office will be accommodated by conducting the interview at the person's home, upon verification that the accommodation requested meets the need presented by the disability.

### **Collection of Information**

The HA will allow the family to complete the recertification form.

### **Requirements to Attend**

All adult household members of the family will be required to attend the recertification interview. If any adult, except the head of household, is unable to attend the interview, the absent adult may come in separately within 14 days to recertify.

### **Failure to Respond to Notification to Recertify**

The written notification must state which family members are required to attend the interview.

If the family fails to schedule and appear for an interview within the 90-day period, the HA will terminate assistance to the family.

Exceptions to these policies may be made by the HA if the family is able to document an emergency situation that prevented them from scheduling, re-scheduling or attending a recertification appointment.

### **Documents Required From the Family**

In the notification letter to the family, the HA will include instructions for the family to bring the following documents to the Recertification Interview:

- Documentation of income for all family members
- Documentation of liquid and non-liquid assets
- Documentation of any deductions/allowances
- Most recent W2 and Federal Income Tax forms
- Most recent utility bills for which the tenant is responsible

### **Verification of Information**

The HA will follow the verification procedures and guidelines described in this Plan. Verifications for reexaminations must not be more than 120 days old.

### **Tenant Rent Increases**

If tenant rent increases, a 30-day notice is mailed to the family prior to the anniversary date.

If less than thirty days are remaining before the anniversary date, the tenant rent increase will be effective on the first of the month following the 30-day notice.

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there will be a retroactive increase in rent to the anniversary date.

### **Tenant Rent Decreases**

If tenant rent decreases, it will be effective on the anniversary date.

If the family causes a delay so that the processing of the reexamination is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the reexamination processing by the HA.

**C. REPORTING INTERIM CHANGES [24 CFR 882.212 (b), 887.357]**

HUD requires program participants to report all changes in household composition to the HA between annual reexaminations. This includes additions due to birth, adoption and court- awarded custody. The family must obtain HA approval prior to all other additions to the household.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular recertification after moving into the unit.

**Increases in Income**

**Interim Reexamination Policy**

The HA will conduct interim reexaminations when families have an increase in income.

Families will be required to report all increases in income/assets of all household members to the HA in writing or by telephone within 10 days of the increase.

**Decreases in Income**

Participants may report a decrease in income and other changes that would reduce the amount of tenant rent, such as an increase in allowances or deductions. The HA must calculate the change if a decrease in income is reported. The change in rent distribution will take effect on the first day of the subsequent month, provided that all required verification is submitted and signatures obtained no later than the 20<sup>th</sup> day of the month in which the change is reported.

**HA Errors**

If the HA makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted to correct the error, but the family will not be charged retroactively.

**Other Interim Reporting Issues**

An interim reexamination does not affect the date of the annual recertification.

When there is an increase in income, the HA will defer the family's rent increase for two months in order to encourage families to move to self -sufficiency.

In the following circumstances, the HA may conduct the interim recertification by mail: Changes that will not result in a change in tenant rent or certificate/voucher size. Changes in income that are normal for the family, such as seasonal employment.

As a reasonable accommodation when requested. (See Chapter 1, "Statement of Policies and Objectives")

Any changes reported by participants other than those listed in this section will not be processed between regularly scheduled annual recertifications.

#### **D. NOTIFICATION OF RESULTS OF RECERTIFICATIONS**

The HUD form 50058 will be completed and transmitted as required by HUD.

The Notice of Rent Change is mailed to the owner and the tenant. Signatures are not required by the HA. If the family disagrees with the rent adjustment they may request an informal hearing.

#### **E. TIMELY REPORTING OF CHANGES INCOME (AND ASSETS)**

##### **Standard for Timely Reporting of Changes**

The HA requires that families report interim changes to the HA within 10 days of when the change occurs. Any information, document or signature needed to verify the change must be provided within 30 days of the change.

If the change is not reported within the required time period, or if the family fails to provide documentation or signatures, it will be considered untimely reporting.

##### **Procedures when the Change is Reported in a Timely Manner**

The HA will notify the family and the owner of any change in the Housing Assistance Payment to be effective according to the following guidelines:

Increases in the Tenant Rent are effective on the first of the month following at least thirty days' notice, provided that the family has not caused a delay in the interim recertification process.

Decreases in the Tenant Rent are effective the first of the month following that in which the change occurred. However, no rent reductions will be processed until all the facts have been verified, even if a retroactive adjustment results.

The change may be implemented based on documentation provided by the family, pending third-party written verification.



### Procedures when the Change is Not Reported by the Tenant in a Timely Manner

If the family does not report the change as described under Timely Reporting, the family will have caused an unreasonable delay in the interim reexamination processing and the following guidelines will apply:

Increase in Tenant Rent will be effective retroactive to the date it would have been effective had it been reported on a timely basis. The family will be liable for any overpaid housing assistance and may be required to sign a Repayment Agreement or make a lump sum payment.

Decrease in Tenant Rent will be effective on the first of the month following completion of processing by the HA and not retroactively.

### Procedures when the Change is Not Processed by the HA in a Timely Manner

"Processed in a timely manner" means that the change goes into effect on the date *it* should, according to HA policy, when the family reports the change in a timely manner. If the change is not made effective on that date, the HA has not processed the change in a timely manner.

In this case, an increase will be effective after the required thirty days' notice prior to the first of the month after completion of processing by the HA.

If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.

### **F. REPORTING OF CHANGES IN FAMILY COMPOSITION**

[24 CFR 882.213., 887.359 (a)(b)]

All changes in family composition must be reported within 10 days of the occurrence.

#### **Increases in Family Size**

Increases other than by birth, adoption or court-awarded custody must have the prior approval of the owner and the HA. If the addition would result in overcrowding according to HQS maximum occupancy standards:

The HA will not approve the addition other than birth, adoption or court-awarded custody.

The HA will issue a larger Certificate or Voucher, funding permitting, for additions to the family in the following cases:

- Addition by marriage /or marital-type relation.
- Addition of a minor who is a member of the nuclear family who had been living elsewhere.
- Addition of a HA-approved live-in attendant.

- Addition due to birth, adoption or court-awarded custody.

If a change due to birth, adoption, court-awarded custody, or need for a live-in attendant requires a larger size unit due to overcrowding, the change in Certificate/Voucher shall be made effective immediately. The HA may determine whether to issue a Certificate or Voucher in this instance based on funding availability.

**G. CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES**

[24 CFR 5.518]

Under the Noncitizens Rule, "Mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

"Mixed" families who were participants on June 19, 1995, shall continue receiving full assistance if they meet the following criteria:

1. The head of household or spouse is a U.S. citizen or has eligible immigrant status;

AND

2. All members of the family other than the head, the spouse, parents of the head, parents of the spouse, and children of the head or spouse are citizens or eligible immigrants. The family may change the head of household to qualify under this provision.

Mixed families who qualify for continued assistance after 11/29/96 may receive prorated assistance only.

If they do not qualify for continued assistance, the member(s) that cause the family to be ineligible for continued assistance may move, the family may choose prorated assistance (See Chapter 6, "Factors Related to Total Tenant Payment Determination"), or the HA may offer temporary deferral of termination (See Chapter 15, "Denial or Termination of Assistance").

## **Chapter 13**

### **MOVES WITH CONTINUED ASSISTANCE/PORTABILITY**

#### **INTRODUCTION**

HUD regulations permit families to move with continued assistance to another unit within the HA's jurisdiction, or to a unit outside of the HA's jurisdiction under Portability procedures. The regulations also allow the HA the discretion to develop policies which define any limitations or restrictions on moves. This Chapter defines the procedures for moves, both within and outside of, the HA's jurisdiction, and the policies for restriction and limitations on moves.

#### **A. ALLOWABLE MOVES**

A family may move to a new unit if:

1. The assisted lease for the old unit has terminated because the HA has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family.
2. The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated).
3. The family has given proper notice of lease termination (if the family has a right to terminate the lease on notice to owner).

#### **B. RESTRICTIONS ON MOVES (24 CFR 982.314, 982.552]**

Families will not be permitted to move within the HA's jurisdiction during the initial year of assisted occupancy.

Families will not be permitted to move outside the HA's jurisdiction under portability procedures during the initial year of assisted occupancy.

Families will not be permitted to move more than once in a 12-month period.

The HA will deny permission to move if there is insufficient funding for continued assistance.

The HA may deny admission if:

The family has violated a Family Obligation.

The family owes the HA money.

The family has moved or been issued a Certificate or Voucher within the last twelve months.

The Executive Director may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control. The family will be responsible for providing documentation to verify such a situation.

## **C. PROCEDURE FOR MOVES**

### **Issuance of Voucher**

If the family has not been recertified within the last 120 days, the HA will issue the voucher to move after conducting the recertification.

If the family does not locate a new unit, they may remain in the current unit so long as the owner permits.

The annual recertification date will be changed to coincide with the new lease-up date.

### **Notice Requirements**

The family must give the owner the required number of days written notice of intent to vacate specified in the lease and must give a copy to the HA simultaneously.

### **Time of Contract Change**

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move.

In a move, assistance stops at the old unit at the end of the month in which the tenant ceased to occupy, unless proper notice was given to end a lease mid-month. Assistance will start on the new unit on the effective date of the lease and contract. Assistance payments may overlap for the month in which the family moves.

## **D. PORTABILITY [24 CFR 982.353]**

Portability applies to families moving out of or into the HA's jurisdiction within the United States and its territories. Under portability, families are eligible to receive assistance to lease a unit outside of the jurisdiction. The unit may be located:

1. In the same state as the initial HA;
2. In the same metropolitan statistical area (MSA) as the initial HA, but in a different state;
3. In an MSA adjacent to the MSA of the initial HA, but in a different state;
4. In the jurisdiction of an HA anywhere within the United States that administers a tenant-based program.

**E. OUTGOING PORTABILITY (24 CFR 982.353, 982.355]**

When a family requests to move outside of the HA's jurisdiction, the request must specify the area to which the family wants to move.

If the family is moving to a unit located in the same state as the initial HA, in the same MSA, but in a different state, or in an adjacent MSA in a different state, and there is not an HA in the area where the unit is located, the initial HA will be responsible for the administration of the family's assistance.

The HA will choose a management company, another HA or a private contractor to administer the assistance.

**Restrictions on Portability**

1. Families will not be permitted to exercise portability during the initial 12-month period after admission to the program, if neither the head or spouse had a domicile (legal residence) in the HA's jurisdiction at the date of their initial application for assistance.
2. If the family is in violation of a family obligation.
3. If the family owes money to the HA.

**Outgoing Portability Procedures**

The HA will provide pre-portability counseling for those families who express an interest in portability. If the family is utilizing portability for their initial lease-up, the HA will determine if the family is within the very low-income limit of the receiving HA. If the receiving HA will absorb and the family will be changing its form of assistance, the HA will determine if the family is within the low-income limit of the receiving HA, and advise the family accordingly.

The HA will notify the Receiving HA that the family wishes to relocate into its jurisdiction. The

HA will advise the family how to contact and request assistance from the receiving HA. The

HA will notify the receiving HA that the family will be moving into its jurisdiction.

The HA will provide the following documents and information to the Receiving HA:

1. Family Portability Information form HUD-52665.
2. A copy of the family's Voucher, with issue and expiration dates, formally acknowledging the family's ability to move under portability.

3. The most recent HUD 50058 form and verifications.
4. Declarations and verifications of U.S. citizenship/eligible immigrant status.
5. Other relevant documentation.

The Receiving HA must notify the HA within 15 days of the following:

- The Receiving HA decides to absorb the family into their own program.
- The family leases up or fails to submit a Request for Lease Approval by the required date.
- The Receiving HA terminates assistance to a portable family HA.
- The family requests to move to an area outside the Receiving HA's jurisdiction.

### **Payment to the Receiving HA**

The HA will requisition funds from HUD based on the anticipated lease-ups of portable Vouchers in other BA's jurisdictions. Payments for families in other jurisdictions will be made to other HAs when billed or in accordance with other HUD approved procedures for payment.

When billed, the HA will reimburse the Receiving HA for 100% of the Housing Assistance Payment, 100% of the Special Claims paid on HAP contract effective prior to 10/2/95, and 80% of the Administrative Fee (at the initial HA's rate, column B amount), and any other HUD-approved fees.

### **Claims**

The HA will be responsible for collecting amounts owed by the family for claims paid and for monitoring the repayment. The HA will notify the Receiving HA if the family is in arrears or if the family has refused to sign a Repayment Agreement, and the Receiving HA will be asked to terminate assistance to the family as allowed by this Administrative Plan.

Receiving HA's will be required to submit hearing determinations to the HA within 15 days.

## **F. INCOMING PORTABILITY [24 CFR 982.354, 982.355]**

### **Absorption or Administration**

The HA will accept a family with a valid Voucher from another jurisdiction and administer or absorb the Voucher. If administering, the family will be issued a "Portability" Voucher by the HA with the same start date. The HA may grant extensions in accordance with this Administrative Plan.

The HA will absorb all incoming portable families provided that there is funding available.

When the receiving HA does not absorb the incoming Voucher, it will administer the Initial HA's Voucher and the receiving HA's policies will prevail.

For initial lease-up, the family must be within the HA's Very-Low Income limits. For participants, the HA may issue a Voucher but if the form of assistance changes, the family must be within the HA's Low-Income limits. If the family is ineligible under the receiving HA's low-income limit because the form of assistance offered causes the family to change programs, the receiving HA must absorb the family without a change in the form of assistance, or administer the family's current form of assistance.

The HA will issue a "Portability Voucher" according to its own Subsidy Standards. If the Family has a change in family composition which would change the Certificate or Voucher size, the HA will change to the proper size based on its own Subsidy Standards.

The HA will decide whether to extend the "Portability Voucher" and for what period of time. The HA's policy on suspensions will apply. However, if the Family decides not to lease-up in the HA's jurisdiction, the Family must request an extension from the Initial HA.

### **Income and TIP of Incoming Portables**

As Receiving HA, the HA will conduct a recertification interview but only verify the information provided if the documents are missing or are over 120 days old, whichever is applicable, or there has been a change in the family's circumstances.

If the family's income exceeds the income limit of the HA, the family will not be denied assistance unless the family is an applicant (and over the Very-Low Income Limit).

If the family's income is such that a \$0 subsidy amount is determined prior to lease-up in the HA's jurisdiction, the HA will refuse to enter into a contract on behalf of the family at \$0 assistance.

### **Requests for Lease Approval**

When the Family submits a Request for Lease Approval, it will be processed using the HN's policies. If the Family does not submit a Request for Lease Approval or does not execute a lease, the Initial HA will be notified within 15 days by the HA.

If the Family leases up successfully, the HA will notify the Initial HA within 10 days, and the billing process will commence.

If the HA denies assistance to the family, the HA will notify the Initial HA within 15 days and the family will be offered a review or hearing.

The HA will notify the Family of its responsibility to contact the Initial HA if the Family wishes to move outside the HA's jurisdiction under continued portability.

### **Terminations**

The HA will notify the Initial HA in writing of any termination of assistance within 15 days of the termination. If an Informal Hearing is required and requested by the Family, the hearing --will be conducted by the HA, using the regular hearing procedures included in this Plan. A copy of the hearing decision will be furnished to the Initial HA.

The Initial HA will be responsible for collecting amounts owed by the Family for claims paid and for monitoring repayment. If the Initial HA notifies the HA that the Family is in arrears or the Family has refused to sign a Repayment Agreement, the HA will terminate assistance to the family.

### **Required Documents**

As receiving HA, the HA will require the following documents from the Initial HA:

1. Family Portability Information Form HUD-52665.
2. A copy of the family's Voucher, with issue and expiration dates, formally acknowledging the family's ability to move under portability.
3. The most recent HUD 50058 form and verifications.
4. Declarations and verifications of U.S. citizenship/eligible immigrant status.
5. Other relevant documentation.

### **Billing Procedures**

As Receiving HA, the HA will bill the Initial HA annually for Housing Assistance Payments.

The billing cycle for other amounts, including Administrative Fees and Special Claims will be annually unless requested otherwise by the Initial HA

The HA will bill 100% of the Housing Assistance Payment, 100% of Special Claims and 80% of the Administrative Fee (at the Initial HA's rate) and any other HUD-approved fees, for each "Portability" Certificate/Voucher leased as of the first day of the month

The HA will notify the Initial HA of changes in subsidy amounts and will expect the Initial HA to notify the HA of changes in the Administrative Fee amount to be billed.



## **Chapter 14**

### **CONTRACT TERMINATIONS**

#### **INTRODUCTION**

The Housing Assistance Payments (HAP) Contract is the contract between the owner and the HA which defines the responsibilities of both parties. This Chapter describes the circumstances under which the contract can be terminated by the HA and the owner, and the policies and procedures for such terminations.

#### **A. CONTRACT TERMINATION**

The term of the HAP Contract is the same as the term of the lease. The Contract between the owner and the HA may be terminated by the HA, or by the owner or tenant terminating the lease.

No future subsidy payments on behalf of the family will be made by the HA to the owner after the month in which the Contract is terminated. The owner must reimburse the HA for any subsidies paid by the HA for any period after the contract termination date.

If the family continues to occupy the unit after the Section 8 contract is terminated, the family is responsible for the total amount of rent due to the owner. The owner will have no right to claim compensation from the HA for vacancy loss under the provisions of Certificate contracts effective after October 2, 1995.

After a contract termination; if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit. The contract for the new unit may begin during the month in which the family moved from the old unit.

#### **B. TERMINATION BY THE FAMILY: MOVES (24 CFR 982.314 (c)(2))**

The lease stipulates that the family cannot move from the unit until after the first year of the lease. The lease determines the notice period to the landlord, but it may not exceed 60 days.

#### **C. TERMINATION BY THE OWNER: EVICTIONS [24 CFR 982.310, 982.455]**

If the owner wishes to terminate the lease, the owner is required to evict, using the notice procedures in the HUD regulations and State/local law. The owner must provide the HA with a copy of the eviction notice.

The owner must provide the tenant a written notice specifying the grounds for termination of tenancy, at or before the commencement of the eviction action. The notice may be included in, or may be combined with any owner eviction notice to the tenant.

The owner eviction notice means a notice to vacate, or a complaint, or other initial pleading used under State or local law to commence an eviction action.

The contract and lease require that the owner may only evict for:

1. Serious or repeated violations of the lease;
2. Violations of federal, state or local law related to occupancy of the unit;
3. Other good cause, including:
  - Criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises.
  - Any drug-related criminal activity on or near the premises.
  - Tenant history of disturbance of neighbors, destruction of property, or behavior resulting in damage to the premises.
4. Other good cause, after the first year of the lease, includes: Business or economic reason for regaining possession Owner's desire to repossess unit for personal use; or Tenant's refusal to accept offer of a new lease.

The eviction notice must specify the cause for the eviction.

Housing assistance payments are paid to the owner under the terms of the HAP Contract. If the owner has begun eviction and the family continues to reside in the unit, the HA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

The HA will continue housing assistance payments until the family moves or is evicted from the unit.

If the owner opts out for business or economic reasons, the tenant must be given 90 days' notice, with a copy to the HA and the local HUD office. Such reasons include desire to sell the property, renovation of the unit, or desire to obtain a higher rent than the HA will approve.

The HA must continue making housing assistance payments to the owner in accordance with the contract as long as the tenant continues to occupy the unit and the Contract is not violated. By endorsing the monthly check from the HA, the owner certifies that the tenant is still in the unit and s/he is in compliance with the contract.

If the eviction is not due to a serious or repeated violation of the lease, and if the HA has no other grounds for termination of assistance, the HA may issue a new voucher so that the family can move with continued assistance.

**D. TERMINATION OF THE CONTRACT BY HA [24 CFR 982.404 (a), 982.453, 982.454, 982.552 (a)(3)]**

The term of the HAP contract terminates when the lease terminates, when the HA terminates program assistance for the family, and when the owner has breached the HAP contract.

Any of the following actions by the owner will be considered a breach of contract:

1. The owner has violated any obligation under the HAP contract for the dwelling unit, including the owner's obligation to maintain the unit to HQS standards, including any standards the HA has adopted in this policy.
2. The owner has violated any obligation under any other housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).
3. The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

The HA may also terminate the contract if:

- The HA terminates assistance to the family.
- The family is required to move from a unit that is overcrowded (Voucher Programs).
- Funding is no longer available under the ACC.
- The contract will terminate automatically if 180 days have passed since the last housing assistance payment to the owner.

#### Notice of Termination

The HA will provide the owner and family with at least thirty days written notice of termination of the contract.

#### **E. TERMINATIONS DUE TO INELIGIBLE IMMIGRATION STATUS**

[24 CFR 5.514]

Families who were participants on June 19, 1995, but are ineligible for continued assistance due to the ineligible immigration status of all members of the family, or because a "mixed" family chooses not to accept prorated assistance, are eligible for temporary deferral of termination of assistance if necessary to permit the family additional time for transition to affordable housing.

Deferrals may be granted for intervals not to exceed six months, up to an aggregate maximum of:

3 years for deferrals granted prior to 11/29/96, or 18 months for deferrals granted after 11/29/96.

The family will be notified in writing at least 60 days in advance of the expiration of the deferral period that termination of assistance will not be deferred because:

- a) granting another deferral will result in an aggregate deferral period of longer than the statutory maximum (three years for deferrals granted before 11/29/96; 18 months for deferrals granted after 11/29/96), or

b) a determination has been made that other affordable housing is available.

**F. TERMINATION DUE TO OWNER DISAPPROVAL [24 CFR 982.453]**

If the HA terminates the contract due to owner disapproval (See Chapter 9, "Request for Lease Approval and Contract Execution"), the HA will provide the owner and family with at least thirty days written notice of termination of the contract.

## Chapter 15

### DENIAL OR TERMINATION OF ASSISTANCE

#### **INTRODUCTION**

The HA may deny or terminate assistance for a family because of the family's action or failure to act. The HA will provide families with a written description of the Family Obligations under the program, the grounds under which the HA can deny or terminate assistance, and the HA's informal hearing procedures. This Chapter describes when the HA is required to deny or terminate assistance, and the HA's policies for the denial of a new commitment of assistance and the grounds for termination of assistance under an outstanding HAP contract.

#### **A. GROUND FOR DENIAL/TERMINATION (24 CFR 982.552, 982.553)**

If denial or termination is based upon behavior resulting from a disability, the HA will delay the denial or termination in order to determine if there is an accommodation which negates the behavior resulting from the disability.

#### **Form of Denial/Termination**

Denial of assistance for an applicant may include any or all of the following:

1. Denial for placement on the HA waiting list
2. Denying or withdrawing a certificate or voucher
3. Refusing to enter into a HAP contract or approve a lease
4. Refusing to process or provide assistance under portability procedures

Termination of assistance for a participant may include any or all of the following:

1. Refusing to enter into a HAP contract or approve a lease
2. Terminating housing assistance payments under an outstanding HAP contract
3. Refusing to process or provide assistance under portability procedures.

#### **Mandatory Denial and Termination [24CFR 982.552 (10)(d)]**

The HA must deny assistance to applicants, and terminate assistance for participants *if*:

1. Any member of the family fails to sign and submit HUD or HA required consent forms for obtaining information.

2. No member of the family is a U.S. citizen or eligible immigrant.
3. The family is under contract and 180 days have elapsed since the HA's last housing assistance payment was made.
4. Any family who intentionally falsifies information provided to the HA in the course of verifying any information.

**Grounds for Denial or Termination of Assistance** [24CFR 982.552 (b)]

The HA may at any time deny program assistance for an applicant, or terminate program assistance for a participant, for any of the following reasons:

1. The family violates any family obligation under the program as listed in 24CFR 982.551.
2. Any member of the family has ever been evicted from public housing.
3. The family currently owes rent or other amounts to the HA or to another HA in connection with Section 8 or public housing assistance under the 1937 Act.
4. The family has not reimbursed any HA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
5. The family breaches an agreement with an HA to pay amounts owed to an HA, or amounts paid to an owner by an HA.
6. The family has engaged in or threatened abusive or violent behavior toward HA personnel.

"Abusive or violent behavior towards HA personnel" includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for termination or denial.

"Threatening" refers to oral or written threats or physical gestures that communicate an intent to abuse or commit violence.

Actual physical abuse or violence will always be cause for termination.

**Family Self Sufficiency (ESS)**

The HA will not terminate assistance for FSS families who fail to comply with the FSS Contract of Participation without good cause.

**B. FAMILY OBLIGATIONS [24 CFR 982.551]**

1. The family must supply any information that the HA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status. "Information" includes any requested certification, release or other documentation.
2. The family must supply any information requested by the HA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.
3. The family must disclose and verify Social Security Numbers (as provided by 24 CFR part 750) and must sign and submit consent forms for obtaining information in accordance with 24 CFR part 760.
4. All information supplied by the family must be true and complete.
5. The family is responsible for an HQS breach caused by the family as described in 982.404(b).
6. The family must allow the HA to inspect the unit at reasonable times and after reasonable notice.
7. The family may not commit any serious or repeated violation of the lease.
8. The family must notify the owner and, at the same time, notify the HA before the family moves out of the unit or terminates the lease on notice to the owner.
9. The family must promptly give the HA a copy of any owner eviction notice.
10. The family must use the assisted unit for residence by the family. The unit must be the family's only residence:
11. The composition of the assisted family residing in the unit must be approved by the HA. The family must promptly inform the HA of the birth, adoption or court-awarded custody of a child. The family must request HA approval to add any other family member as an occupant of the unit.
12. The family must promptly notify the HA if any family member no longer resides in the unit.
13. If the HA has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or HA approval is denied, the family may not allow a foster child or live-in aide to reside with the assisted family.
14. Members of the household may engage in legal profit-making activities in the

- unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family.
15. The family must not sublease or let the unit.
  16. The family must not assign the lease or transfer the unit.
  17. The family must supply any information or certification requested by the HA to verify that the family is living in the unit, or relating to family absence from the unit, including any HA-requested information or certification on the purposes of family absences. The family must cooperate with the HA for this purpose. The family must promptly notify the HA of absence from the unit.
  18. The family must not own or have any interest in the unit.
  19. The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with the programs.
  20. The members of the family may not engage in drug-related criminal activity or violent criminal activity.
  21. An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, State or local housing assistance program.

### **Housing Authority Discretion**

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the HA has discretion to consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, the length of time since the violation occurred and more recent record of compliance, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure to act.

The HA may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. The HA may permit the other members of a family to continue in the program.



## **Enforcing Family Obligations**

**Explanations and Terms:** The term "Promptly" when used with the Family Obligations always means "within 10 days." Denial or termination of assistance is always optional except where this Plan or the regulations state otherwise.

**HQS Breach:** *The HA inspector will determine if an HQS breach as identified in 24 CFR 982.404 (b) is the responsibility of the family. Families may be given extensions to cure HQS breaches.*

**Lease Violations:** The following criteria will be used to decide if a serious or repeated violation of the lease will cause a termination of assistance:

If the owner terminates tenancy through court action for serious or repeated violation of the lease.

If the owner notifies the family of termination of assistance for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and the HA determines that the cause is a serious or repeated violation of the lease based on available evidence.

**Notification of Eviction:** If the family requests assistance to move and they did not notify the HA of an eviction within 10 days of receiving the Notice of Lease Termination, the move will be denied.

### **Proposed additions to the family may be denied to:**

Persons who have been evicted from public housing.

Persons who have previously violated a family obligation listed in 24CFR 982.51 of the HUD regulations.

Persons who commit drug-related criminal activity or violent criminal activity.

Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

Persons who currently owe rent or other amounts to the HA or to another HA in connection with Section 8 or public housing assistance under the 1937 Act.

Persons who have engaged in or threatened abusive or violent behavior toward HA personnel.

Family Member Move-outs: Families are required to notify the HA if any family member leaves the assisted household. The family Head of Household, to the best of their ability, must furnish the following documentation establishing the absent family member's new residence: the date the family member moved out; the new address of the family member; driver's license, lease, rent receipts, voter registration card, utility bills, school records, official correspondence.

Limitation on Profit-Making Activity in Unit:

If the business activity area results in the inability of the family to use any of the critical living areas, such as a bedroom utilized for a business that is not available for sleeping, it will be considered a violation.

If the HA determines that the use of the unit as a business is not incidental to its use as a dwelling unit.

Interest in Unit: The owner may not reside in the assisted unit unless the family owns the mobile home and rents the pad under the Certificate Program.

Fraud: In each case, the HA will consider which family members were involved, the circumstances, and any hardship that might be caused to innocent members.

In the event of false citizenship claims, the HA will give the family member the opportunity to elect not to contend their status in lieu of termination of the entire family.

Drug Related and Violent Criminal Activity

*Drug-related criminal activity* is the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use a controlled substance.

Drug-related criminal activity means *on or off the premises, not just on or near the premises*.

*Violent criminal activity* includes any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against a person or property.

Ineligibility if Evicted for Drug-Related Activity: Persons evicted from public housing, Indian housing, Section 23, or any Section 8 program because of drug-related criminal activity are ineligible for admission to Section 8 programs for a three-year period beginning on the date of such eviction.

The HA will waive this requirement if:

The circumstances leading to the eviction no longer exist. For example, the individual involved in drugs is no longer in the household because the person is incarcerated.

Applicants will be denied assistance if they have been:

Convicted of criminal activity within the last five years prior to the date of the certification interview.

Participants may be terminated who have been:

Arrested due to drug-related or violent criminal activity within the last five years prior to the date of the notice to terminate assistance.

If at any time the family violates the lease for drug-related or violent criminal activity, the HA will terminate assistance.

In appropriate cases, the HA may permit the family to continue receiving assistance provided that family members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the HA may consider individual circumstances with the advice of Juvenile Court officials.

Screening Out Illegal Drug Users and Alcohol Abusers: The HA will deny participation in the program to applicants in cases where the HA determines there is reasonable cause to believe that the person is illegally using a controlled substance, or abuses alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. This includes cases where the HA determines that there is a *pattern* of illegal use of a controlled substance, or *pattern* of alcohol abuse.

The HA will consider the use of a controlled substance or alcohol to be a *pattern* if there is more than one incident during the previous six months. The HA will waive this policy if the person demonstrates to the HA's satisfaction that the person is no longer engaging in the illegal use of a controlled substance or abuse of alcohol, and:

Has successfully completed a supervised drug or alcohol rehabilitation program;

Has otherwise been rehabilitated successfully; or

Is participating in a supervised drug or alcohol rehabilitation program.

Confidentiality of Criminal Records: The HA will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished.

#### Required Evidence

*Preponderance of evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole show that the fact sought to be proved is more probable than not. The intent is not to prove criminal liability, but to establish that the act(s) occurred.

Preponderance of evidence may not be determined by the number of witnesses; but by the greater weight of all evidence.

*Credible evidence* may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants.

The HA may pursue fact-finding efforts as needed to obtain credible evidence.

#### Notice of Termination of Assistance

In any case where the HA decides to terminate assistance to the family, the HA must give the family written notice which states:

The reason(s) for the proposed termination, The effective date of the proposed termination,

The family's right, if they disagree, to request an Informal Hearing to be held before termination of assistance.

The date by which a request for an informal hearing must be received by the HA.

The HA will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance. The Notice to the owner will not include any details regarding the reason for termination of assistance.

### **C. PROCEDURES FOR NON-CITIZENS [24 CFR 5.514, 5.516, 5.518]**

#### Termination due to Ineligible Immigrant Status

Assistance may not be terminated while verification of the participant family's eligible immigration status is pending. Participant families in which all members are neither U.S. citizens nor eligible immigrants must have their assistance terminated. They must be given an opportunity for a hearing.

#### Temporary Deferral of Termination of Assistance

Ineligible families, who were participants as of June 19, 1995, may request a temporary deferral of termination of assistance in order to allow time to locate affordable housing and thereby preserve the family.

Temporary deferral of termination of assistance is also available to mixed families who were participants on June 19, 1995, who elect not to accept prorated assistance, and are not eligible for Continued Assistance. (See Chapter 14, "Contract Terminations.") The HA must allow the mixed family time to find housing for ineligible members or for the entire family by deferring the termination.

Mixed families who choose temporary deferral of termination of assistance may change to prorated assistance at the end of any deferral period, if they have made a good-faith effort to locate housing.

### **Criteria for Approving Temporary Deferral of Termination of Assistance**

The HA will grant temporary deferral as long as the family makes reasonable efforts to find affordable housing.

Affordable housing is defined as housing that is standard, of appropriate size, and for which the rent plus utilities is no more than 25% greater than the HA calculated Total Tenant Payment.

To determine whether a family is eligible for temporary deferral of termination of assistance, or for a renewal of temporary deferral of termination of assistance, the HA will:

Automatically grant and extend temporary deferral of termination of assistance as long as the market for affordable housing is limited in the jurisdiction.

### **Length of Deferral**

The initial temporary deferral is granted for an interval not to exceed six months. Additional deferrals can be made up to a maximum of three years, if the initial deferral was granted prior to 11/29/96. For deferrals granted after 11/29/96, additional deferrals may be made up to an aggregate total of 18 months. A notice is sent to the family at the beginning of each deferral period reminding them of their ineligibility for full assistance and their responsibility to seek other housing.

The family will be notified in writing sixty days before the end of the maximum deferral period that there cannot be another deferral, and will be offered the option of prorated assistance if they are a mixed family and have made a good-faith effort to locate affordable housing.

### **False or Incomplete Information**

When the HA has clear, concrete, or substantial documentation (such as a permanent resident card or information from another agency) that contradicts the declaration of citizenship made by an applicant or participant, an investigation will be conducted and the individual given an opportunity to present relevant information.

If the individual is unable to verify their citizenship, the HA may give him/her an opportunity to provide a new declaration as an eligible immigrant or to elect not to contend their status. The HA will then verify eligible status, deny, terminate, or prorate as applicable.

The HA will deny or terminate assistance based on the submission of false information or misrepresentations.

#### Procedure for Denial or Termination

If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with the HA either after the INS appeal or in lieu of the INS appeal.

After the HA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable) or, for participants who qualify, for Temporary Deferral of Termination of Assistance.

#### **D. \$0 ASSISTANCE TENANTS [24 CFR 982.455 (a)]**

##### **New Contracts**

For contracts effective after 10/2/95, the HA has no liability for unpaid rent or damages, and the family may remain in the unit at \$0 assistance for up to 180 days after the last HAP payment. If the family is still in the unit after 180 days, the assistance will be terminated. If within the 180-day timeframe an owner rent increase or a decrease in the Total Tenant Payment cause the family to be eligible for a housing assistance payment, the HA will resume assistance payments for the family.

In order for a family to move to another unit during the 180 days, the rent for the new unit would have to be high enough to necessitate a housing assistance payment.

#### **E. OPTION NOT TO TERMINATE FOR MISREPRESENTATION [24 CFR 982.551, 982.5 52(0)]**

If the family has misrepresented any facts that caused the HA to overpay assistance, the HA may choose not to terminate and may offer to continue assistance provided that the family executes a Repayment Agreement and makes payments in accordance with the agreement or reimburses the HA *in full*.

#### **F. MISREPRESENTATION IN COLLUSION WITH OWNER [24 CFR 982.551, 982.552 (c)]**

If the family is willingly and knowingly committing fraud or is involved in any other illegal scheme with the owner, the HA will deny or terminate assistance.

In making this determination, the HA will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

**G. MISSED APPOINTMENTS AND DEADLINES [24 CFR 982.551, 982.552(c)]**

It is a Family Obligation to supply information, documentation, and certification as needed for the HA to fulfill its responsibilities. The HA schedules appointments and sets deadlines in order to obtain the required information. The Obligations also require that the family allow the HA to inspect the unit and appointments are made for this purpose.

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying the HA may be sent a Notice of Denial or Termination of Assistance for failure to provide required information, or for failure to allow the HA to inspect the unit.

The family will be given information about the requirement to keep appointments and the number of times appointments will be rescheduled as specified in this Plan.

Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

1. Eligibility for Admissions
2. ***Verification Procedures***
3. Voucher Issuance and Briefings
4. Housing Quality Standards and Inspections
5. ***Recertifications***
6. Appeals

When fully documented, acceptable reasons for missing appointments or failing to provide information by deadlines are: Medical emergency, Incarceration, Family emergency.

**Procedure when Appointments are Missed or Information not Provided**

For most purposes in this Plan, the family will be given three opportunities before being issued a notice of termination or denial for breach of a family obligation.

After issuance of the termination notice, if the family offers to correct the breach within the time allowed to request a hearing, the notice will be rescinded if the family offers to cure and the family does not have a history of non-compliance.

## Chapter 16

### OWNER DISAPPROVAL AND RESTRICTION

#### **INTRODUCTION**

It is the policy of the HA recruit and encourage owner participation in the program, and to provide owners with prompt and professional service in order to maintain a-n adequate supply of available housing throughout the jurisdiction of the HA. The HUD regulations define when the HA must disallow an owner from participation in the program, and they provide the HA discretion to disapprove or otherwise restrict the participation of owners in certain categories. This Chapter describes the criteria for owner disapproval, and the various penalties for owner violations.

#### **A. DISAPPROVAL OF OWNER (24 CFR 982.306, 982.54 (d)(8))**

The owner does not have a right to participate in the program. For purposes of this section, "owner" includes a principal or other interested party. The HA will disapprove the owner for the following reasons:

HUD has informed the HA that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 *CPR* part 24.

HUD has informed the HA that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending.

HUD has informed the HA that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other federal equal opportunity requirements.

The owner has a history of violating obligations under a housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).

The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.

The owner has a history or practice of non-compliance with the HQS.

The owner has a history or practice of renting units that fail to meet State or local housing codes.

#### **B. OWNER RESTRICTIONS AND PENALTIES [24 CFR 982.302 (a)(8), 982.453]**

If an owner commits fraud or abuse or is guilty of frequent or serious contract violations, the HA will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The HA may also terminate some or all



contracts with the owner.

Before imposing any penalty against an owner, the HA will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations.

The HA guidelines for restrictions are outlined in the HUD regulations.

**C. OTHER REMEDIES FOR OWNER VIOLATIONS**

**Overpayments**

If the landlord has been overpaid as a result of fraud, misrepresentation or violation of the Contract, the HA may terminate the Contract and arrange for restitution to the HA and/or family as appropriate. The HA will make every effort to recover any overpayments made as a result of landlord fraud or abuse. Payments otherwise due to the owner may be debited in order to repay the HA or the tenant, as applicable.

## **Chapter 17**

### **CLAIMS, MOVE-OUT AND CLOSE-OUT INSPECTIONS (For Contracts Effective Before October 2, 1995)**

#### **INTRODUCTION**

This Chapter describes the HA's policies, procedures and standards for servicing Contracts which were effective before October 2, 1995. Certificate and Voucher contracts in this category have provisions for the HA's liability to owners when families move out. Vouchers and Certificates have a provision for damages, and Certificates, in addition, have a provision for vacancy loss.

The HA has no Certificate or Voucher contracts effective before October 2, 1995.

## **Chapter 18**

### **OWNER OR FAMILY DEBTS TO THE HA**

#### **INTRODUCTION**

This section describes the HA's policies for the recovery of monies which have been overpaid for families, and to owners. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is the HA's policy to meet the informational needs of owners and families, and to communicate the program rules in order to avoid owner and family debts. Before a debt is assessed against a family or owner, the file must contain documentation to support the HA's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the owner, the family or other interested parties.

When families or owners owe money to the HA, the HA will make every effort to collect it. The HA will use a variety of collection tools to recover debts including but not limited to:

1. Requests for Lump Sum Payments
2. Civil Suits
3. Repayment Agreements
4. Abatements
5. Reductions
6. Collection Agencies
7. Credit Bureaus
8. Income tax set-off programs

#### **A. REPAYMENT AGREEMENT FOR FAMILIES [24CFR 792.103, 982.552 (b)(6-8)]**

A Repayment Agreement as used in this Plan is a document entered into between the HA and a person who owes a debt to the HA. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of repayment, any special provisions of the agreement, and the remedies available to the HA upon default of the agreement.

#### **Late Payments**

A payment will be considered to be in arrears if the payment has not been received by the close of business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day.

If the family's repayment agreement is in arrears, the HA may:

1. Require the family to pay the balance in full
2. Pursue civil collection of the balance due
3. Terminate the housing assistance
4. Grant an extension

If the family requests a move to another unit and has a repayment agreement in place for the payment of an owner claim, and the repayment agreement is not in arrears – The family will be permitted to move.

If the family requests a move to another unit and is in arrears on a repayment agreement for the payment of an owner claim: The family will be required to pay the balance in full, unless a mutually acceptable agreement between family and owner is reached.

The HA reserves the right, at its discretion, not to enter into a Repayment Agreement when:

1. The family already has a Repayment Agreement in place.
2. The HA determines that the family committed program fraud.

### **Guidelines for Repayment Agreements**

Repayment Agreements will be executed between the HA and the head of household and spouse. Monthly payments may be decreased in cases of hardship with the prior notice of the family, verification of the hardship, and the approval of the Executive Director.

**Additional Monies Owed:** If the family has a Repayment Agreement in place and incurs an additional debt to the HA:

- a. The HA will not enter into more than one Repayment Agreement at a time with the same family;
- b. Additional amounts owed by the family will be added to the existing repayment agreement

### **B. DEBTS DUE TO FRAUD/NON-REPORTING OF INFORMATION [24 CFR 982.163]**

HUD's definition of program fraud and abuse is a single act or pattern of actions that constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and that results in payment of Section 8 program funds in violation of Section 8 program requirements.

### **Family Error/Late Reporting**

Families who owe money to the HA due to the family's failure to report increases in income will be required to repay in accordance with the guidelines in the Repayment Section of this Chapter.

### **Program Fraud**

Families who owe money to the HA due to program fraud will be required to repay the amount in full within 30 days. If the full amount is paid within this time period, and the family is still eligible, the HA may continue assistance to the family.

If a family owes an amount equal to or exceeding \$10,000 as a result of program fraud, the case will be referred to Inspector General. Where appropriate, the HA will refer the case for criminal prosecution.

## **C. OWNER DEBTS TO THE HA**

If the HA determines that the owner has retained Housing Assistance or Claim Payments the owner is not entitled to, the HA may reclaim the amounts from future Housing Assistance or Claim Payments owed the owner for any units under contract.

If future Housing Assistance or Claim Payments are insufficient to reclaim the amounts owed, the HA will do one or more of the following:

- Require the owner to pay the amount in full within 30 days
- Enter into a repayment agreement with the owner for the amount owed
- Pursue collections through the local court system
- Restrict the owner from future participation

## **D. WRITING OFF DEBTS**

Debts will be written off if:

- The debtor's whereabouts are unknown and the debt is more than five years old.
- The debtor is deceased.
- The debtor is confined to an institution indefinitely or for more than ten years.
- The amount is less than \$500 and the debtor cannot be located.

## **Chapter 19**

### **COMPLAINTS AND APPEALS**

#### **INTRODUCTION**

The informal hearing requirements defined in HUD regulation are applicable to participating families who disagree with an action, decision, or inaction of the HA. This Chapter describes the policies, procedures and standards to be used when families disagree with an HA decision. The procedures and requirements are explained for preference denial meetings, informal reviews and hearings. It is the policy of the HA to ensure that all families have the benefit of all protections due to them under the law.

#### **A. COMPLAINTS TO THE HA**

The HA will respond to complaints from families, owners, employees, and members of the public. All complaints will be documented. The HA will require that complaints other than HQS violations be put in writing. HQS complaints may be reported by telephone.

#### **Categories of Complaints**

- Complaints from families: If a family disagrees with an action or inaction of the HA or owner;
- Complaints from Owners: If an owner disagrees with an action or inaction of the HA or a family
- Complaints from staff: If a staff person reports an owner or family either violating or not complying with program rules.
- Complaints from general public: Complaints or referrals from persons in the community in regard in the HA, a family or an owner.

The HA hearing procedures will be provided to families in the briefing packet.

#### **B. PREFERENCE DENIALS [24 CFR 5.415]**

When the HA denies a preference to an applicant, the family will be notified in writing of the specific reason for the denial and offered the opportunity for a meeting with HA staff to discuss the reasons for the denial and to dispute the HA's decision.

The person who conducts the meeting must be the Affordable Housing Director, the Deputy Executive Director, or the Executive Director.

#### **C. INFORMAL REVIEW PROCEDURES FOR APPLICANTS [24 CFR 982.54 (d)(12), 982.554]**

Reviews are provided for applicants who are denied assistance before the effective date of the HAP contract. The exception is when an applicant is denied assistance for citizen or eligible immigrant status, the applicant is entitled to an informal hearing.

When the HA determines that an applicant is ineligible for the program, the family must be

notified of their ineligibility in writing. The notice must contain:

- The reason(s) they are ineligible;
- The procedure for requesting a review if the applicant does not agree with the decision and;
- The time limit for requesting a review.

The HA must provide applicants with the opportunity for an Informal Review of decisions denying:

- Listing on the HA's waiting list;
- Issuance of a Certificate or Voucher
- Participation in the program

Informal Reviews are not required for established policies and procedures and HA determinations such as:

1. Discretionary administrative determinations by the HA
2. General policy issues or class grievances
3. A determination of the family unit size under the HA subsidy standards
4. Refusal to extend or suspend a Certificate or Voucher
5. Disapproval of lease
6. Determination that unit is not in compliance with HQS
7. Determination that unit is not in accordance with HQS due to family size or composition.

### **Procedure for Review**

A request for an Informal Review must be received by the close of the business day, no later than 10 days from the date of the HAs notification of denial of assistance. The informal review will be scheduled within seven days from the date the request is received.

Neither the person who made or approved the decision under review, nor a subordinate of such person, may conduct the Informal Review.

The Review Officer may be conducted by the Executive Director, the Deputy Executive Director, or a Director, qualified managerial/administrative staff person, a qualified designee by the Executive Director.

The applicant will be given the option of presenting oral or written objections to the decision. Both the HA and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.

A Notice of the Review findings will be provided in writing to the applicant 10 days after the review. It shall include the decision of the review officer, and an explanation of the reasons for the decision.

All requests for a review, supporting documentation and a copy of the final decision will be retained in the family's file.

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D. **INFORMAL HEARING PROCEDURES** [24 CFR 982.555 (a-f), 982.54(d)(13)]

When the HA receives a request for an informal hearing, a hearing shall be scheduled within seven days. The notification of a hearing will contain:

- a. The date and time of the hearing;
- b. The Location where the hearing will be held;
- c. The family's right to bring evidence, witnesses, legal or other representation at the family's expense;
- d. The right to view any documents or evidence in the possession of the HA upon which the HA based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing;
- e. A notice to the family that the HA will request a copy of any documents or evidence the family will use at the hearing. Such documents or evidence must be received no later than three days before the hearing date.

**The HA's Hearing Procedures**

The family must contact the HA within 24 hours, excluding weekends and holidays, if a family cannot appear at a scheduled hearing and has not rescheduled the hearing in advance. The HA will reschedule the hearing only if the family can show good cause for the failure to appear.

When the HA makes a decision regarding the eligibility and/or the amount of assistance, applicants and participants must be notified in writing. The HA will give the family prompt notice of such determinations which will include:

- The proposed action or decision of the HA;
- The date the proposed action or decision will take place;
- The family's right to an explanation of the basis for the HA's decision.
- The procedures for requesting a hearing if the family disputes the action or decision;
- The time limit for requesting the hearing.

The HA must provide participants with the opportunity for an Informal Hearing for decisions related to any of the following HA determinations:

1. Determination of the family's annual or adjusted income and the computation of the housing assistance payment.
2. Appropriate utility allowance used from schedule.
3. Family unit size determination under HA subsidy standards.
4. Determination that Certificate program family is under-occupied in their current unit and a request for exception is denied.
5. Determination to terminate assistance for any reason.
6. Determination to terminate a family's FSS Contract, withhold supportive services, or propose



Families have the right to:

- Present written or oral objections to the HA's determination
- Examine the documents in the file which are the basis for the HA's action, and all documents submitted to the Hearing Officer
- Copy any relevant documents at their expense
- Present any information or witnesses pertinent to the issue of the hearing
- Request that HA staff be available or present at the hearing to answer questions pertinent to the case; and
- Be represented by legal counsel, advocate, or other designated representative at their own expense

In addition to other rights contained in this Chapter, the HA has a right to:

- Present evidence and any information pertinent to the issue of the hearing;
- Be notified if the family intends to be represented by legal counsel, advocate, or another party;
- Examine and copy any documents to be used by the family prior to the hearing;
- Have its attorney present; and
- Have staff persons and other witnesses familiar with the case present.

The Informal Hearing shall be conducted by the Hearing Officer appointed by the HA who is neither the person who made or approved the decision, nor a subordinate of that person. The HA appoints hearings officers who are a: HA Director, Supervisor, or Management.

The hearing shall concern only the issues for which the family has received the opportunity for hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" includes records and regulations.

If the family misses an appointment or deadline ordered by the Hearing Officer, the action of the HA shall take effect and another hearing will not be granted.

The Hearing Officer will determine whether the action, inaction or decision of the HA is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the Hearing findings shall be provided in writing to the HA and the family within 10 days and shall include:

- A clear summary of the decision and reasons for the decision;
- If the decision involves money owed, the amount owed; and
- The date the decision goes into effect.

The HA is not bound by hearing decisions:

- Which concern matters in which the HA is not required to provide an opportunity for a hearing;
- Which conflict with or contradict HUD regulations or requirements;
- Which conflict with or contradict Federal, state or local laws; or
- Which exceed the authority of the person conducting the hearing.

The HA shall send a letter to the participant if it determines the HA is not bound by the Hearing Officer's determination within 10 days. The letter shall include the HA's reasons for the decision.

All requests for a hearing, supporting documentation and a copy of the final decision will be retained in the family's file.

**E. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS" [24 CFR Part 5, Subpart E]**

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal.

Assistance to a family may not be terminated or denied while the HA hearing is pending but assistance to an applicant may be delayed pending the HA hearing.

**INS Determination of Ineligibility**

If a family member claims to be eligible immigrant and the INS SAVE system and manual search do not verify the claim, the HA notifies the applicant or participant within ten days of their right to appeal to the INS within thirty days or to request an informal hearing with the HA either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give the HA a copy of the appeal and proof of mailing or the HA may proceed to deny or terminate. The time period to request an appeal may be extended by the HA for good cause.

The request for an HA hearing must be made within fourteen days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within fourteen days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in section D of this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members the HA will:

- Deny the applicant family
- Defer termination if the family is a participant and qualifies for deferral
- Terminate the participant if the family does not qualify for deferral

If there are eligible members in the family, the HA will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

- If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide documentation or certification as required, the family will be denied or terminated for failure to provide.
- Participants whose termination is carried out after temporary deferral may not request a hearing since they had any opportunity for a hearing prior to the termination.
- Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of tenant rent and Total Tenant Payment.
- Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

F. **MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES**

When applicants are denied placement on the waiting list, or the HA is terminating assistance, the family be informed that presence of a disability may be considered as a mitigating circumstance during the informal review process.

## **Chapter 20**

### **PROJECT-BASED VOUCHER ADMINISTRATION**

#### **INTRODUCTION**

Project Based Vouchers shall be governed by the provisions contained within Federal Regulations, 24 CFR 983. Upon the designation of Section 8 Housing Choice Vouchers as project based, the Authority may enter into project-based HAP contracts with landlords of existing dwelling units. The Administrative Procedures as detailed throughout this document shall also govern Project-Based Vouchers (PBV), except where noted below. Further, the following provisions of the Section 8 Housing Choice Voucher do not apply to PBV assistance: Provisions on issuance or use of a voucher; provisions on portability; provisions on shared housing, manufactures home space rental and homeownership option.

#### **A. Tenant Selection**

The Authority shall maintain a separate waiting list for both tenant-based assistance and PBV assistance. The Authority will maintain a separate waiting list for each bedroom size of project-based units available. All admissions into the project-based Voucher Program shall be in accordance with the income targeting requirements. The Authority shall monitor the targeting requirements of the tenant-based and project-based Section 8 Housing Choice Voucher Programs jointly in accordance with the Section 8 Administrative Plan.

#### **B. Information for Accepted Families**

When a family accepts an offer for PBV assistance, the Authority must give the family an oral briefing and an information packet. The oral briefing will include information on how the program works, the family responsibilities and the owner responsibilities. The information packet must include information on how the total tenant payment for the family is determined, the family obligations under the program and applicable fair housing information.

#### **C. Unit Inspections and Housing Quality Standards**

The Authority shall apply HQS standards to all inspections performed at units under a project-based HAP contract. All units shall be inspected at least biennially and at the special request of the assisted tenant and/or landlord. The Authority must vigorously enforce the owner's obligation to maintain contract units in accordance with the HQS. The Authority may not make any HAP payment to the owner for a contract unit covering any period during which the contract unit does not comply with the HQS.

#### **D. Vacant Units**

The Authority may approve vacancy payments to a landlord for project-based units under contract for a maximum of 60 days. The Authority will only make such payments, upon the written request of the owner. The written request must contain sufficient documentation which proves the vacancy is not the fault of the owner, and that the owner has taken every reasonable step to minimize the extent and likelihood of vacancies.

#### **E. Family Choice to Move with Continued Assistance**

The HAP Contract will provide that a family may move out of the project-based unit after 12 months. The Authority will offer the family available tenant-based rental assistance under the Section 8 Housing Choice Voucher Program if, after the first 12 months, the family moves with no negative rental payments and adverse tenancy violations. However, the Authority may not issue tenant-based vouchers targeted for special purposes unless the family meets the criteria. If the family terminates the assisted lease before the end of one year, the family relinquishes the opportunity for continued tenant-based assistance.

**Choice-Mobility.** One of the key features of the PBV program is the mobility component, which provides that if the family has elected to terminate the assisted lease at any time after the first year of occupancy in accordance with program requirements, the PHA must offer the family the opportunity for continued tenant-based rental assistance, in the form of either assistance under the voucher program or other comparable tenant-based rental assistance. HUD has established the following alternative requirement for PHAs where, as a result of RAD, the total number of PBV units (including RAD PBV units) under HAP Contract administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD: The alternative mobility policy provides that an eligible voucher agency would not be required to provide more than three-quarters of its turnover vouchers in any single year to the residents of Covered Projects. While a voucher agency is not required to establish a voucher inventory turnover cap, if such a cap is implemented, the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received. In order to adopt this provision, this alternative mobility policy must be included in an eligible PHA's administrative plan. To effectuate this provision, HUD is providing an alternative requirement to Section 8(o)(13)(E) of the Act and 24 CFR § 983.261(c). Please note that this alternative requirement does not apply to PBVs entered into outside of the context of RAD.

#### **F. HAP Contract Terms & Rents**

The Authority will enter into HAP Contracts with landlords for a term of up to 10 years, subject to the availability of appropriations and future availability of funding the Authority's Annual Contributions Contract with HUD. The Authority will only approve gross rents that do not exceed 110% of the Fair Market Rent (or as approved by HUD for Small Area Fair Market Rents) as most recently determined by HUD and are reasonable in comparison with rents charged for comparable units in the private unassisted market.

**G. Family occupancy of wrong-size or accessible unit**

The Authority's subsidy standards determine the appropriate unit size for the family size and composition. If the Authority determines that a family is occupying a Wrong-size unit, or Unit with accessibility features that the family does not require, and the unit is needed by a family that requires the accessibility features, the Authority must promptly notify the family and the owner of this determination, and of the Authority's offer of continued assistance in the form of Project-based voucher assistance in an appropriate-size unit (in the same project or in another project); or if not available Tenant-based rental assistance under the voucher program.

**H. Resident Procedural Rights**

In addition to the regulations at 24 CFR § 983.257 related to Project Owner termination of tenancy and eviction, the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease which shall be:

- i. A reasonable period of time, but not to exceed 30 days:
  1. If the health or safety of other tenants, Project Owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
  2. In the event of any drug-related or violent criminal activity or any felony conviction;
- ii. Not less than 14 days in the case of nonpayment of rent; and
- iii. Not less than 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.

**Grievance Process.** Pursuant to requirements in the RAD Statute, HUD established additional resident procedural rights to comply with section 6 of the Act. For the termination of assistance and several other PHA determinations, PBV program rules require the PHA to provide an opportunity for an informal hearing, as outlined in 24 CFR § 982.555. RAD will specify alternative requirements for 24 CFR § 982.555(b) in part, which outlines when informal hearings are not required, to require that:

- i. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(v),<sup>40</sup> an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a Project Owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.
  1. For any hearing required under 24 CFR § 982.555(a)(1)(i)-(v), the contract administrator will perform the hearing, as is the current standard in the program. The hearing officer must be selected in accordance with 24 CFR § 982.555(e)(4)(i).
  2. For any additional hearings required under RAD, the Project Owner will perform the hearing.
- ii. There is no right to an informal hearing for class grievances or to disputes between residents not involving the Project Owner or Contract Administrator.

- iii. The Project Owner gives residents notice of their ability to request an informal hearing as outlined in 24 CFR § 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR § 982.555(a)(1)(i)-(vi). iv. The Project Owner provides opportunity for an informal hearing before an eviction. Current PBV program rules require that hearing procedures must be outlined in the PHA's Section 8 Administrative Plan. 40 § 982.555(a)(1)(iv) is not relevant to RAD as the tenant-based certificate program has been repealed. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

**I. Admission and Initial Tenant Rents**

The RAD statute makes clear that conversion “shall not be the basis for rescreening or termination of assistance or eviction of any family in a property participating in [RAD].” For practical purposes, this means that the Contract Administrator (MHA) must admit families who are in place at the time of conversion to the RAD PBV program and establish their initial tenant rents without regard to their income. Neither are families in place at the time of conversion considered to be new admissions for income-targeting purposes. This RAD requirement means that zero HAP families who were in place at the time of conversion are treated differently than such families are treated under the traditional PBV program.

**J. ADMISSION TO THE RAD PBV PROGRAM**

The Contract Administrator must admit families who are in place at the time of conversion to the RAD PBV program, following the steps below:

- a. Submit a Form HUD-50058 (“50058”). On the 50058:
  - i. Enter a “1” on line 2a, signifying the family’s “admission”;
  - ii. On line 2n, enter code “RADPH” (Rental Assistance Demonstration/Public Housing), which makes clear that the family is being admitted to the RAD PBV program;
  - iii. On line 2h, enter the effective date of the RAD PBV HAP contract, which will be the family’s date of admission to the RAD PBV program;
  - iv. Complete Section 11 (Line 11b through Line 11an); and
  - v. From the “end participation” submission (which will have been submitted by the PHA that is converting its funding), retain the date of the family’s next annual reexamination (Line 2i). [The Contract Administrator may perform a full recertification at this time only if a family’s annual reexamination is due at the same time as the effective date of the RAD PBV HAP contract. Again, a family may not be rescreened or subjected to eligibility determinations based on income.]
- b. Provide an oral briefing that meets the requirements of 24 C.F.R. §983.252. The description of how the program works must include an explanation of the Choice-Mobility option, including whether the Contract Administrator has established a voucher inventory turnover cap (Section 1.6.D.8 of the RAD Notice). Also, each family is required to sign the Section 8 Project-Based Voucher Program Statement of Family Responsibility, which the Contract Administrator signs as well.

In the event a family needs to be temporarily relocated during rehabilitation or construction following execution of the RAD PBV HAP contract, some variations on the above-described procedures will be necessary, as described below.

- Temporary relocation to another public housing unit. For any family that has been temporarily relocated to another public housing unit, the PHA that is converting its funding will have submitted a 50058 documenting a change in unit (code “7” on line 2a of the 50058), and leaving the family in the public housing program for the time being. When the RAD PBV unit is ready for occupancy, the PHA that is converting its assistance will submit a 50058, entering a “6” on line 2a to signify the family’s end of participation in the public housing program. The Contract Administrator will then follow the above-described steps to admit the family to the RAD PBV unit/program. In this scenario, however, the Contract Administrator will enter on line 2h the date on which the family moves into the RAD PBV unit. If the date of the family’s next annual reexamination (described in step (a)(v)) falls during the temporary relocation period, then the PHA that is converting its funding must perform the recertification (and the Contract Administrator may not deny the family admission to the RAD PBV unit based on the family’s income).
- Temporary relocation to an unassisted unit. For any family that has been temporarily relocated to an unassisted unit, the PHA that is converting its funding will have submitted a 50058 signifying the family’s end of participation in the public housing program (code “6” on line 2a). The family will be unassisted during the temporary relocation period and therefore not subject to program requirements such as the annual reexamination. In this case, in order to admit the family to the RAD PBV program when the RAD PBV unit is ready for occupancy, the Contract Administrator must have revised its Administrative Plan to establish additional eligibility criteria under which the family will be admitted (see the discussion of Administrative Plan requirements under paragraph 2.2.2). When the RAD PBV unit is ready for occupancy, the Contract Administrator will follow the above-described steps, entering on line 2h (step (a)(iii)) the date on which the family moves into the RAD PBV unit. If the end of participation submission (step (a)(v)) 28 shows that the date of the family’s next annual reexamination fell during the temporary relocation period, then the Contract Administrator must perform an income determination as it would when admitting any family to the voucher program; however, the family may not be denied admission to the RAD PBV unit based on the family’s income.
- Temporary relocation using voucher assistance. For any family that has been temporarily relocated using voucher assistance, including temporary relocation to a PBV-assisted unit, the PHA that is converting its funding will have submitted a 50058 indicating the family’s end of participation in the public housing program and another admitting the family to the voucher program, carrying forward the date of the family’s next annual reexamination from the end of participation submission (step (a)(v)). In this case, when the RAD PBV unit is ready for occupancy, the Contract Administrator will follow the above-described steps, with a few changes. Specifically, on line 2a (step (a)(i)), the Contract Administrator will enter a “7” (“other change of unit”). On line 2h, the Contract Administrator will enter the date on which the family moves into the RAD



PBV unit. If the end of participation submission (step (a)(v)) shows that the date of the family's next annual reexamination fell during the temporary relocation period, then the Contract Administrator must perform an income determination as it would when admitting any family to the voucher program; however, the family may not be denied admission to the RAD PBV unit based on the family's income.

If the PHA that is converting its funding operates a voucher program, then the family may be admitted to that PHA's voucher program. Alternatively, the family may be admitted to the voucher program of the Contract Administrator. During the temporary relocation period, the family will be subject to the voucher policies of the respective agency. Since the family will already have been admitted to the voucher program, entering a "1" on line 2a will generate an error message. HUD calculates the initial contract rents for each Covered Project according to the methodology described in Attachment 1C to the RAD Notice.

#### **K. Initial Tenant Rents**

For families in place at the time of conversion, the RAD Notice provides that the tenant rent will be the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of the conversion. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same property as the Covered Project are subject to the terms of this provision.

#### **First Regular or Interim Recertification**

As in the traditional PBV program, the Contract Administrator must conduct a reexamination of family income and composition at least annually. At the earlier of the family's first regular or interim recertification following conversion, the Contract Administrator will calculate the family's TTP and apply the applicable utility allowance (which may be a site-specific utility allowance), to determine the tenant rent.

Some families may be subject to RAD's rent phase-in, which would take effect at this first regular or interim recertification. As with the initial admission, RAD treats zero HAP families who were in place at the time of conversion differently from how such families are treated under the traditional PBV program.

#### **RENT PHASE-IN**

If at the first recertification following conversion, the amount a tenant will pay for rent and utilities (the tenant's TTP) will increase (purely as a result of conversion) over the public housing tenant rent by more than the greater of 10 percent or \$25, then the rent increase must be phased in over three (3) years or a five (5) year phase-in for larger increases in rent.

**Phase-in of Tenant Rent Increases.** To implement this provision, HUD is specifying alternative requirements for section 3(a)(1) of the Act, as well as 24 CFR § 983.3 (definition of "total tenant payment" (TTP)) to the extent necessary to allow for the phase-in of tenant rent increases. The method described below explains the set percentage-based phase-in a Project Owner must follow according to the phase-in period established.

For purposes of this section “Calculated PBV TTP” refers to the TTP calculated in accordance with regulations at 24 CFR §5.628 and the “most recently paid TTP” refers to the TTP recorded on line 9j of the family’s most recent HUD Form 50058. If a family in a project converting from Public Housing to PBV was paying a flat rent immediately prior to conversion, the PHA should use the flat rent amount to calculate the phase-in amount for Year 1 (the first recertification following conversion), as illustrated below.

### **Three Year Phase-in**

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 33% of difference between most recently paid TTP or flat rent and the Calculated PBV TTP
- Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) prior to Year 3 AR – 50% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 3: Year 3 AR and all subsequent re-certifications – Full Calculated PBV TTP.

### **Five Year Phase-in**

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 20% of difference between most recently paid TTP or flat rent and the Calculated PBV TTP
- Year 2: Year 2 AR and any IR prior to Year 3 AR – 25% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 3: Year 3 AR and any IR prior to Year 4 AR – 33% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 4: Year 4 AR and any IR prior to Year 5 AR – 50% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 5 AR and all subsequent re-certifications – Full Calculated PBV TTP

### **ZERO HAP FAMILIES**

In the traditional PBV program, a PHA must remove a unit from the contract when no assistance has been paid for 180 days because the family’s TTP has risen to a level that is equal to or greater than the gross rent. In the RAD PBV program, a unit occupied by a family that was in place at the time of conversion must remain under contract (in other words, the 180-day requirement does not apply). This is true for families who were in place at the time of conversion, even if they were not zero HAP at the time of admission but subsequently increased their income to a level that is equal to or greater than the gross rent. As described above, when the Contract Administrator enters a TTP amount in the 50058 that exceeds the RAD PBV contract rent, the Contract Administrator will allow the TTP calculation to be carried out by the system and then record the actual TTP charged in the “PHA Use Only” line 2u, with the statement “Actual TTP is \$xxx.”

**Note 1:** In either the three-year phase-in or the five-year phase-in, once the Calculated PBV TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full TTP from that point forward. To facilitate the uniform treatment of residents and units at a Covered Project, any non-RAD PBV units located in the same Covered Project shall be subject to the terms of this provision.

**Note 2:** Under the voucher program, the earned income disregard (EID) is limited only to persons with disabilities. RAD provides that all public housing tenants who were employed and receiving the EID at the time of conversion will continue to receive the EID after conversion. Such families are eligible to receive a rent phase-in. Upon the expiration of the EID, however, the rent will rise to the appropriate rent level based upon the tenant's income. In other words, when the income that was disregarded under the EID is no longer disregarded, the resulting increase in the tenant's rent is ineligible for the phase-in.

**Note 3:** A Contract Administrator may not admit a zero HAP family to a RAD PBV–assisted unit following conversion, unless the Contract Administrator has obtained a waiver. In other words, in the absence of such a waiver, the prohibition against admitting a zero-HAP family applies to Covered Projects, as does the requirement to remove a unit from the HAP contract 180 days following the last housing assistance payment on behalf of a family.

## **GLOSSARY**

### **A. ACRONYMS USED IN SUBSIDIZED HOUSING**

AAF	Annual Adjustment Factor. A factor published by HUD in the Federal Register, which is used to compute annual rent adjustments.
ACC	Annual Contributions Contract
BR	Bedroom
CDBG	Community Development Block Grant
CFR	Code of Federal Regulations. Commonly referred to as “the regulations”. The CFR is the compilation of Federal rules, which are first published in the Federal Register and define and implement a statute.
CPI	Consumer Price Index. CPI is published monthly by the Department of Labor as an inflation indicator.
CR	Contract Rent.
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration
FICA	Federal Insurance Contributions Act – Social Security taxes
FMHA	Farmers Home Administration
FMR	Fair Market Rent
FY	Fiscal year
FYE	Fiscal Year End
GAO	Government Accounting Office
GFC	Gross Family Contribution. Note: Has been replaced by the term Total Tenant Payment (TTP)
GR	Gross Rent

HA	Housing Agency
HAP	Housing Assistance Payment
HAP PLAN	Housing Assistance Plan
HCDA	Housing and Community Development Act
HQS	Housing Quality Standards
HUD	The Department of Housing & Urban Development
HURRA	Housing and Urban/Rural Recovery Act of 1983
HCV	Housing Choice Voucher
IG	Inspector General
IGR	Independent Group Residence
IPA	Independent Public Accountant
IRA	Individual Retirement Account
MSA	Metropolitan Statistical Area established by the U.S. Census Bureau
PHA	Public Housing Agency
PMSA	A Primary Metropolitan Statistical Area established by the U.S. Census Bureau
PS	Payment Standard
QC	Quality Control
RLA	Request for Lease Approval (see also RFLA)
RFLA	Request for Lease Approval
RFP	Request for Proposals
RRP	Rental Rehabilitation Program
SRO	Single Room Occupancy
SSMA	Standard Statistical Metropolitan Area. Has been replaced by MSA, Metropolitan Statistical Area

TR	Tenant Rent
TTP	Total Tenant Payment
UA	Utility Allowance
URP	Utility Reimbursement Payment

## **B. GLOSSARY OF TERMS IN SUBSIZED HOUSING**

**ABSORPTION.** In portability, the point at which a receiving HA stops billing the initial HA for assistance on behalf of a portability family. The receiving HA uses funds available under the receiving HA consolidated ACC.

**ACC RESERVE ACCOUNT (FORMERLY “PROJECT RESERVE”).** Account established by HUD from amounts by which the maximum payment to the HA under the consolidated ACC (during an HA fiscal year) exceeds the amount actually approved and paid. This account is used as the source of additional payments for the program.

**ADJUSTED INCOME.** Annual Income, less allowable HUD deductions.

**ADMINISTRATIVE FEE.** Fee paid by HUD to the HA for administration of the program.

**ADMINISTRATIVE FEE RESERVE (Formerly “Operating Reserve”).** Account established by the HA from excess administrative fee income. The administrative fee reserve must be used for housing purposes.

**ADMISSION.** The effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program. This is the point when the family becomes a participant in the program.

**ADULT.** A person that is 18 years of age or older, or a legally emancipated minor.

**ANNUAL CONTRIBUTIONS CONTRACT (ACC).** A written contract between HUD and an HA. Under the contract HUD agrees to provide funding for operation of the program, and the HA agrees to comply with HUD requirements for the program.

**ANNUAL INCOME.** The anticipated total Annual Income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

**ANNUAL INCOME AFTER ALLOWANCES.** The Annual Income (described above) less the HUD-approved allowances.

**APPLICANT (OR APPLICANT FAMILY).** A family that has applied for admission to a

program, but is not yet a participant in the program.

“AS-PAID” STATES. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

ASSETS. (SEE Net Family Assets.)

ASSISTED TENANT. A tenant who pays less than the market rent as defined in the regulations. Includes tenants receiving rent supplement, Rental Assistance Payments, or Section 8 assistance and all other 236 and 221 (d)(3) Below Market Interest Rate (BMIR) tenants, except those paying the 236 market rent or 120% of the BMIR rent, respectively.

BUDGET AUTHORITY. An amount authorized and appropriated by the Congress for payment to the HA under the program. For each funding increment in an HA program, budget authority is the maximum amount that may be paid by HUD to the HA over the ACC term of the funding increment.

CHILD. A member of the family, other than the head of household or spouse, who is under 18 years of age.

CHILD CARE EXPENSES. Amounts paid by the family for the care of minors under 13 years of age where such care is necessary to enable a family member to be employed or for a household member to further his/her education.

CITIZEN. A citizen or national of the United States of America.

CONSOLIDATED ANNUAL CONTRIBUTIONS CONTRACT. (Consolidated ACC). See 24 CFR 982.151.

CONTIGUOUS MSA. In portability, an MSA that shares a common boundary with the MSA in which the jurisdiction of the initial HA is located.

CONTINUOUSLY ASSISTED. An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the certificate or voucher program.

CONTRACT. (See Housing Assistance Payments Contract).

CONTRACT AUTHORITY. The maximum annual payment by HUD to an HA for a funding increment.

CONTRACT RENT. The total rent paid to the owner, including the tenant payment and the HAP payment from the HA.

DEPENDENT. A member of the family household (excluding foster children) other than the family head or spouse who is under 18 years of age or is a disabled person, or is a full-time student, 18 years of age or over.

**DISABLED PERSON.** A person who meets the following:

- (1) A person who has a disability as defined in Section 223 of the Social Security act. (42 U.S.C. 423).
- (2) A person who has a physical, mental, or emotional impairment that:
  - (i) Is expected to be of long-continued and indefinite duration;
  - (ii) Substantially impeded his or her ability to live independently; and
  - (iii) Is of such a nature that ability to live independently could be improved by more suitable housing conditions.
- (3) A person who has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7)).

**DISPLACED PERSON.** A person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized under federal disaster relief laws.

**DOMICILE.** The legal residence of the household head or spouse as determined in accordance with State and local law.

**DRUG-RELATED CRIMINAL ACTIVITY.** Term means:

- (1) Drug-trafficking; or
- (2) Illegal use, or possession for personal use of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

**DRUG TRAFFICING.** The illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

**ELDERLY HOUSEHOLD.** A family whose head or spouse or whose sole member is at least 62 years of age or a Disabled Person as defined in this section or a Handicapped Person as defined in this section or may include two or more elderly, disabled or handicapped persons living together or one or more such persons living with another person who is determined to be essential to his/her care and well-being.

**ELDERLY PERSON.** A person who is at least 62 years old.

**ELIGIBILITY INCOME.** May 10, 1984 regulations deleted Eligibility Income, per se, because Annual Income is now for eligibility determination to compare to income limits.

**ELIGIBLE FAMILY (Family).** A family is defined by the HA in the Administrative Plan.

**EVIDENCE.** In relation to citizenship - Legal documentation verifying citizenship or eligible immigration status.

**EXCEPTIONAL MEDICAL OR OTHER EXPENSES.** Prior to the regulation change in 1982, this meant medical and/or unusual expenses as defined in Part 889, which exceeded 25% of the Annual Income. It is no longer used.



**EXCEPTIONAL RENT.** In the certificate program an initial rent (contract rent plus any utility allowance) in excess of the published FMR. In the certificate program the exception rent is approved by HUD, or the HA under prescribed conditions, and is used in determining the initial contract rent. In the voucher program the HA may adopt a payment standard up to the exception rent limit approved by HUD for the HA certificate program.

**EXCESS MEDICAL EXPENSES.** Any medical expenses incurred by elderly families only in excess of 3% of Annual Income which are not reimbursable from any other source.

**FAIR MARKET RENT (FMR).** The rent including the cost of utilities (except telephone) that would be required to be paid in the housing market area to obtain privately owned existing decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. Fair market rents for existing housing are established by HUD for housing units of varying sizes (number of bedrooms) and are published in the Federal Register in accordance with 24 CFR Part 882.

**FAMILY.** The applicant must qualify as a family as defined by the HA.

**FAMILY OF VETERAN OR SERVICE PERSON.** A family is a “family of veteran or service person” when:

1. The veteran or serviceperson (a) is either the head of household or is related to the head of the household; or (b) is deceased and was related to the head of the household, and was a family member at the time of death.
2. The veteran or serviceperson, unless deceased, is living with the family or is only temporarily absent unless s/he was (a) formerly the head of the household and is permanently absent because of hospitalization, separation, or desertion, or is divorced; provided the family contains one or more persons for whose support s/he is legally responsible and the spouse has not remarried; or (b) not the head of the household but is permanently hospitalized; provided that s/he was a family member at the time of hospitalization and there remain in the family at least two related persons.

**FAMILY SELF-SUFFICIENCY PROGRAM (FSS).** The program established by an HA to promote self-sufficiency of assisted families, including the provision of supportive services.

**FEDERAL PREFERENCE.** A preference under Federal law for admission of applicant families that are any of the following:

- (1) Involuntarily displaced;
- (2) Living in substandard housing (including families that are homeless or living in a shelter for the homeless).
- (3) Paying more than 50 percent of family income for rent.

**FEDERAL PREFERENCE HOLDER.** An applicant that qualifies for a Federal preference.

**FMR/EXCEPTION RENT LIMIT.** The Section 8/Voucher Housing Program fair market rent published by HUD headquarters or any exception rent. In the certificate program the initial

contract rent for a dwelling unit plus any utility allowance may not exceed the FMR/exception rent limit (for the dwelling unit or for the family unit size). In the voucher program the HA may adopt a payment standard up to the FMR/exception rent limit.

**FOSTER CHILD CARE PAYMENT.** Payment to eligible households by state, local or private agencies appointed by the State to administer payments for the care of foster children.

**FULL-TIME STUDENT.** A person who is carrying a subject load that is considered full time for day students under the standards and practices of the educational institution attended. An educational institution includes a vocational school with a diploma or certificate program, as well as an institution offering a college degree.

**FUNDING INCREMENT.** Each commitment of budget authority by HUD to an HA under the consolidated annual contributions contract for the HA program.

**GROSS FAMILY CONTRIBUTION.** Changed to Total Tenant Payment.

**GROSS RENT.** The sum of the Contract Rent and the utility allowance. If there is no utility allowance, Contract Rent equals Gross Rent.

**HANDICAP ASSISTANCE.** Anticipated costs for care attendants and auxiliary apparatus for handicapped or disabled family members, which enable a family member (including the handicapped family member) to work.

**HANDICAP PERSON [Referred to as a Person with a Disability].** A person having a physical or mental impairment which:

- (1) Is expected to be of long-continued and indefinite duration;
- (2) Substantially impedes his or her ability to live independently; and,
- (3) Is of such nature that such ability could be improved by more suitable housing conditions.

**HAP CONTRACT.** (See Housing Assistance Payments contract.)

**HEAD OF HOUSEHOLD.** The head of household is the person who assumes legal and financial responsibility for the household and is listed on the application as head.

**HOUSING AGENCY.** A state, county, municipality or other governmental entity or public body authorized to administer the program. The term "HA" includes an Indian Housing Authority (IHA). ("PHA" and "HA" mean the same thing.)

**HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.** Act in which the U.S. Housing Act of 1937 (sometimes referred to as the Act) was re-codified, and which added the Section 8 Programs.

**HOUSING ASSISTANCE PAYMENT.** The monthly assistance payment by an HA. The total assistance payments consists of:

- (1) A payment to the owner for rent to owner under the family's lease.

- (2) An additional payment to the family if the total assistance payment exceeds the rent to owner. The additional payment is called a “utility reimbursement” payment.

**HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP CONTRACT).** A written contract between an HA and an owner in the form prescribed by HUD headquarters, in which the HA agrees to make housing assistance payments to the owner on behalf of an eligible family.

**HOUSING ASSISTANCE PLAN.** (1) A Housing Assistance Plan submitted by a local government participating in the Community Development Block Program as part of the block grant application, in accordance with the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD. (2) A Housing Assistance Plan meeting the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD.

**HOUSING QUALITY STANDARDS (HQS).** The HUD minimum quality standards for housing assisted under the tenant-based programs.

**HUD.** The United States Department of Housing and Urban Development.

**HUD REQUIREMENTS.** HUD requirements for the Section 8 programs. HUD requirements are issued by HUD headquarters as regulations. Federal Register notices or other binding program directives.

**HURRA.** The Housing and Urban/Rural Recovery Act of 1983 legislation that resulted in most of the 1984 HUD Regulation changes to the definition of income, allowances and rent calculations.

**IMPUTED ASSET.** Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

**INPUTED INCOME.** HUD passbook rate times total cash value of assets. Calculation used when assets exceed \$5,000.

**INCOME.** Income from all sources of each member of the household as determined in accordance with criteria established by HUD.

**INCOME FOR ELIGIBILITY.** Annual Income.

**INDIAN.** Any person recognized as an Indian or Alaska Native by an Indian Tribe, the Federal government, or any State.

**INDIAN HOUSING AUTHORITY (IHA).** A housing agency established either:

- (1) By exercise of the power of self-government of an Indian Tribe, independent of State law, or
- (2) By operation of State law providing specifically for housing authorities for Indians.

INS. Immigration and Naturalization Service.

INTEREST REDUCTION SUBSIDIES. The monthly payments or discounts made by HUD to reduce the debt service payments and, hence, rents required on Section 236 and 221 (d)(3) BMIR projects. Includes monthly interest reduction payments made to mortgages of Section 236 projects and front-end loan discounts paid on BMIR projects.

INTERIM REDETERMINATION OF RENT. Changes of rent distribution between admissions and reexaminations and the next succeeding reexamination.

INVOLUNTARILY DISPLACED PERSON. Applicants who meet the HUD definition for the Federal preference.

LANDLORD. Either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

LARGE VERY LOW-INCOME FAMILY. Prior to the 1982 regulations, this meant a very low-income family, which included six or more minors. This term is no longer used.

LEASE. A written agreement between an owner and an eligible family for the leasing of a housing unit. Section 8 Certificate and Voucher program have an Addendum to Lease that has mandatory language which must be incorporated into any lease the HA uses. The Addenda are different for the Certificate and Voucher Programs.

LIVE-IN AIDE. A person who resides with an elderly person or disabled person and who:

- (1) Is determined to be essential to the care and well-being of the person.
- (2) Is not obligated for the support of the person.
- (3) Would not be living in the unit except to provide necessary supportive services.

LOCAL PREFERENCE. A preference used by the HA to select among applicant families without regard to their Federal preference status.

LOW-INCOME FAMILY. A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. For admission to the certificate program, HUD may establish income limits higher or lower than 80 percent of the median income for the area on the basis of its finding that such variations are necessary because of the prevailing levels of construction costs or unusually high or low-family incomes.

MARKET RENT. The rent HUD authorizes the owner of FHA insured/subsidized multi-family housing to collect from families ineligible for assistance. For unsubsidized units in an FHA-insured multi-family project in which a portion of the total units receive project-based rental assistance, under the Rental Supplement or Section 202/Section 8 Programs, the Market Rate Rent is that rent approved by HUD and is the Contract Rent for a Section 8 Certificate holder. For BMIR units, Market Rent varies by whether the project is a rental or cooperative.

**MEDICAL EXPENSES.** Those total medical expenses, including medical insurance premiums, that are anticipated during the period for which Annual Income is computed, and that are not covered by insurance. A deduction for Elderly households only. These allowances are given when calculating adjusted income for medical expenses in excess of 3% of Annual Income.

**MINIMUM RENT.** Families assisted under the Section 8 program pay a monthly minimum rent of \$0 to \$25.00 per month, established at the discretion of the HA. The minimum rent established by this HA is \$25.00.

**MINOR.** A member of the family household (excluding foster children) other than the family head or spouse who is under 18 years of age.

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

**MONTHLY ADJUSTED INCOME.** One-twelfth (1/12) of the Annual Income after allowances or adjusted income.

**MONTHLY INCOME.** One-twelfth (1/12) of the Annual Income.

**NATIONAL.** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**NEGATIVE RENT.** Now called Utility Reimbursement. A negative Tenant Rent results in a Utility Reimbursement Payment (URP).

**NET FAMILY ASSETS.** Value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobile are excluded from the definition.

**NET FAMILY CONTRIBUTION.** Former name for Tenant Rent.

**OCCUPANCY STANDARDS.** Now referred to as Subsidy Standards. Standards established by an HA to determine the appropriate number of bedrooms for families of different sizes and compositions.

**OWNER.** Any person or entity having the legal right to lease or sublease housing.

**PARTICIPANT.** A family that has been admitted to the HA's certificate program or voucher program. The family becomes a participant on the effective date of the first HAP contract executed by the HA for the family (first day of initial lease term).

**PAYMENT STANDARD.** The amount used to calculate the housing assistance a family will receive in the HA's Housing Voucher Program.

**PORTABILITY.** Renting a dwelling unit with Voucher assistance outside the jurisdiction of the initial HA.

**PREFERENCE.** At the option of the HA, a preference system can be used to select among applicant families.

**PUBLIC ASSISTANCE.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, State, or local governments.

**PUBLIC HOUSING AGENCY (PHA).** A state, county, municipality, or other governmental entity or public body authorized to administer the programs. The term “PHA” includes an Indian Housing Authority (IHA). “PHA” and “HA” mean the same thing. A PHA is referred to as a “housing agency” (HA).

**RANKING PREFERENCE.** A preference used by the HA to select among applicant families that qualify for Federal preference.

**RECERTIFICATION.** Sometimes called reexamination - The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to the reported. There are annual and interim recertifications.

**RE-EXAMINATION DATE.** The date on which any rent change is effective or would be effective if required as a result of the annual re-examination of eligibility and rent.

**REMAINING MEMBER OF TENANT FAMILY.** Person left in assisted housing after other family members have left and become unassigned.

**RENT TO OWNER.** This is called Contract Rent in the Certificate Program and Rent to Owner in the Voucher Program. It is the total amount of rent payable to the owner by the family and the HA per month for an assisted unit.

**RESPONSIBLE ENTITY.** As it relates to Citizenship - The person or entity responsible for administering the restrictions on providing assistance to non-citizens with ineligible immigration status (the HA).

**RESIDENCY PREFERENCE.** An HA preference for admission of families that reside in the HA jurisdiction, including families with a member who works in the specified jurisdiction.

**RESIDENT ASSISTANT.** A person who lives in an Independent Group Residence and provides on a daily basis some or all of the necessary services to elderly, handicapped, and disabled individuals receiving Section 8 housing assistance and who is essential to these individual's care or well-being. A Resident Assistant shall not be related by blood, marriage or operation of law to individuals receiving Section 8 assistance nor contribute to a portion of his/her income or resources towards the expenses of these individuals. See Sections 882.109(n), 882.106(c) and 882.102 definitions in Appendix 1 of 7420.7.

**SECTION 214.** Section 214 restricts HUD from making financial assistance available for non-citizens unless they meet one of the categories of eligible immigration status specified in Section 214.

**SECRETARY.** The Secretary of Housing and Urban Development.

**SECURITY DEPOSIT.** A dollar amount which can be applied to unpaid rent, damages or other amounts to the owner under the lease.

**SERVICEPERSON.** A person in the active military or naval service (including the active reserve) of the United States.

**SINGLE PERSON.** A person living alone or intending to live alone.

**SINGLE ROOM OCCUPANCY (SRO).** A unit which does not contain sanitary facilities or food preparation facilities, or which contains one but not both types of facilities, and is suitable for occupancy by an eligible individual who is capable of independent living.

**SPOUSE.** The marriage partner, either a husband or wife, who is someone you need to divorce in order to dissolve the relationship. It includes the partner in a common-law marriage. It does not cover boyfriends, girlfriends, significant others, or “co-heads”. “Co-head” is a term recognized by some HUD programs, but not by Public and Indian housing programs.

**SUBSIDIZED PROJECT.** A multi-family housing project (with the exception of a project owned by a cooperative housing mortgage corporation or association), which receives the benefit of subsidy in the form of:

- (1) Below-market interest rates pursuant to Section 221(d)(3) and (5) or interest reduction payments pursuant to Section 236 of the National Housing Act; or
- (2) Rent supplement payments under Section 101 of the Housing and Urban Development Act of 1965; or
- (3) Direct loans pursuant to Section 202 of the Housing Act of 1959; or
- (4) Payments under the Section 23 Housing Assistance Payments Program pursuant to Section 23 of the United States Housing Act of 1937 prior to amendment by the Housing and Community Development Act of 1974;
- (5) Payments under the Section 8 Housing Assistance Payments Program pursuant to Section 8 of the United States Housing Act after amendment by the Housing and Community Development Act unless the project is owned by a Public Housing Agency.
- (6) A Public Housing Project.

**SUBSIDY STANDARDS.** Standards established by an HA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and composition.

**SUBSTANDARD UNIT.** Substandard housing is defined by HUD for use as a Federal preference.

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

**TENANT RENT (Formerly called Net Family Contribution).** The amount payable monthly by the family as rent to the owner (including a PHA in other programs). Where all utilities (except telephone) and other essential housing services are supplied by the owner, Tenant Rent equals Total Tenant Payment. Where some of all utilities (except telephone) and other essential housing services are not supplied by the owner and the cost thereof is not included in the amount paid as rent to the owner, Tenant Rent equals Total Tenant Payment less the Utility Allowance in the Certificate Program. In the Voucher Program, Tenant Rent is Rent to Owner less HAP.

**TOTAL TENANT PAYMENT (TTP).** The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

**UNIT.** Residential space for the private use of a family.

**UNUSUAL EXPENSES.** Prior to the change in the 1982 regulations, this was the term applied to the amounts paid by the family for the care of minor under 13 years of age or for the care of disabled or handicapped family household members, but only where such care was necessary to enable a family member to be gainfully employed.

**UTILITIES.** Utilities means water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection and sewage services. Telephone service is not included as a utility.

**UTILITY ALLOWANCE.** If the cost of utilities (except telephone) including range and refrigerator, and other housing services for an assisted unit is not included in the Contract Rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of a reasonable consumption of such utilities and other services for the unit by an energy conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthy living environment.

**UTILITY REIMBURSEMENT PAYMENT.** The amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Tenant Payment for the family occupying the unit.

**VACANCY LOSS PAYMENTS.** [For contracts effective prior to 10/2/1995] When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the Contract Rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the PHA as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

**VERY LARGE LOW-INCOME FAMILY.** A Lower-Income Family whose annual income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the Certificate and Voucher Program.



**VETERAN.** A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released there from under conditions other than dishonorable.

**VIOLENT CRIMINAL ACTIVITY.** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against another person or property.

**VOUCHER.** A HUD document issued by an HA to a family selected for admission to the Voucher program. The voucher describes the program and the procedures the HA approval of a unit selected by the family. The voucher also states the obligations of the family under Federal program rules and regulations.

**WAITING LIST.** A list of families organized according to HUD regulations and HA policy who are waiting for subsidy to become available.

**WELFARE ASSISTANCE.** Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, State, or local governments.

**WELFARE RENT.** This concept is used ONLY for Section 8 Certificate tenants who receive welfare assistance on an “AS-PIAD” basis. It is not used for the Housing Voucher Program.

- (1) If the agency does NOT apply a ratable reduction, this is the maximum a public assistance agency COULD give a family for shelter and utilities, NOT the amount the family is receiving at the time the certificate or recertification is being processed.
- (2) If the agency applies a ratable reduction, welfare rent is a percentage of the maximum the agency could allow.

## **PROGRAM INTEGRITY ADDENDUM**

### **INTRODUCTION**

The US Department of HUD conservatively estimates that 200 million dollars is paid annually to program participants who falsify or omit materials facts in order to gain more rental assistance than they are entitled to under the law. HUD further estimates that 12% of all HUD-assisted families are either ineligible, or are receiving benefits which exceed their legal entitlement.

The HA is committed to assuring that the proper level of benefits is paid to all participating families, and that housing resources reach only income-eligible families so that program integrity can be maintained. The HA will take all steps necessary to prevent fraud, waste, and mismanagement so that program resources are utilized judiciously. This Chapter outlines the HA's policies for the prevention, detection and investigation of program abuse and fraud.

#### **A. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD**

Under no circumstances will the HA undertake an inquiry or an audit of a participating family arbitrarily. The HA's expectation is that participating families will comply with HUD requirements, provisions of the voucher, and other program rules. The HA staff will make every effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, the HA has a responsibility to HUD, to the Community, and to eligible families in need of housing assistance, to monitor participants and owners for compliance and, when indicators of possible abuse come to the HA's attention, to investigate such claims.

The HA will initiate an investigation of a participating family only in the event of one or more of the following circumstances:

1. Referrals, Complaints, or Tips. The HA will follow up on referrals from other agencies, companies or persons which are received by mail, by telephone or in person, which allege that a family is in non-compliance with, or otherwise violating the family obligations or any other program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A copy of the allegation will be retained in the family's file.
2. Internal File Review. A follow-up will be made if HA staff discovers (as a function of a certification or recertification, an interim redetermination, or a quality control review), information or facts which conflict with previous file data, the HA's knowledge of the family, or is discrepant with statements made by the family.
3. Verification of Documentation. A follow-up will be made if the HA receives independent verification nor documentation which conflicts with representations in the family's file (such as public record information or credit bureau reports, reports from other agencies).

## **B. STEPS THE HA WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD**

The HA management and staff will utilize various methods and practices (listed below) to prevent program abuse, non-compliance, and willful violations of program rules by applicants and participating families. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by families.

1. **Things You Should Know.** This program integrity bulletin (created by HUD's Inspector General) will be furnished and explained to all applicants to promote understanding of program rules, and to clarify the HA's expectations for cooperation and compliance.
2. **Review and Explanation of Forms.** Staff will explain all required forms and review the contents of all (re)certification documents prior to signature.
3. **Use of Instructive Signs and Warnings.** Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse.
4. **Participant Certification.** All family representatives will be required to sign a "Participant Certification" form, as contained in HUD's Participant Integrity Program Manual.

## **C. STEPS THE HA WILL TAKE TO DETECT PROGRAM ABUSE AND FRAUD**

The HA staff will maintain a high level of awareness to indicators of possible abuse and fraud by assisted families.

1. **Quality Control File Review.** Prior to initial certification, and at the completion of all subsequent re-certifications, each participant file will be reviewed. Such reviews shall include, but are not limited to:
  - Assurance that verification of all income and deductions is present.
  - Changes in reported Social Security Numbers or dates of birth.
  - Authenticity of file documents.
  - Ratio between reported income and expenditures.
  - Review of signatures for consistency with previously signed file documents.
  - All forms are correctly dated and signed.
2. **Observation.** The HA Management and staff will maintain a high level of local and community awareness of circumstances which may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income. Observations will be documented in the family's file.
3. **Management and Staff** may review public records.
4. **State Wage Data Record Keepers.** Inquiries to State Wage and Employment record keeping agencies as authorized under Public Law 100-628, the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits.
5. **Credit Bureau Inquiries.** Credit Bureau inquiries may be made (with prior authorization by the participant) in the following circumstances:

- When an allegation is received by the HA wherein unreported income sources are disclosed.
- When a participant's expenditures exceed his/her reported income and no plausible explanation is given.

#### **D. PROCEDURES FOR HANDLING ALLEGATIONS OF ABUSE AND FRAUD**

The HA staff will encourage all participating families to report suspected abuse to the HA. All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented and placed in the participant's file. All allegations, complaints and tips will be carefully evaluated in order to determine if they warrant follow-up. The HA will not follow up on allegations which are vague or otherwise non-specific. They will only review allegations that contain one or more independently verifiable facts.

1. **Preliminary File Review.** An internal file review will be conducted to determine that the subject of the allegation is a client of the HA and, if so, whether or not the information reported has been previously disclosed by the family.
2. **Conclusion of Preliminary Review.** If at the conclusion of the preliminary file review there is/are fact(s) contained in the allegation which conflict with the file data, and the fact(s) are independently verifiable, the HA will initiate an investigation to determine if the allegation is true or false.

#### **E. HOW THE HA WILL INVESTIGATE ALLEGATIONS OF ABUSE AND FRAUD**

If the HA determines that an allegation or referral warrants follow-up, either the staff person who is responsible for the file, or a person designated by the Executive Director to monitor program compliance will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below. In all cases, the HA will secure the written authorization from the program participant for the release of information.

1. **Credit Bureau Inquiries.** In cases involving previously unreported income sources, a CBI inquiry may be made to determine if there is financial activity that conflicts with the reported income of the family.
2. **Verification of Credit.** In cases where the financial activity conflicts with file data, a Verification of Credit form may be mailed to the creditor in order to determine the unreported income source.
3. **Employers and Ex-Employers.** Employers or ex-employers may be contacted to verify wages that may have been previously undisclosed or misreported.
4. **Neighbors/Witnesses.** Neighbors and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to the HA's review.
5. **Other Agencies.** Investigators, caseworkers or representatives of other benefit agencies may be contacted.
6. **Public Records.** If relevant, the HA will review public records kept in any jurisdictional courthouse. Examples of public records which may be checked are: real estate, marriage, divorce, uniform commercial code financial statements, voter registration, judgments, court or police records, state wage records, utility records and postal records.

7. **Interviews with Head of Household or Family Members.** The HA will discuss the allegation (or details thereof) with the Head of Household or family member by scheduling an appointment at the HA office. A high standard of courtesy and professionalism will be maintained by the HA staff person who conducts such interviews. Under no circumstances will the management tolerate inflammatory language, accusation, or unprofessional conduct or language. If possible, an additional staff person will attend such interviews.

F. **PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS OBTAINED BY THE HA**

Documents and other evidence obtained by the HA during the course of an investigation must be kept in the participant's file. Such cases under review will not be discussed among HA staff unless they are involved in the process, or have information which may assist in the investigation.

G. **CONCLUSION OF THE HA'S INVESTIGATIVE REVIEW**

At the conclusion of the investigation review, the reviewer will report the findings to the Executive Director. It will then be determined whether a violation has occurred, a violation has not occurred, or if the facts are inconclusive.

H. **EVALUATION OF THE FINDINGS**

If it is determined that a program violation has occurred, the HA will review the facts to determine:

1. The type of violation (procedural, non-compliance, fraud).
2. Whether the violation was intentional or unintentional.
3. What amount of money, if any, is owed by the family.
4. If the family is eligible for continued occupancy.

I. **PROCEDURES FOR DOCUMENTED VIOLATIONS**

Once a program violation has been documented, the HA will propose the most appropriate remedy based upon the type and severity of the violation.

1. **Procedural Non-Compliance.** This category applies when the family fails to observe a procedure or requirement of the HA, but does not misrepresent a material fact, and there is no retroactive assistance payments owed by the family.

Examples of non-compliance violations are:

- Failure to appear at a pre-scheduled appointment
- Failure to return verification in time period specified by the HA

- (a). **Warning Notice to the Family.** In such cases, a notice will be sent to the family containing:
- A description of the non-compliance and the procedure, policy or obligation which was violated.
  - The date by which the violation must be corrected, or the procedure complied with.
  - The action which will be taken by the HA if the procedure or obligation is not complied with by the date specified by the HA.

**2. Procedural Non-Compliance – Overpaid Assistance.** When the family owes money to the HA for failure to report changes in income or assets, the HA will issue a Notification of Overpayment of Assistance. This Notice will contain the following:

- A description of the violation and the date(s).
- Any amounts owed to the HA.
- A 10-day response period.
- The right to disagree and to request an informal hearing with instructions for the request of such hearing.

(a) **Participant Fails to Comply with HA's Notice.** If the Participant fails to comply with the HA's notice, and a family obligation has been violated, the HA will initiate termination of assistance.

(b) **Participants Complies with HA's Notice.** When a family complies to the HA's notice, the staff person responsible will meet with him/her to discuss and explain the Family Obligation or program rule which was violated. Any information produced by the meeting, agreements to obtain further documentation, etc. will be noted in the file.

**3. Intentional Misrepresentations.** When a participant falsifies, misstates, omits or otherwise misrepresents a material fact which results (or would have resulted) in an overpayment of housing assistance by the HA, the HA will evaluate whether or not the participant has knowledge that his/her actions were wrong; and/or, the participant willfully violated the family obligations or the law.

Knowledge that the action or inaction was wrong. This will be evaluated by determining if the participant was made aware of program requirements and prohibitions. The participant's signature on various certification, briefing certificate, personal declaration and Things You Should Know are adequate to establish knowledge or wrongdoing.

The participant willfully violated the law. Any of the following circumstances will be considered adequate to demonstrate willful intent:

- (a) An admission by the participant of the misrepresentation.
- (b) Consistent, repeated wrongful act/acts.
- (c) Falsification of name of Social Security number.
- (d) Admissions to others of the illegal action or omission.
- (e) Omission of material facts which were clearly known to the participants (e.g., employment of self or other household member).
- (f) Falsification, forgery or alteration of documents.

(g) Previous signed or verbal certification statements at an interim recertification which later have been independently verified to be false.

**a. Dispositions of Cases Involving Misrepresentations.** In all cases of misrepresentations involving efforts to recover monies owed, the HA may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

(a) Criminal Prosecution: If the HA has established criminal intent, and the case meets the criteria for prosecution, the HA will: Refer the case to the local State or District Attorney, notify HUD's RIGI, and terminate rental assistance; Refer the case to HUD's RIGI, and terminate rental assistance.

(b) Administrative Remedies. The HA will terminate assistance and execute an administrative repayment agreement in accordance with the HA's Repayment Policy; Terminate assistance and pursue restitution through civil litigation, where necessary.

The HA, at its discretion, may permit continued assistance at the correct level and execute an administrative repayment agreement in accordance with the HA's repayment policy. In evaluating this option, the HA will consider the following factors:

- The duration of the violation and number of false statements.
- The family's ability to understand the rules.
- The family's willingness to cooperate, and to accept responsibility for its actions.
- The amount of money involved.
- The family's past history.
- Whether or not criminal intent has been established.

**b. Notification to Participant.** The participant family will be notified by certified mail of the action(s) the HA determines to take in response to the family's violation(s).

## **VIOLENCE AGAINST WOMEN ACT (VAWA)**

### **A. Violence Against Women Act (VAWA) Policy**

As required by the Violence Against Women Act, the following outlines Morristown Housing Authority's policy as it relates to the safety of victims of domestic violence, sexual assault, dating violence, or stalking, in order to maintain program participants' housing:

1. Being a victim of domestic violence, dating violence, or stalking as these terms are defined in the law (hereinafter collectively referred to as "abuse") is not a basis for denial of assistance or admission to Morristown Housing Authority if the applicant otherwise qualifies for assistance or admission.
2. Incidents or threats of abuse will not be construed as serious or repeated violations of the lease or other "good cause" for termination of the assistance, tenancy, or occupancy rights of a victim of abuse.
3. Criminal activity directly relating to abuse, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that abuse.
4. Notwithstanding the VAWA restrictions on admission, occupancy or terminations of occupancy or assistance, or any Federal, State, or local law to the contrary, Morristown Housing Authority may "bifurcate" a lease, or otherwise remove a household member from a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others. This action may be taken without evicting, removing terminating assistance to, or otherwise penalizing the victim of the violence who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be affected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance.
5. HA will make an exception for allowing portability moves, under its Housing Choice Voucher Program, in violation of a lease if the family has complied with all other obligations of the voucher program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or 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. In order to qualify for this exception, the family must complete HUD Form 5382 and HUD Form 5383 in order to verify the family's claim that the request to move is prompted by incidences of abuse in the unit.