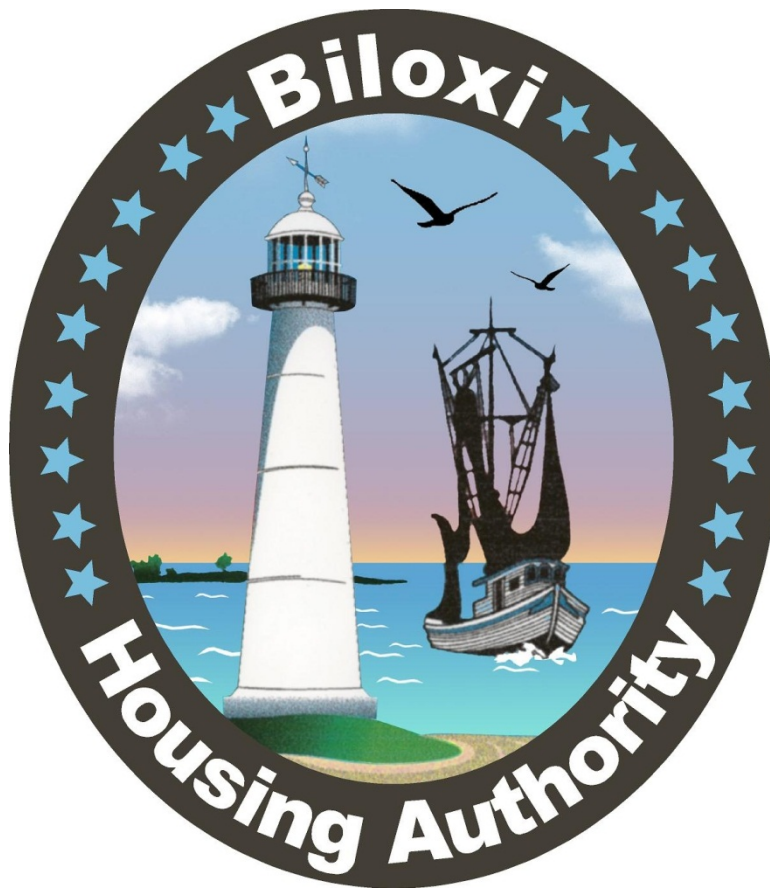


**SECTION 8 PROGRAM ADMINISTRATIVE PLAN  
FOR THE  
HOUSING AUTHORITY OF THE CITY OF  
BILOXI, MISSISSIPPI**

**Helen Werby– Executive Director**



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**THE HOUSING AUTHORITY OF THE CITY OF BILOXI**  
**SECTION 8 PROGRAM ADMINISTRATIVE PLAN**

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# **THE HOUSING AUTHORITY OF THE CITY OF BILOXI**

## **SECTION 8 PROGRAM ADMINISTRATIVE PLAN**

### **1. Introduction and Statement of Approach and Objectives to Administer the Section 8 Program**

#### **A. Background**

The Housing Authority of the City of Biloxi was established in 1939, and was empowered with the responsibility and authority to maintain the Public Housing Program for the City of Biloxi, Mississippi. The Section 8 Program was created by the Housing and Community Development Act of 1974 and amended by the Housing and Community Development Act of 1981 and the Quality Housing and Work Responsibility Act of 1998. In 1999, the Section 8 Program was established by The Housing Authority of the City of Biloxi (hereinafter referred to as PHA or Housing Authority), when it received the first Annual Contributions Contract (ACC) under the Section 8 Existing Housing Assistance Payments Program.

Administration of the Section 8 Housing Programs (including Vouchers) and the function and the responsibilities of the PHA staff shall be in compliance with the Personnel Policy of the PHA, the Equal Opportunity for Housing regulations, the Section 8 Administrative Plan, and applicable Standard Operating Procedures. All Federal, State and local housing laws will be followed and the PHA will comply with the City of Biloxi's Consolidated Plan.

#### **B. Housing Authority Mission Statement and Section 8 Program Objectives**

**1. The mission statement of the PHA is:**

To encourage, within program restrictions, the freedom of housing choice and spatial deconcentration for assisted housing into areas outside of those in which very low-income minority households are concentrated. To provide improved living conditions for very low-income families while maintaining their rent payments at an affordable level.

**2. The following objectives of the Section 8 Programs support the above mission statement:**

- a.** To provide decent, safe, and sanitary living conditions;
- b.** To provide improved living conditions for extremely low-income families while maintaining their rent payments at an affordable level;
- c.** To promote personal, economic and social upward mobility to assist residents to make the transition from subsidized to non-subsidized housing; and
- d.** To provide an incentive to private property owners/landlords to rent to low-income families by offering timely assistance payments and excellent service.

#### **C. Legal Jurisdiction**

The area of operation of the PHA is geographically defined as the Biloxi city limits, and incorporated areas of Biloxi.

#### **D. Purpose of the Administrative Plan**

The purpose of the Administrative Plan is to establish policies for items that are not covered under Federal Regulations for the Section 8 Existing Housing Assistance Payments Program.

The Administrative Plan, hereinafter referred to as the Plan, covers both the admission and continued participation in the above mentioned program.

Changes in the Plan will be approved by the Board of Commissioners for the PHA and a copy provided to the U.S. Department of Housing and Urban Development (HUD).

#### **E. Nondiscrimination**

The PHA shall not discriminate because of race, color, gender, religion, creed, national or ethnic origin, age, family or marital status, disability, or sexual orientation, in the performance of its obligations in any program under its jurisdiction covered by a contract for annual contributions under the United States Housing Act of 1937, as amended.

To further the commitment to full compliance with applicable Civil rights laws, the PHA will provide information to Section 8 participants with regard to housing discrimination. Information and Discrimination Complaint Forms will be made part of the briefing packet.

Posters and housing information with the Equal Opportunity Housing logo may be displayed in locations through the PHA office in such a manner as to be easily readable from a wheelchair.

The PHA's Section 8 office space is accessible to persons with disabilities. Accessibility for the hearing impaired may be provided by the TDD/TDY telephone number.

#### **F. Service Policy/Accommodations**

It is the policy of the PHA to be service-directed in the administration of its housing programs, and to exercise and demonstrate a high level of professionalism while providing housing services.

Policies and practices are designed to provide assurances that all persons with disabilities are provided reasonable accommodation so that they may fully access and utilize the housing program and related services. The availability of specific accommodations may be made known by including notices on forms and letters to all families, and all requests may be verified so that needs can be properly accommodated. All mailings may be made available in an accessible format upon request, as a reasonable accommodation. Organizations which provide assistance for hearing-impaired and sight-impaired persons may be utilized.

#### **G. Translation of Documents**

In order to determine whether it is feasible to translate documents into other languages, the PHA will consider the following facts:

1. Number of applicants who speak a language other than English;
2. Cost of translation into other languages per client who speaks the language;

3. Evaluation of the need for translation by the bilingual staff and by agencies that work with the non-English speaking clients;
4. The availability of organizations to translate documents, letters and forms for non-English speaking families;
5. Availability of bilingual staff to explain untranslated documents to clients.

## **H. Privacy Rights**

Applicants will be required to sign the Federal Privacy Act Statement in conjunction with HUD 50058 form which states under what conditions HUD will relate resident and owner/landlord information. Applicants will also be required to sign HUD 9886, Authorization for Release of information.

The PHA policy regarding release of information is:

1. Information shall not be released without the signed client release with the individual request for information unless the blanket authorization is used.
2. However, the PHA may release information on amounts owed for claims paid and not reimbursed by the client.
3. The PHA must release the client's current address and the name of the current owner/landlord, the client's former address and the name of the owner/landlord of the former address if known to the Voucher holder's prospective owner/landlord, upon written request of the prospective owner/landlord.
4. The PHA may release information on amounts requested by court subpoena, a federal or state agency, or a law enforcement agency.
5. The PHA must limit use and disclosure of family information obtained through release and consent to purposes directly connected with the program administration.

## **I. Rules and Regulations**

All issues not addressed in this document related to residents and participants are governed by HUD Handbook 7420.7, the Code of Federal regulations, HUD Memos, Notices and Guidelines or other applicable law, and the Section 8 Programs Standard Operations Procedures.

## **J. List of Housing Choice Voucher Programs [24 CFR]**

The following is a list of Housing Choice Voucher Programs offered by the PHA:

Tenant Based Voucher (TBV)

Project Based Voucher (PBV)

Family Self-Sufficiency Program (FSS) – Tenant Based Voucher Only

## **K. Staffing Positions**

The following is the position/title of the staff members who are responsible for the implementation of the Section 8 Programs:

HCV Manager

HCV Assistant Manager

HCV VASH Manager

## **L. Customer Relations**

The PHA considers all families and owners as its "customers". The goal of the PHA is to respond promptly to the needs of its customers. All contact with the customer and the general public will be handled in a professional and courteous manner. The PHA may require that complaints other than HQS violations be put in writing. Complaints that would otherwise not be resolved through the informal review or informal hearing processes will be referred to the appropriate staff person for resolution.

These complaints may include, but are not limited to:

1. Treatment of customers by staff;
2. Complaints or referrals from persons in the community in regard to customers;
3. Disagreement with an action or inaction by the family or owner; and
4. Treatment of staff by customers.

## **M. Conduct Business In Accordance With Core Values and Ethical Standards**

In accordance with CFR 24-982.161 Conflict of Interest, the Housing Authority of the City of Biloxi has established a written code of conduct.

- (a) Neither the PHA nor any of its contractor or subcontractors may enter into any contract or arrangement in connection with tenant-based programs in which the following classed of persons has any interest, direct or indirect, during tenure or for one year thereafter.
- Any present or former member or officer of the PHA (except a participant commissioner) Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs;
  - Any public official, member of a governing body, or state or Local legislator, who exercises functions or responsibilities with respect to programs; or
  - Any member of congress of the United States;
  - Any member of the classes described in paragraph (a) of this section must disclose their interest or prospective interest of the PHA and HUD.



- (b) The code of ethics prohibits solicitation of acceptance of gifts or gratuities, in excess of normal value, by any officer or employee of the PHA, or any contractor, subcontractor or agent of the PHA.

The Housing Authority of the City of Biloxi Mississippi shall adhere to the code of conduct and shall sanction and/or terminate any officer, employee, or agent for violations consistent with applicable state or local law.

The conflict of interest prohibition under this section may be waived by the HUD field office for good cause terminate existing contract at second regular annual reexamination;

## **Outreach to Families and Owners/Landlords**

### **A. Family Outreach**

1. The Section 8 office continues to publicize and disseminate information, as needed, concerning the availability and nature of housing assistance. Upon execution of an Annual Contributions Contracts (ACC) for additional units, the Section 8 office may make known to the public through publication in a newspaper of general circulation, minority media, and other suitable means the availability and nature of housing assistance for extremely low-income families, unless application-taking has been suspended according to HUD regulation. A waiting list hotline with a recorded message may be utilized.
2. To reach persons who cannot read the newspapers, the Section 8 office may distribute fact sheets to the broadcasting media. Personal contacts with the news media and with community service personnel as well as public service announcements will be handled by the Executive Director's office.
3. Upon receipt of new funding, the Section 8 office may review its current waiting list and consider whether outreach is needed. If it is needed, the Section 8 office will analyze outreach options to accommodate the diversity and distribution of eligible families and the differences in their willingness to respond to and participate in the program.

### **B. Opening/Closing the Waiting List**

1. The following options may be considered when opening the Waiting List:
  - a. A lottery method may be used, whereby after the required public notice, prospective applicants fill out and mail lottery forms to a post office box. The PHA pulls a pre-determined number of applicants in a random method. PHA may participate in an agency consortium to receive technical assistance concerning this method.
  - b. A pre-application form is made available at selected location(s) and during prescribed days and times. Potential applicants must complete the pre-application.
  - c. The following criteria may be used when selecting a method to open the Waiting list:
    - (1) Potential applicants must be treated with dignity and concern. The need to stand in line for long periods of time is to be avoided.

- (2) Reasonable methods to assist people with disabilities are to be utilized.
- (3) The number of applicants needed, the needed income level of applicants, and the costs of any method may be considered.

**2. Closing the Waiting List**

- a. The closing date of the Waiting List may be announced at the same time as the opening is announced.
  - b. The PHA may use the closing date to limit the size of the Waiting List to a number of applicants who will most likely receive assistance within a twelve (12) to eighteen (18) month period.
- 3. The opening/closing of the Waiting List shall be announced through public notices as follows:**
- a. The notice shall be placed in a newspaper of general circulation, in a minority publication and in plain view of the application office.
  - b. Postings may be made at locations throughout the community and may be sent to social service agencies.
  - c. The notices shall contain all of the information needed to enable interested parties to complete the process.
  - d. The notice may be made in an accessible format if requested.
  - e. The notice must contain the Equal Opportunity Housing logo.

**C. Owner/Landlord Outreach**

1. The Section 8 office maintains good relations with existing owners/landlords and encourages new owners/landlords to participate and to make dwelling units available for leasing by eligible families in accordance with the Equal Opportunity Housing Plan.
2. The PHA may use a comprehensive marketing effort described in the next section to recruit owners/landlords in areas that offer expanded opportunities to our participants.
3. In order to assure that owner/landlord outreach efforts are identifying owners/landlords with units outside areas of low-income and minority concentration the PHA evaluates new leases on a quarterly basis.
4. The PHA may participate in community-based organization(s) comprised of private property and apartments/landlords and managers.
5. The PHA may conduct periodic meetings with participating owners/landlords to improve owner/landlord relations and to recruit new owners/landlords.
6. The take-one, take-all provisions are permanently eliminated.

**D. Promoting Greater Housing Opportunities for Families Outside Areas of Low-Income and Minority Concentration**

1. A comprehensive marketing plan may be used to locate owners/landlords, as follows:
  - a. Un-impacted areas are identified. Owners/landlords in these areas are contacted.
  - b. Regular meetings are held with investors and other owner/landlord groups to explain the program and recruit owners/landlords. A presentation is given with written materials.
  - c. The rental stock in areas without concentration of very low-income and minority residents are surveyed to identify vacant units. The owners/landlords and managers are contacted.
  - d. Investors are recruited to purchase units in the identified areas and rent them to the Section 8 applicants.
  - e. Complex managers are recruited through meetings with manager associations and special training programs geared toward managers.
  - f. Ads and articles are placed in owner/landlord, manager, and investor newsletters.
  - g. All Section 8 staff is required to adopt the customer service representative approach and implement the program accordingly.
  - h. Tax credit investors are monitored for proper participation to meet their responsibilities as participants with the Section 8 program.
2. Mass media is used as needed.
3. Printed materials for owners/landlords may consist of:
  - a. A one-page tri-fold handout;
  - b. An owner/landlord manual that describes all of the procedures as well as tips to be successful with the Section 8 program, and other materials as needed.
4. The following actions may be taken to comply with SEMAP requirements:
  - a. Information about general locations and characteristics of neighborhoods is provided to residents.
  - b. A listing of available rental property is updated and distributed to Section 8 participants. These listings show addresses, shopping centers, bus lines, amenities in the PHA units, deposit information, etc. as provided by owners/ landlords.
  - c. Applicants are made aware of the fact that they may choose any unit within the PHA's jurisdiction as long as the program requirements are met regarding the unit.
  - d. Applicants are advised of portability provisions available in the Section 8 program.

- e. Section 8 participants may be provided a map which identifies areas of low poverty and minority concentrations.

## **Completion of Application, Preferences, Determination of Eligibility and Selection of Families**

### **A. Completion of Application**

#### **1. Pre-Application Procedures**

- a. A preliminary-application form (pre-application) may be utilized. The information is to be filled out by the applicant whenever possible. To provide specific accommodation for persons with disabilities, the information may be completed by a staff person over the telephone. It may also be mailed to the applicant, and if requested, it will be mailed in an accessible format.
- b. The purpose of the pre-application is to permit the PHA to preliminarily assess family eligibility or ineligibility and to determine placement on the waiting list. The pre-application may contain questions designed to obtain the following information:
  - Names of adult members and age of all members;
  - Sex and relationship of all members;
  - Street Address and phone numbers;
  - Mailing Address (if PO Box or other permanent address);
  - Amount(s) of income received by household;
  - Social Security Numbers;
  - Race/ethnicity;
  - Citizenship/eligible immigration status;
- c. Pre-applications may not require an interview. The information on the application may not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed and all information is verified.
- d. Applicants are required to inform the PHA, in writing, of changes in address. Applicants are also required to respond to requests from the PHA to update information on their application and to determine their interest in assistance.
- e. Failure to provide information or to respond to mailings may result in the applicants name being removed or placed at the bottom of the waiting list. Mail that is returned by the U.S. Postal Service may result in removal from the waiting list. Applicants who are removed from the waiting list may reapply for assistance when the waiting list is opened.

#### **2. Notification of Applicant Status**

Based on the information provided by the applicant on the pre-application form, if the family is preliminary determined eligible, the applicant will be informed.

### **3. Completion of a Full Application**

- a.** Families will be invited to come into the office to complete a full application at a scheduled interview. Appointments are scheduled by mail and generally provide the applicant with at least two (2) weeks written notice. The appointment letter also identifies the type of information that the applicant will be required to bring to the interview.
- b.** The full application will be completed at the interview. The head of household, as well as all members of the household over the age of eighteen (18) years must sign the application including all required HUD forms. Reasonable accommodations are made for persons with disabilities.

#### **c. Requirement to Attend Scheduled Meeting**

It is the applicant's responsibility to reschedule the interview. If the applicant fails to attend the scheduled appointment and does not contact the Section 8 Department in writing or by telephone to reschedule the appointment the application may be withdrawn.

#### **d. Verification of Full Application Information**

- (1)** Information provided by the applicant will be verified including information documenting family composition, income, assets, allowances and deductions, preference status (if needed), full-time student status, and other factors relating to eligibility, to determine applicant eligibility before the applicant is issued assistance. Discretion may be used to permit applicants to provide some updated verification after receiving a voucher, if sufficient verification has been received to certify eligibility.
- (2)** Third-party verifications in writing (sent by mail directly to the PHA) are preferred. Oral third-party verifications are acceptable if they are properly documented.
- (3)** If third-party verification is impossible to obtain documentation will be placed in the file explaining another method was used and other documents may be provided by the family. Documents will be photocopied when not prohibited by law. When documents cannot be photocopied, staff certification forms, noting documents viewed, will be used by recording the source of information, the information obtained, and signed and dated by the staff person who viewed the document.

### **4. Final Determination and Notification of Eligibility**

- a.** After the verification process is completed, a final determination is needed. Final determination of eligibility is based upon the same factors as preliminary or provisional eligibility except that data at this point is verified through a third-party or documented best source available.

## 5. Denial of Admissions

In addition to Section D of this chapter, denial of program assistance may be made for an applicant for any of the following grounds:

- a. The family must supply any information that is determined necessary in the administration of the program;
- b. The applicant provides information that is not true or complete;
- c. The applicant or family member(s) has been evicted from federally assisted housing in the last three (3) years;
- d. If the PHA has ever terminated assistance under the voucher program for any member of the family for violation of the Family Obligations;
- e. If any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program;
- f. If the family currently owes rent or other amounts to the PHA or another PHA in connection with Section 8 or Public Housing Assistance under the 1937 Act;
- g. If the family has not reimbursed any PHA for amounts paid to an owner/landlord under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease;
- h. If the family breaches an agreement to pay amounts owed to a housing authority or amounts paid to an owner/landlord by a housing authority; (The PHA, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a PHA or amounts paid to an owner/landlord by a PHA. The PHA may prescribe the terms of the agreement);
- i. If the family has engaged in or threatened abusive or violent behavior toward PHA personnel;
- j. If an applicant is required to be registered in a "State life-time sexual offender" registry, or has been convicted of the manufacture of methamphetamine in HUD housing, they will be determined ineligible

## 6. Right to an Informal Review

The Informal Review process can be reviewed in greater detail in "Section XIX. "Informal Hearing & Reviews".

- a. Applicants who are denied Section 8 assistance are entitled to an informal review.
- b. Ineligible applicants will be promptly provided with a letter detailing their individual status, stating the reason for ineligibility, and offering them an opportunity for an informal review.
- c. Applicants must submit their request for an informal review in writing to the PHA within

ten (10) calendar days from the date of the determination.

**7. Updating the Waiting List**

- a. The PHA may periodically update the waiting list to ensure that it is current and accurate.
- b. The PHA may mail a letter to the applicant's last known address requesting information regarding their continued interest in maintaining a place on the waiting list.
- c. If the applicant did not notify the PHA of a move as required, the PHA may not be responsible for the applicant's failure to receive the update request.
- d. The request letter will include a deadline date by which the applicant must contact the PHA of their continued interest, by mail or in person. If the PHA fails to receive the updated applicant information by the deadline date, the applicant's name will be removed from the waiting list.
- e. Notification of a change in address to the U.S. Post Office or sources other than the PHA is not considered compliance with the requirements to notify the PHA.
- f. Applicants may be given ten (10) business days to return the notice of continued interest. The PHA does not accept responsibility for mail delays.

**B. Local Preferences (see definitions)**

The following are the local preferences that could be used if a lottery is not in place:

- Involuntary Displacement (Disaster, Government Action, Action of Housing Owner, Inaccessibility, Property Disposition);
- Victims of Domestic Violence;
- Working families and those unable to work because of age or disability;
- Date and time of application.

**C. Eligibility Determination**

- 1. Family Designation, to be eligible for assistance, an applicant must qualify as a family. A family may be a single person or a group of persons. Family includes, but is not limited to, regardless of marital status, actual or perceived sexual orientation, or gender identity, the following [24 CFR 982.201 (c)]:
  - a. Two (2) 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 for at least one year if not legally married.
  - b. 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.

- c.** An elderly household whose head or spouse meets the following definitions (unless otherwise approved by HUD). The head, spouse or sole member must be:
- 62 years of age or older; or
  - Disabled with a physical impairment which is expected to be a long, continued and indefinite duration (at least the next 12 months), which substantially impedes but does not prohibit his/her ability to live independently; or
  - Disabled within the meaning of Section 223 of the Social Security Act or Section 102(b) or 6001(7) of the Developmentally Disabled Act; or
  - Two (2) or more elderly or disabled persons living together, or one or more elderly or disabled persons living with one or more live-in aides; or
  - Alcohol and drug addiction is not considered part of the definition for disabled.

**d.** Single Persons

A person who lives alone or intends to live alone, and who does not qualify as an elderly family or displaced person or as the remaining member of a resident family.

**e.** Remaining Members

The remaining members of a participant family shall be considered a family. When the head of household departs the family, the adult responsible for the children may receive assistance until the head of household returns.

**f.** Head of Household

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

**g.** Split Households Prior to Issuance of Assistance

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 following will be considered:

- Which family unit retains the children or any disabled or elderly members;
- Recommendation of social services agencies or qualified professionals, such as children's protective service.

Documentation of these factors is the responsibility of the applicant families. If either or both of the families do not provide the documentation, they may be denied placement on



the waiting list.

**h. Anticipated Family Composition**

For initial application, members of the family not currently residing together, but who will be in the household under Section 8 may be listed. The family is to provide documentation describing why the family members are not currently living together.

**i. Joint Custody of Children**

Children who are subjected to a joint custody agreement, but live with one parent at least 29% of the time will be considered members of the household. "29% of the time" is defined as 104 days of the year, which do not have to run consecutively.

**j. Live-in Aides (also referred to as Live-in Attendants)**

A family may include a live-in aide who:

- Is determined 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 family; and
- Would not be living in the unit except to provide care for the person(s);
- Whose income will not be considered for purposes of determining eligibility or rent; and
- Who may not be considered as a remaining member of the resident family;
- Relatives are not automatically excluded from being care attendants, but must meet the definition described above;
- A live-in attendant's family members may be allowed to reside in the assisted unit provided that doing so does not increase the subsidy cost of an additional bedroom, and the presence of the live-in attendant's family does not overcrowd the unit;
- A live-in aide may only reside in the unit with pre-approval. 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 aide is needed for the care of the family member.

**2. Income Eligibility [24 CFR 982.201]**

Income limits are used to determine eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income eligible, the applicant must be a family in any of the following categories:

- An extremely low – income family (30% AMI)

- A very low – income family (50% AMI)
- A low-income family (80% AMI) that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4].
- A low-income family physically displaced by rental rehabilitation activity under 24 CFR 511;
- A low-income non-purchasing family residing in a HOPE I (HOPE for Public and Indian Housing Homeownership) or HOPE 2 (HOPE for Multifamily Units) 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 (80% AMI) family that meets additional eligibility criteria specified in the BHA administrative plan. Such additional BHA criteria must be consistent with the BHA plan and with the consolidated plans for local governments in the BHA’s jurisdiction.
- BHA has established an additional category of eligible low – income (80% AMI) families which is families that are qualifying for the properties that converted to project – based vouchers under the Rental Assistance Demonstration (RAD) program that were formerly Public Housing. BHA determined it is necessary to maintain the financial viability of the program and will serve the population that was previously served under the Public Housing program.
- A low – income family (80% AMI) shall be used to determine the income limit for an eligible student and their parents in accordance with the ineligible student provisions.

### 3. Restrictions on Assistance to Non-citizens or Eligible Immigration Status Requirements

#### a. Required Documentation

- Section 8 programs are covered under Section 214 of the Housing and Community Development Act of 1980, which makes financial assistance contingent upon the submission of verifiable evidence of citizen or eligible non-citizen status.
- Families must submit evidence of citizenship or eligible non-citizen status. A family consisting of members with both eligible and ineligible status may be eligible for prorated assistance.
- Verification of evidence of eligible non-citizen status is necessary to determine whether or not the applicant/participating family is eligible for continuing assistance or admittance to the program. Families will be required to submit a declaration for all members who claim eligible status and/or provide a listing of those members who do

not claim eligible status.

- Non-citizen students do not have eligible status, nor does their non-citizen spouse and/or minor children accompanying or joining the non-citizen student. A citizen spouse or minor children of a citizen spouse and non-citizen student are eligible for assistance, however;
- Eligible immigration status includes the following categories:
  - Citizens or national of the United States;
  - Non-citizens with status in one of the following categories:
    - A non-citizen admitted to the U.S. for permanent residence under Section 101(a)(20) of the Immigration and Nationality Act (INA); as an immigrant under Section 101(a)(15) or as a special agricultural worker under Section 120 or 210A of the INA;
    - A non-citizen who entered the U.S. before January 1, 1972, (or such later date as enacted by law), and who (1) has continuously maintained residence in the U.S. since then, (2) who is not ineligible for citizenship, and (3) who has been deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General under Section 249 of the INA;
    - A non-citizen admitted to the U.S. with refugee status under Section 207 of the INA, or with asylum status under Section 208 of the INA, or admitted before April 1, 1980 under Section 203(a)(7) of the INA;
    - A non-citizen admitted to the U.S. with parole status under Section 212(d)(5);
    - A non-citizen lawfully present in the U.S. as a result of the Attorney General's withholding deportation under Section 243(h) of the INA (threat to life or freedom); or
    - A non-citizen admitted for temporary or permanent residence under Section 245A of the INA.
- Evidence of citizenship or eligible non-citizen status shall consist of the following documents or such other documents as deemed acceptable by HUD or the INS:
  - For citizens: a signed Declaration of U.S. citizenship;
- For all other non-citizens:
  - A signed Declaration of eligible immigration status;
  - The INS documents listed in Handbook 7465.7, Chapter 6, Section 6-4 (or any other documents determined by the INS to be acceptable evidence and

announced by notice in the Federal Register); and

- A signed Verification Consent Form.
  - Documents submitted by an applicant family to verify eligible immigration status will be first verified using the INS Systematic Alien Verification for Entitlements (SAVE) system. If the SAVE system does not provide verification, a secondary manual search of INS records will be instituted by the PHA. If both searches fail to verify eligibility, the family will be notified and will be given the option of requesting an appeal to the INS and/or a PHA informal hearing.
- b. Ineligible Immigration Status**
- Families determined to be ineligible when the evidence of citizenship or eligible non-citizen status submitted by a head of household or spouse cannot be verified either by PHA's preliminary inquiry nor by the INS secondary search will be notified in writing that the individual or family has been determined ineligible.
  - Families determined ineligible due to lack of citizenship or non-eligible citizenship status may request an appeal to the INS according to 24 CFR 5.514(e) and may request an informal hearing with the PHA. Applicant families may request an informal hearing as described in Section 9-2 (c) (2) of Handbook 7465.7 either upon the completion of the INS appeal or in place of the INS appeal.
  - Assistance to an applicant may be delayed if the INS appeal process has been concluded, but may not be denied until after the conclusion of the PHA informal hearing process, if an informal hearing is requested by the applicant.

## **D. Drug Abuse and Criminal Activity**

### **1. Denial of Admissions**

#### **a. Prohibiting Admission of Drug Criminals**

The PHA must prohibit admission to the program of an applicant for three (3) years from the date of eviction if a household member has been evicted from federally assisted housing for drug-related criminal activity. However, the PHA may admit the household if the PHA determines:

- (1) That the evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the PHA; or
  - (2) That the circumstances leading to eviction no longer exist. (For example, the criminal household member has died or is imprisoned.)
- b.** At all times a household shall be denied admission if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program.

In the screening of applicants, the PHA must perform criminal history background checks necessary to determine whether any household member is subject to a lifetime sex offender registration requirement in the state where the housing is located and in other states where the household members are known to have resided.

- c.** Households shall be denied admission for three (3) years after the date of the most recent conviction if any household member is convicted of a drug-related criminal activity, violent criminal activity, other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the PHA (including a PHA employee or a PHA contractor, subcontractor or agent), or pattern of alcohol abuse. A "pattern" shall be at least three alcohol-related criminal offenses within the three (3) year period prior to application for assistance.
- d.** The following are standard to be applied as appropriate for drug-related criminal activity and other criminal activity concerning denial of admission:

  - (1)** The PHA may "determine" the use of an illegal drug through a conviction of a drug-related charge.
  - (2)** The PHA shall "determine" involvement in criminal activity through the conviction for a criminal activity.
  - (3)** Any "household member" includes adults and minors who are on the lease or who are living in the household, but not reported to the PHA.
  - (4)** "Currently engaging in illegal use of a drug" or other criminal activity shall be defined as a conviction within one year from the date the PHA discovers the conviction.
  - (5)** "Reasonable cause shall be determined by a conviction on an illegal use of a drug charge or other criminal activity.
  - (6)** There is no time period concerning the conviction of a drug-related charge for manufacturing, production, or distribution of methamphetamine on the premises of federally assisted housing. Such household members being convicted of this offense will always be denied admission.
  - (7)** The time period of ineligibility for admission for other drug-related convictions or other criminal activity convictions shall be three (3) years from the date of the conviction.
  - (8)** If the PHA previously denied admissions for criminal activity, the PHA elects not to consider evidence that a household member was not engaged in criminal activity for a period of time. The households/shall not be eligible for admission for three (3) years from the date of the conviction.
  - (9)** Evidence of criminal activity shall be defined as conviction of criminal activity.

## 2. Termination of Assistance

- a. The PHA shall terminate the assistance of a family if any household member is currently engaged in any illegal use of a drug, has ever been convicted of drug-related criminal activity for manufacture, production or distribution of methamphetamine on the premises of federally assisted housing, is convicted of other drug-related criminal activity, violates the family obligation not to engage in criminal activity or is convicted of alcohol-related offenses in a pattern of at least three convictions within a one year period. Other crimes committed while under the influence of alcohol are covered by the criminal activity references in this section; and the family obligations.
- b. The standards in section D.,l.,d., above, shall apply to this section.

## 3. Use of Criminal Record

- a. Denial. If the PHA proposes to deny admission as shown by a criminal record. The PHA must give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process in accordance with Sec. 982. 554.
- b. Termination of Assistance. If a PHA proposes to terminate assistance for criminal activity as shown by a criminal record, the PHA must notify the household of the proposed action to be based on the information. The PHA must give the family an opportunity to dispute the accuracy and relevance of that record in accordance with Sec. 982. 555.
- c. Cost of Obtaining Criminal Record. The PHA may not pass along to the tenant the costs of a criminal records check.
- d. Permitted use and disclosure of criminal records/sex offender registration records received by the PHA may only be used for applicant screening and/or for lease enforcement and eviction. A PHA may disclose criminal convictions as follows:
  - (1) To officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information. For example, if the PHA is seeking to evict a public housing resident on the basis of criminal activity/sex offender status as shown in criminal conviction records, the records may be disclosed to PHA employees performing functions related to the eviction or to a PHA hearing officer conducting an administrative grievance hearing concerning the proposed eviction.
- e. If a PHA obtains criminal records from a State or local agency showing that a household member has been convicted of a crime/sex offense relevant to applicant screening or tenant lease enforcement or eviction, the PHA must notify the household of the proposed action based on the information obtained.
- f. If, at any time during the program participation, the PHA has reasonable cause (e.g., newspaper articles, credible informants, police reports) to believe that a household member is engaged in drug-related or other criminal activity which would pose a threat to the health, safety, or right to peaceful enjoyment of the premises by other residents or PHA employees, the PHA may run a subsequent criminal check of that household member.

#### 4. Consideration of Circumstances

In determining whether to deny or terminate assistance because of action or failure to act by members of the family:

- a. The PHA may consider all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstance related to the disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.
- b. In determining whether to deny admission or terminate assistance for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the PHA may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S. C.13661). For this purpose, the PHA may require the applicant or tenant to submit evidence of the household member's current participating in, or successful completion of a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.
- c. If the family includes a person with disabilities, the PHA decision concerning such action is subject to consideration of reasonable accommodation in accordance with 24 CFR part 8.

#### 5. Records Management

- a. All criminal information received from a drug facility treatment center will be maintained confidentially and not misused, or improperly disseminated.
- b. Such information may be housed in a locked file with access restricted to individuals responsible for screening and determining eligibility and to the Executive Director.
- c. If the applicant is determined to be eligible, the criminal report shall be shredded as soon as the applicant is housed. If the applicant is denied assistance, the criminal record information shall be destroyed immediately upon completion of the hearing or due process procedures and a final decision has been made.
- d. The PHA will document in the applicant's file the circumstances of the criminal report and the date the report was destroyed.

#### 6. Drug Treatment Facility Information

- a. As needed during the informal review or hearing process the PHA may seek information from a drug treatment facility to verify that an applicant or participant is participating in or has completed a drug rehabilitation program, or to verify drug-free status.
- b. In such cases the FHA will utilize a written consent form required by 42 CFR 2.31.
- c. The PHA is not obligated to request information from drug treatment facilities and is not liable for damages for failure to request or receive the information.

## 7. Components of Screening Process

A criminal history report will be requested from the law enforcement agency (ies) for adult members according to the following procedure:

- a. For all applicable household members, the PHA will submit to a law enforcement agency the name, sex, race, date of birth and social security number.
- b. Based on the identifiers submitted, the law enforcement agency will provide this PHA with any criminal history conviction record information and outstanding warrants that are found on the law enforcement agency Computerized Criminal History database and the appropriate Crime Information Center.
- c. The law enforcement agency may also search the National Crime Information Center (NCIC) for criminal information outside of the state. If a record exists, the law enforcement agency will notify this PHA that such information was found, and will provide the PHA with a copy of the information.
- d. If the person disputes or contests the criminal history report received by this PHA, the PHA may at this time determine that a fingerprint check is necessary.
- e. In no case will the applicant be charged for the cost of the criminal history checks.

## 8. Ineligibility Determination

- a. Families determined to be ineligible due to the definition of family, income, or drug-related criminal or violent criminal activity, or a pattern of alcohol abuse, will be notified in writing that they do not qualify for the program. Families will be notified of the right to have an Informal Review.
- b. The Informal Review will be conducted according to regulatory requirements and as outlined further in this Administrative Plan.
- c. If the applicant or household members refuse to supply required information and/or refuses to sign HUD form 9886 to obtain other income information, the family will be determined to be ineligible. The informal review process will apply to an applicant family who has been denied assistance on these grounds.

## E. Selection from Waiting List [24 CFR 982.201]

### 1. Basic Selection Policy

- a. Applicants shall be selected in order of date and time of the initial application with consideration given to the regulations governing income targeting as well as any adopted local preference. If the Lottery randomization is used, then the selection will be by preference then lottery number.
- b. Applicants whose income is greater than thirty percent (30%) of the areas median income may be passed on the waiting list pursuant to the income targeting requirements detailed below.



- c. Applicants who applied earlier than applicants who are eligible for local preferences may be passed on the waiting list.
  - d. PHA's may not select applicants from the waiting list in an order different from the selection procedures "for the purpose of selecting higher income families" for the program.
- 2. Income Targeting Pursuant to the Quality Housing and Work Responsibility Act**
- a. Seventy-five percent (75%) of all new admissions shall be families whose income is below thirty percent (30%) of the area median income. A "new admission" shall be defined as an applicant being offered assistance.
  - b. A PHA can reduce its required public housing admission of families with income below thirty percent (30%) of median income in a given fiscal year by admitting more extremely low-income families over the minimum in their Section 8 program. This fungibility exception is limited to ten percent (10%) of the number of families receiving Section 8 assistance from the PHA in a fiscal year or the number of public housing units of the PHA that are in developments located in census tracts having a poverty rate of thirty percent (30%) of the area median income, whichever is less.
  - c. Other admissions may be at low – income (80 % AMI).
  - d. Two (2) or more PHAs in the same jurisdiction may jointly meet goals.
  - e. For further Income Targeting clarification refer to 24 CFR Sec. 982.201.

**F. Monitoring of Selection and Leasing**

In compliance with SEMAP requirements, a statistical report is prepared to insure that PHA has complied with current regulations affecting the waiting list and selection as it relates to income requirements, single elderly and non-elderly families, and the local preference selection of families.

**G. Special Purpose Funding Admissions**

HUD may provide funding to serve a targeted population. When HUD targets funding of assistance for a special populace the PHA may accept an application and place the applicant on the waiting list even though the waiting list may be closed. Since HUD specifies the special population, there is no limit to the number of admissions except for the limit as defined by HUD in establishing the special population.

**2. Verification of Income and Determination of Total Tenant Payment**

The PHA will not devise or implement income or rent determination, verification, or other related policies or procedures in a way that discriminates against persons on the basis of race, color, national origin, sex, religion, familial status, and perceived or actual disability.

## **A. General Policy**

The PHA verifies family income, family composition, status of full-time students, value of assets, factors allowing a preference, and other factors relating to eligibility determinations before an applicant is issued assistance.

The PHA may use several methods to verify the third-party (independent) verifications sent by mail are used. If third-party verification is impossible, the PHA may use the Review of Documents method of verification. And if that method is impossible, the PHA may use the Notarized Statement by Applicants method.

## **B. Income Allowances**

Income includes all monetary amounts that are received on behalf of the family. All income that is not specifically excluded in the HUD regulations is counted.

Annual Income is used to determine whether the family is within the Income Limits. It is the anticipated amounts, “monetary or not,” that go to, or “on behalf of,” the family (including temporarily absent head or spouse), and are received from a source outside the family within the twelve (12) months after certification.

Adjusted Income is the Annual Income minus any HUD allowable expenses and deductions.

Both Annual and Adjusted Income are used to calculate the amount of the subsidy for Vouchers. In calculating Annual and Adjusted Income, the PHA must estimate the income of every member of the household, including those who are temporarily absent. Income of persons who are permanently absent from the household will not be counted.

Income is defined by HUD regulations and is further interpreted in HUD Notices, Memos and Addenda. Those rules must be followed. However, there are policy decisions that are needed in order to assure consistent interpretation of the HUD rules.

## **C. HUD Allowable Deductions**

HUD has five (5) allowable deductions from annual income:

1. Dependent Allowance: \$480 each for family members (other than the head or spouse) who are minors (including children who are adopted), and for family members who are eighteen (18) and older who are full-time students or who are disabled (foster children are not included in this deduction).
2. Elderly/Disabled Allowance: \$400 per family for families whose head or spouse is 62 or over or disabled.
3. Allowable Medical Expenses: Deducted for all family members of an eligible elderly/disabled family.
4. Allowable Disability Assistance Expenses: Deducted for attendant care or auxiliary apparatus for persons with disabilities if needed to enable the individual or an adult family member to work.

5. Child-Care Expenses: Deducted for the care of children under thirteen (13) years of age when child-Care is necessary to allow an adult member to work, attend school, or actively seek employment.

Child-care deductions are allowed only for the care of children under the age of thirteen (13), including foster children. Child-care deductions will not be allowed unless there is no adult household member available and capable of caring for the child. Those adult members who would be considered unable to care for the child include a disabled or older person (as verified by a doctor's written statement) or a documented child abuser.

The following standards are the criteria for allowing child-care expenses as a deduction:

- a. Child-care to work: The maximum child-care allowed would be based on the amount earned by the person enabled to work. The "person enabled to work" is the adult member of the household who earns the least amount of income from employment. The child-care deduction may not exceed the amount of income earned by the person enabled to work.
- b. Child-care for school: The PHA will compare the number of hours the family member is attending school and base the reasonableness standard on the number of hours that the family member is attending school (with the addition of one hour travel time to and from school) versus the number of hours claimed for child-care. The number of hours for which the child-care deduction is allowed shall not exceed the school and travel time.
- c. Child-care to seek employment: The deduction for child-care to seek employment must not exceed the Annual Adjusted Income of the family member seeking employment. The deduction does not include transportation costs, or other expenses incurred, and is limited to one year per individual.

To claim the deduction, verification from the child-care provider must include the name, address, and phone number of the company or individual child-care provider, the names of the children being cared for, the number of hours for which child-care is provided, the rate of pay, and the typical yearly amount paid (taking into account school and vacation periods).

Verification from the job seeker must include documentation from an employment service agency and/or written verifications of interviews from potential employers.

#### **D. Minimum Rent**

The minimum rent for Section 8 participants is \$50.00. All Voucher families will contribute the higher of thirty percent (30%) of monthly adjusted income or ten percent (10%) of monthly gross income toward the rent plus any rent above the applicable Payment Standard.

##### **1. Rent Burden**

The Rent Burden is the family's payment to the owner/landlord plus utility allowance. This total figure should be equal to or less than forty percent (40%) of the family's monthly adjusted income.

New admissions to the Housing Choice Voucher Program and continuing program participants who move will not be allowed to pay more than forty percent (40%) of adjusted income for rent.

If the rent burden of the selected unit is over forty percent (40%), the new admission family will be advised to seek a lower priced unit. The continuing program participant may opt to remain in the current unit or seek a lower priced unit.

## **2. Family Moves**

If a family requests to move out of the current unit to another unit and is eligible for continued assistance, the family will be issued a Housing Choice Voucher and will be subject to the new rent calculation and to forty percent (40%) rent burden restriction.

## **E. Zero Income Families**

Families reporting no family income will be asked at application and recertification how the family pays for necessary living expenses. If it is determined that the family is receiving regular monetary or non-monetary contributions and/or gifts from non-household members, the value of these gifts will be annualized to estimate income.

If it is determined that the family receives no income from gifts, contributions, or any other source, the family will be required to complete, sign, and date the Certification of Zero Family Income. Such families will be required to maintain all receipts for any expenses (e.g., food and clothing, utility bills) for the most recent three (3) months. This amount, excluding any food stamps or the PHA Utility Allowance payments, will be annualized to determine annual income. Zero income families will be reevaluated every 120 days to determine if there are any new sources of income. The reevaluation may include an inquiry to the Department of Labor.

Enterprise Income Verification (EIV) must be checked on all family members over 18.

## **F. Averaging Income**

There are two ways to calculate income when the income cannot reasonably be anticipated for a full year:

1. Annualize current income (and subsequently conduct an interim reexamination if income changes); or
2. Average known sources of variable income to estimate an annual income (no interim adjustment is required if income remains as predicted).

Income from the previous year may be analyzed to determine the amount of anticipated income when future income cannot be clearly verified. If, by averaging, a reasonable estimate can be made, that estimate will be used to anticipate annual income over the next twelve (12) months, instead of changing the HAP every month as the income fluctuates.

## **G. Income Changes**

### **1. Welfare Program Requirements**

The PHA will not reduce a family's income and rent if the family's welfare benefits were reduced due to:

- a. Fraud by a family member; or

- b. The family's failure to abide by program requirements to work or participate in the Family Self-Sufficiency Program or Welfare-to-Work program, if applicable.

The family will be offered an opportunity for an informal hearing. The PHA will determine through third-party written verification why the benefits were reduced or suspended before adjusting the income and rent. If welfare benefits expired and program requirements were met, the family income will be reduced to determine rent.

## 2. Total Tenant Payment Exceeds Gross Rent

Families whose Total Tenant Payment exceeds the Gross Rent of the occupied unit may remain on the PHA's Section 8 program for six (6) months from the effective date of the zero assistance. This will not be considered a break in continued assistance. The family may remain in the same unit and pay rent for six (6) months before being removed from the program. If the family's income decreases or the unit rent increases within the six(6)-month period, the family will be reinstated into the program without applying to the waiting list.

The family may request to move to another unit by giving the PHA and the owner/landlord a thirty (30)-day written notice to vacate. The family must pay the rent during the thirty (30)-day period. The PHA will issue the family a Voucher to move at the end of the notice period. If the family moves from the current unit within the six (6)-month period without giving proper written notice, that is a violation of the lease as well as family obligations, a Voucher will not be issued and the family will be terminated from the program. If terminated, the family is ineligible for rental assistance for up to three (3) years from the date of termination.

## H. Income Inclusions

### 1. Regular Contributions and Gifts

Regular contributions and gifts received from persons outside the household are counted as income for Tenant Rent calculation purposes. This includes rent and utility payments paid 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.

Under certain circumstances (i.e., for zero income families), the PHA may interview the tenant and review his or her current bills and receipts to determine the amounts paid for known household expenses and the sources of regular income, including in-kind contributions.

Third-party verification of income from regular contributions and gifts will be obtained whenever possible. Tenants will be asked to complete a Declaration of Regular Contributions.

### 2. Alimony and Child Support

Alimony and child support payments are counted as income for Tenant Rent calculation purposes. Third-party verification of income from these sources is obtained by contacting the former spouse and/or the Child Support Recovery Unit. If the verification is not received within a reasonable amount of time, the PHA will allow the family to submit at least the last

three (3) months of child support check stubs and/or complete a self-declaration statement.

### **3. Lump Sum Payments**

Lump-sum payments caused by delays in processing periodic payments (e.g., unemployment, TANF, or child support) except Social Security and Supplemental Security Income benefits whether due to disputes or processing problems are counted as income in the following manner:

- a.** If the lump sum amount is reported within thirty (30) days of the date it was received, the lump sum amount will not be taken into account prior to the next recertification. If, at the next annual recertification, the lump sum amount has been converted to an asset (i.e., placed in a savings account or invested), it will be treated like any other asset.
- b.** If the lump sum is not reported within thirty (30) days, the increased income will be handled retroactively by adding the income to the annual income that was in effect when the payment was received, as long as the date is not prior to program participation. The Total Tenant Payment will be recalculated and compared to the previous Total Tenant Payment. The family has the choice of paying this "retroactive" rent to the PHA in a lump sum or entering into a Repayment Agreement with the PHA. The family officially owes this money to the PHA whether or not the family chooses to continue its participation in the Section 8 program.

Social Security and Supplemental Security Income benefits that are received in a lump sum or prospective monthly amounts are excluded from annual income. The lump sum payment would be treated as an asset.

### **4. Assets Valued Over \$5,000**

Income from assets owned by any family member (including minors) and valued at or over \$5,000 is counted as income. In determining income from assets, the PHA will use the greater of the actual net income from the asset or the imputed income using the HUD passbook rate.

### **5. Assets Disposed of for Less than Fair Market Value**

The PHA counts as income all assets disposed of for an amount less than fair market value during the two (2) years preceding initial certification or recertification. The PHA will count the difference between the market value and the actual payment received to calculate assets.

### **6. Contributions to Retirement Funds**

While an individual is employed, only the amount the family can withdraw without retiring or terminating employment is included as income. After retirement or termination of employment, any amount the employee elects to receive as a lump sum is included in income.

### **7. Armed Forces Pay**

All regular pay, special pay and allowances of member of the Armed Forces will be included in income (EXCEPTION: Special hazardous duty pay for a family member exposed to

hostile fire is excluded.)

## **I. Income Exclusions**

### **1. Lump Sum Payments**

Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and Workers' Compensation), capital gains, and settlement for personal or property losses are not included as income.

### **2. Grants and Scholarships**

The total amount of student financial assistance is excluded from income, including scholarships, educational entitlements, grants, work-study programs, and financial aid packages. Student loans are excluded even if part of the loan is being used for general living expenses. Loans are never considered income because they must be repaid.

### **3. Earned Income of Full-Time Student**

Income exceeding \$480 that is earned by a full-time student (other than the head of household or spouse) is excluded from income. The exemption only applies to earnings in excess of \$480 because the family already receives a \$480 dependent allowance.

### **4. Contributions to Retirement Funds**

Contributions to company retirement/pension funds are handled in the following manner:

- a.** While an individual is employed, only the amount the family can withdraw without retiring or terminating employment is included as income.
- b.** After retirement or termination of employment, any amount the employee elects to receive as a lump sum is included as income.

### **5. Resident Service Stipends**

Resident Service Stipends received for performing a service for the owner of a housing development, and not exceeding \$200 per month, is excluded from annual income. If the owner/landlord pays the resident more than \$200 per month, the entire amount received is included as income.

### **6. Job Training Programs**

Incremental increases in earnings and benefits received from a qualifying state or local training program (including training programs not affiliated with a local government) and training of a family member as resident management staff.

To qualify for this exclusion, the employment training program must have clearly defined goals and objectives. The incremental increase in earnings is excluded only during the time the family member participates in the training program.

### **7. Earned Income Tax Credit Refund**

Any earned income tax credit refund will not be counted as income, regardless of whether it is being received as part of the regular pay or in a single sum as part of an income tax refund.

**8. Adoption Assistance Payment**

Payments exceeding \$480 for the care of adopted children are excluded.

**9. Adult Foster Care Payments**

Payments received for the care of foster adults (generally individuals with disabilities, unrelated to the tenant family, who are unable to live alone) are excluded.

**10. Home Care Payments**

Amounts paid by the State Department of Human Resources to families that have developmentally disabled children or adult family members living at home is excluded.

**11. Military Pay**

Special hazardous duty pay for the family member exposed to hostile fire is excluded.

**12. Property Tax Refunds and Rebates**

State and/or local property tax refunds paid to the family are excluded.

**13. Agent Orange Settlement Fund**

Payments received after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the Agent Orange product liability litigation will not be counted as income. The requirement will apply only to veterans of the Vietnam War.

**14. Maine Indian Claims Settlement Fund**

Effective July 23, 1990, payments received under the Maine Indian Claims Settlement Act of 1980 will not be counted as income. This requirement applies to payments received by any member of the household who received payments under this claim.

**15. Holocaust Reparation Payments**

Any reparation payments paid by foreign governments pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era will not be included in income.

**16. Older Americans Act Programs**

Payments received from programs funded under Title V of the Older Americans Act of 1965 will not be counted as income. The Community Service Employment Program (CSEP) administered under Title V distributes grants to qualifying organizations to fund part-time employment to persons who are at least fifty-five (55) years of age and have limited income,



e.g., Green Thumb and Senior Aide Programs.

#### **17. Disabled Income Exclusions**

Disabled families (i.e. the disabled person who has been previously unemployed and goes to work) will have an earned income disallowance for the incremental increase in income for a period of twenty-four (24) months. This is how this disallowance works:

- a. 100% of the incremental increase income is disallowed for the first twelve (12) months;
- b. 50% of the incremental increase income is disallowed for the next twelve (12) months.

#### **18. Other Exclusions**

- Food Stamps;
- Payments to volunteers under the Domestic Volunteer Act of 1973 (VISTA);
- Payments received from Job Training Partnership Act (JPTA).

### **J. Proration of Assistance for “Mixed” Families**

#### **1. 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 a participant on June 19, 1995 and do not qualify for continued assistance must be offered prorated assistance. Mixed family applicants are entitled to prorated assistance. Families that become mixed after June 19, 1995 by addition of an ineligible member are entitled to prorated assistance.

#### **2. 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.

### **K. Absence from the Unit**

In calculating Annual and Adjusted Income, the PHA must estimate the income of every member of the household, including those who are temporarily absent. Income of persons who are permanently absent from the household will not be counted. Families must report in writing to the PHA any absence from the household of more than 60 consecutive days and shall report their absence to the owner/landlord, consistent with the lease provisions. Any changes in family composition must be reported in writing to the PHA within ten (10) days. Families will be counseled at briefing sessions and recertification on the effect family composition may have in determining Voucher size and Total Tenant Payment as well as the PHA's policies for dealing with such changes. At times, situations may arise that result in the temporary or permanent

absence of a family member or members from the household. Such situations will be handled in the following manner:

1. Absence of children for foster care. In instances in which the children have been removed from the home by a social service agency, the agency will be contacted to determine the approximate length of time the children are expected to be away from the home.
  - a. If the agency indicates that the children are expected to be returned to the home at some point, the children will remain a part of the family composition and will be counted toward the family's subsidy standard.
  - b. If the children are not expected to ever be returned to the home, the children will be removed from the family composition and the family's subsidy standard will be reduced accordingly.
  - c. If the agency indicates that it is unknown whether the children will be returned to the home, the children will remain a part of the family composition.

Oral conversations with the social service agency must be thoroughly documented in the family file, including the date of contact, name and title of contact person, name of agency, and telephone number and the details of the conversation.

2. Absence of single parent; use of caretaker adult. When a single parent leaves the household for an extended period as a result of imprisonment, hospitalization, military service, etc., and another adult moves into the home to care for the children, the rental assistance will not be terminated. The family composition will be modified to include the name of the caretaker as head of household. The caretaker's income will not be included in the family income. The single parent's name shall be temporarily removed and the file documented to explain the circumstances. When the parent returns to the unit, the caretaker may leave or remain in the household. If the caretaker remains, his/her income will be included in the calculation of family income.
3. Absence of head of household or spouse due to military service or school. If the head of household or spouse is absent from the home to serve in the military or attend school, the income will be included in the calculation of family income. However, income received as a result of special hazardous duty pay when exposed to hostile fire will not be included.
4. Absence of other family member due to military service or school. If a family member other than the head of household or spouse is absent from the home to serve in the military or attend school, the family has the option of considering the person permanently absent (income not counted, not on lease, and not counted for Voucher size) or temporarily absent (income counted, on lease, counted for Voucher size). Income received as a result of imminent danger pay when exposed to hostile fire will not be included.
5. Absence due to hospitalization of sole family member. When the family consists of only one member and that person leaves the home to go into a hospital or nursing home for a period of more than six (6) months, the assistance will be terminated. If a medical source documents that the person is expected to return to the unit in 180 days or less, the person shall continue to receive assistance. If the person is not back in the unit within 180 days, assistance will be terminated. However, if the person subsequently recovers at any time in the future, assistance may resume without the person having to apply to a waiting list.

6. Absence of All Household Members. If all members of the household are absent for 180 consecutive days, but have not moved from the unit, assistance will be terminated. In order to determine if the family is absent from the unit, the PHA may write letters to the family at the unit, telephone the family at the unit, interview the owner/landlord and neighbors, and/or verify if utilities are in service. In cases in which the family has moved from the unit, assistance will be terminated in accordance with the procedures.
7. Adult visitors. An adult may visit a unit for no more than fourteen (14) consecutive days per year. Adults exceeding this limit must be approved by the PHA before being considered a family member and added to the lease.
8. Child visitors. Children under the age of eighteen (18) may visit a unit for a maximum of ninety (90) consecutive days per year without being considered part of the family, provided the family has the written permission of the owner/landlord.
9. Joint Custody of Children. Children who are subject to a joint custody agreement but live in the unit at least fifty-one percent (51%) of the time will be considered members of the household. If the family includes a child who is temporarily absent from the home due to foster care, the standards in paragraph number 8 above will be used.

#### **L. Utility Allowance and Utility Reimbursement Payments**

The PHA's Utility Allowance Schedule is set up according to bedroom size within three (3) climatic regions-Northern, Middle and Southern. All counties within the PHA's jurisdiction are situated in one of the regions according to general temperature and location. The family will be given the HUD approved utility allowance schedule for the region in which the subsidy is issued. The utility allowance schedule will include the allowances for all services for each type unit by bedroom size. When searching for a suitable unit, the family will be able to select the appropriate allowance and calculate the total utility allowance according to the unit selected and the utilities the family will be responsible for paying.

##### **1. Utility Reimbursement Payments**

Where families provide their own range and refrigerator, the PHA will provide an allowance for the range and refrigerator. Allowances for water, sewer and trash services are averaged the same as other utilities. Where the Utility Allowance exceeds the family's Total Tenant Payment, the PHA will provide a Utility Reimbursement Payment for the family each month. The check will be made out directly to the tenant.

##### **2. Utility Allowance Survey**

The PHA will review the utility allowance schedule annually. If the review finds a utility rate has changed by ten percent (10%) or more since the last revision of the utility allowance schedule, the schedule will be revised to reflect the new rate. Revised utility allowances will be applied in a participant family's rent calculation at their next reexamination.

#### **M. Verification Procedures [24 CFR 5.236/5.233/PIH 2010-19]**

BHA will utilize the HUD required verification hierarchy as follows:

- Highest-HUD’s Enterprise Income Verification System (EIV)
- Highest-Non-HUD Upfront Income Verification (UIV)
- High-Written third-party verification
- Medium-Low-Written third-party employer form
- Low-Oral third-party verification
- Low-Tenant personal declaration

Details of the above hierarchy follows:

**1. Computer Matching and Record Keeping**

Where allowed by HUD and/or other State or local agencies, computer matching will be done. The PHA will utilize the HUD established computer based Enterprise Income Verification (EIV) tool for obtaining social security benefits, Supplemental Security Income, benefit history and tenant income discrepancy reports from the Social Security Administration. When computer matching results in a discrepancy with information in the PHA records, the PHA field staff will follow up with the family and verification sources to resolve this discrepancy. If the family has unreported or under reported income, the PHA will follow the appropriate procedures as addressed in the Administrative Plan. When the family furnishes the PHA with a letter or notice from HUD concerning the amount or verification of income, the PHA will verify the accuracy of income information contained in the notice and will, as appropriate, change the amount of total tenant payment, family rent to owner and housing assistance payment, or Terminate assistance.

During briefing sessions, the PHA will inform applicants and participants of the availability of these records, and remind them that they must report all sources of income and all statements must be true and accurate.

**2. Methods of Verification**

In the order presented, the PHA will attempt to obtain:

- a. Third-party Verification:** Third-party verification is considered to be the most effective means of verifying information provided by the family. Verification request letters will include a signed copy of the Authorization of the Release of Information permitting the source to release the requested information. The request for third-party verifications will be mailed by the PHA directly to the third-party source and will ask that the verification be returned to the PHA by mail.

The PHA may accept some such computer forms, faxes and e-mails directly from the provider or supplied by the tenant as documentation of third-party written verification. Entities known to use computer- generated forms may include (but not limited to):

- Social Security Administration;

- Veterans Administration;
- Department of Family and Children Services;
- Department of Labor;
- Child Support Recovery Unit.

In the event that third-party written verification is not possible due to an unwillingness by the source to respond or in the event that the information is not returned within a reasonable amount of time, staff will be advised to note the file accordingly and to proceed with the third-party oral verification as the primary source.

Oral verification may be made through a phone call or meeting with the source. When third-party oral verification is used, staff will be required to document the family file noting with whom they spoke, the date of the conversation, and the facts provided. The staff member shall initial the entry. The staff member should continue to follow-up to obtain written verification.

**b. Applicant Certification/Self-Declaration(s)**

When third-party verification or computer generated forms supplied by the tenant cannot be obtained, applicants will be required to submit a signed declaration statement, and the family file will be documented giving the reason why third party verification was not used. Signed statements are only to be used as a last resort, when the other forms of verification are impossible to obtain. A family cannot self-certify a disability.

**3. Release of Information**

At the application and annual recertification stages, families will be asked to sign the Authorization for the Release of Information (HUD Form 9886) and the PHA Authorization to Release Information form. All family members age eighteen (18) or older will be provided with a copy of the forms for their review and signature. Each form will contain the appropriate family member's signature as proof of:

- a.** his or her consent to the "third-party" for release of specified information; and
- b.** evidence of his or her understanding of the type and nature of information being sought.

The HUD release form is only to be used to request information from current or previous employers, financial institutions, or the State Department of Labor. All other requests for verification information (including, but not limited to TANF, child support, alimony, pensions, child care expenses, medical expenses, handicapped assistance expenses, full-time student status, etc.) must be accompanied by a copy of the signed PHA release form. A family's refusal to cooperate with the HUD prescribed verification system will result in the termination of the household's application or the family's continued assistance and will result in ineligibility status.

**4. Social Security and Supplemental Security Income Verification**

Initially and at each participant's recertification, the Social Security Administration will provide to the PHA a record of benefits received by all family members. If there is a discrepancy between what the PHA reported through MTCS and the actual household benefits, the PHA will take appropriate action to collect any overpayments.

**5. Additional Items to be Verified**

The following items will be verified:

- a.** Decrease in Child Support, Alimony or Regular Contributions and Gifts;
- b.** U.S. Citizenship or Eligible Immigrant Status;
- c.** All income not specifically excluded by the regulations;
- d.** Current Assets, including those assets disposed of for less than Fair Market Value in the preceding two (2) years;
- e.** Full-Time Student Status (as defined by the institution for persons carrying the equivalent of what the school considers being full time for "day" students) -includes High School students who are eighteen (18) or over;
- f.** Total Medical Expenses for families whose head or spouse is sixty-two (62) years of age or older or disabled according to HUD definition;
- g.** Child-Care Expenses where it allows an adult family member to be gainfully employed, seek employment or to further his or her education;
- h.** Disability Assistance Expenses to include only those costs associated with attendant care or auxiliary apparatus that allows and adult family member to be gainfully employed;
- i.** Request for Larger Unit than Applicable under the PHA's subsidy standards (only where family can demonstrate that a larger unit is needed for "medical purposes" or other extenuating circumstances); and
- j.** Zero Income Status of a household will be verified initially and every 120 days thereafter. The PHA may request a Department of Labor report on these families to determine if there are any monies being received by the families that should be included as income for rent determination purposes.

**6. Minimum Income**

There is no minimum income requirement, but the staff should use good interviewing skills to determine whether there is income that is not being reported. Families are not required to apply for welfare, but it may be suggested to them.

**7. Verification of Income**

Specific information must be obtained from third-party sources to verify the information provided by the family. The following verification information will be considered acceptable by the PHA in the order listed:

**a. Employment Income**

Any verification form must request the employer to specify the:

- (1) Amount and frequency of pay;
- (2) Dates of employment;
- (3) Effective date of the last pay increase; and
- (4) Probability and effective date of any increase during the next twelve (12) months.

Acceptable forms of verification include:

- Employment verification form three (3) completed by the employer and faxed back to the PHA, and/or tenant supplied pay stubs;
- Signed self-declaration statements, affidavits or income tax returns signed by the applicant describing self-employment and amount of income or income from tips and other gratuities.

Applicants and program participants may be requested to sign a release authorizing the PHA to seek information from the Internal Revenue Service for further verification of income, if there is doubt regarding the amount and/or sources of income.

**b. Pensions, Disability Income, Unemployment Compensation**

- (1) Benefit verification form completed by agency providing the benefits;
- (2) Award or benefit notification letters prepared and signed by the authorizing agency.

**c. Social Security, Supplementary Security Income (SSI)**

- (1) Benefit information supplied by family
- (2) Annual Benefit and Discrepancy Report from Social Security Administration.

**d. Temporary Assistance for Needy Families (TANF)**

The Department of Family and Children Services computer generated statements as to type and amount of assistance the family is now receiving, and any changes in assistance expected during the next twelve (12) months.

**e. Alimony or Child Support Payments**

- (1) Third-party verification from the Child Support Recovery Unit. The last three (3) months of child support check stubs will be annualized to determine the anticipated income for the coming year.
- (2) Signed Verification of Child Support/Alimony/Regular Contributions and Gift Form from the person paying the support.

**(3) Applicant's Child Support/Alimony/Regular Contributions and Gift Self-Declaration Form.**

If payments are irregular:

- Statement from Child Support Recovery Unit;
- Applicant's Child Support/Alimony/Regular Contributions and Gift Self-Declaration Form.

**f. Net Income from a Business**

The following documents show previous income. The PHA must consult with applicants and use this data to estimate income for the next twelve (12) months.

**(1) IRS Tax Return, Form 1040, including any:**

- Schedule C (Small Business);
- Schedule E (Rental Property Income);
- Schedule F (Farm Income).

**(2) An accountant's calculation of depreciation expense, computed using straight-line depreciation rules. (Required when accelerated depreciation was used on the tax return or financial statement.)**

**(3) Financial statement(s).**

**(4) Loan Application listing income derived from the business during the previous twelve (12) months.**

**(5) Documents such as manifests, appointment books, cash books, bank statements, and receipts will be used as a guide for the prior six (6) months (or lesser period if not in business for 6 months) to project income for the next twelve (12) months. The family will be advised to maintain these documents in the future if they are not available.**

**(6) Applicant's signed self-declaration statement or affidavit as to net income, including tips, realized from the business during previous years.**

**g. Child-Care Business**

If an applicant/participant is operating a licensed child-care business, income will be verified as with any other business. However, if the child-care business is a "cash and carry" operation (which may or may not be licensed) verification of income received may be more difficult. The PHA will require that the applicant/participant complete and sign a self-declaration statement including the names of clients, phone numbers, number of hours child-care is provided, method of payment (check/cash), and the signatures of the clients certifying to amounts paid for child-care. If the family has filed a tax return, the



family may be required to provide it.

**h. Recurring Gifts**

- (1) Verification of Child Support/Alimony/Regular Contributions and Gifts Form signed by the contributor.
- (2) Child Support/Alimony/Regular Contributions and Gifts Self-Declaration Form signed by the applicant/participant.

**8. Verification of Asset Income**

**a. Family Assets Now Held**

To determine the current cash value (i.e., the net amount that would be received if the asset were converted to cash) of non-liquid assets, the PHA will use the following types of information:

- Verification forms, letters, or documents from financial institutions, brokers, etc.
- Passbooks, checking account statements, certificates of deposit, bonds, or financial statements from a financial institution or broker.
- Market appraisals prepared by stockbrokers (for securities) or real estate agents (for real estate) received directly from the agent.
- Real estate tax statements, if tax authority uses approximate market value.
- Copies of closing documents from the closing attorney or real estate agent indicating the sales price, distribution of the sale proceeds and the net amount to the Section 8 applicant/participant.
- Appraisals of personal property held as an investment.
- Applicant's signed self-declaration statements or signed affidavits describing assets or cash held at the applicant's home or in safe deposit boxes.
- Net income from a business.

**b. Assets disposed of for Less than Fair Market Value (FMV) during Two Years Preceding Effective Date of Certification or Recertification**

- For all Certifications and Recertifications, the PHA will obtain the family's certification as to whether any member has disposed of assets for less than fair market value during the two (2) years preceding the effective date of the certification or recertification.
- If the family certifies that they did dispose of assets for less than fair market value, the family will provide certification of: (a) all assets disposed of for the less than FMV; (b) the date(s) on which the assets were disposed; (c) the amount the family

received; and(d) the market value at the time of disposition.

**c. Savings Account Interest Income and Dividends**

- Account statements, passbooks, certificates of deposit, etc., if they provide sufficient information and are prepared or signed/ by the financial institution.
- Broker's quarterly statements showing the value of stocks or bonds and the earnings credited the applicant.
- IRS Form 1099 from the financial institution, adjusted by the PHA to project earnings for the next twelve (12) months.

**d. Interest Income from Sale of Real Property Pursuant to a Purchase Money Mortgage, Installment Sales Contract, or Similar Arrangement**

- A letter from the accountant, attorney, real estate broker, buyer, or a financial institution stating interest due for next twelve (12) months. (A copy of the check paid by the buyer to the applicant is not sufficient since appropriate breakdown of interest and principal is not included.)
- Amortization schedule showing interest for the twelve (12) months following the effective date of the certification or recertification.

**e. Rental Income from Property Owned by Applicant**

These amounts must be adjusted by the PHA to indicate anticipated income for the next twelve (12) months.

- IRS Form 1040 with Schedule E (Rental Income);
- Copies of latest rent checks, leases, or utility bills;
- Documentation of applicant's income and expenses in renting the property (tax statements, insurance premiums, receipts for reasonable maintenance and utilities, bank statements or amortization schedules showing monthly interest expense).
- Lessee's written statement identifying monthly payments due the applicant and applicant's affidavit as to net income realized.

**9. Verification of Allowable Deductions from Income**

**a. Full-Time Student Status**

- Written verification from the registrar's office or appropriate school official.
- School records indicating enrollment for a sufficient number of credits to be classified as a full-time student by the school.

**b. Child-Care Expenses**

- Written verification from the child-care provider specifying the child-care provider's name, address, and phone number, the names of the children cared for, the frequency (number of times the child-care occurs), the rate of pay, and the typical yearly amount paid, including school and vacation periods.
- Applicant's certification as to whether any of those payments have been or will be paid or reimbursed by outside sources.

c. Medical Expenses

The term "incurred" shall mean expenses "actually paid for."

- Applicant's certification as to whether any of those payments have been or will be reimbursed by outside sources.
- Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, etc., of:
  - The estimated medical cost to be incurred by the applicant and/or regular payments due on medical bills; and
  - The extent to which those expenses will be reimbursed by insurance or a government agency.
- The insurance company's or employer's written confirmation of health insurance premiums to be paid by the applicant.
- Social Security Administration's written confirmation of Medicare premiums to be paid by the applicant over the next twelve (12) months.
- For attendant care:
  - Doctor's certification that the assistance of an attendant is medically necessary as well as the hours that care is required.
  - Attendant's written confirmation of hours of care provided; amounts and frequency of payments received from the family or agency (or copies of canceled checks showing payment).
  - Applicant's certification as to whether any of those payments have been or will be reimbursed by outside sources.

Supporting Documents

The following items may be used to support certified statements or third-party verifications only. Documents received directly from the family are not acceptable forms of verification. These documents will be placed on the Correspondence side of the family file.

- Receipts, canceled checks, or pay stubs that indicate health insurance premium costs, etc., that verify medical costs and insurance expenses also likely to be incurred in the next twelve (12) months.
- Copies of payment agreements with medical facilities or canceled checks verifying payments made on outstanding medical bills that will continue over all or part of the next twelve (12) months.
- Receipts or other records of medical expenses incurred during the past twelve (12) months that can be used to anticipate future medical expenses. This approach may be used to estimate "general medical expenses" such as non-prescription drugs and regular visits to doctors or dentists, but not for one-time, non-recurring expenses from the previous year.
- Medical insurance deductible amounts may be used as a medical expense if the total medical expenses exceed this deductible amount.

**d. Medical Need for Larger Unit**

A reliable medical source (such as doctor, nurse, or other health care provider must certify that such arrangements are medically necessary.

**e. Assistance to Disabled**

Attendant Care:

- Attendant's written certification as to: amount received from the applicant/participant or agency; frequency of receipt of amounts paid; hours of care provided; and/or copies of canceled checks applicant/participant used to make those payments;
- Certifications required in paragraph 3(b) below and/or copies of canceled checks applicant/participant used to make those payments.

Auxiliary Apparatus:

- Receipts for purchase of, or evidence of monthly payments for, auxiliary apparatus;
- In cases where the disabled person is employed, a statement from the employer that the auxiliary apparatus is necessary for employment.

In All Cases:

- Written certification from a doctor or a rehabilitation agency that the disabled person requires the services of an attendant or the use of auxiliary apparatus to permit the disabled person to be employed or to function sufficiently independently to enable another family member to be employed;
- Family's written certification as to whether they receive reimbursement for any of the expenses in paragraphs 1 and 2 above and the amount of any reimbursement received.

## **10. Verifying Non-Financial Factors**

In order to prevent program abuse and determine eligibility for allowances and deductions, the PHA may require applicants and participants to furnish acceptable verification of legal identity, marital status, familial relationships, changes in family composition, disability status, and citizen status.

### **a. Legal Identity**

The documents listed below 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 Driver's License;
- U.S. Passport;
- State Identification Card.

Acceptable verification of legal identity for children includes one or more of the following:

- Certificate of Birth;
- Adoption Papers;
- Custody Agreement;
- Health and Human Services Identification Card.

### **b. Marital Status**

A marriage certificate is the only acceptable verification of marital status. To verify divorce status, a copy of all parts of the divorce decree is required. Verification of a legal separation is a copy of court-ordered maintenance or other court records.

### **c. Familial Relationships**

Certification will normally be considered sufficient verification of family composition. In cases where reasonable doubt exists regarding specific family members, the family may be required to provide copies of the documents listed in this section.

### **d. Stable Family Relationship**

- (1) Joint bank accounts, purchases or loans;
- (2) Prior or current lease or rental agreements showing cohabitation;

(3) Credit report showing residence and joint financial activity.

**e. Guardianship**

(1) Court-ordered assignment;

(2) Notarized statement signed by guardian and parent;

(3) Verification from social services agency;

(4) School records.

It is possible to have what appear to be two families in the same household (such as mother and father and daughter with her own children). However, because they have applied as one family, they are considered to be one family.

**f. Permanent Absence of Adult Member**

If the family reports permanently absent an adult member who was formerly a member of the household, the PHA will consider any of the following as verification:

(1) Husband or wife institutes divorce action or requests legal separation;

(2) Order of protection/restraining order obtained by one family member against another;

(3) Proof of another home address, such as utility bills, lease, or rent receipts;

(4) Statement from the landlord or manager that the family member is no longer living at that location; or

(5) If the family member is incarcerated, a document from the court or prison, including information of the term of incarceration.

**g. Disability**

Letters regarding qualification for SSI payments, proof of residence in an institution or documentation showing hospitalization for a disability.

**h. Citizen/Eligible Immigration 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 Services (INS). Each family member must declare his or her status only once.

Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while the PHA hearing is pending.

- (1) Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury.
- (2) Eligible Immigrants, who were Participants and sixty-two (62) or over on June 19, 1995, are required to sign a declaration of eligible immigration status and provide proof of age.
- (3) Non-citizens 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.
- (4) 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 family member or, if the family member is a minor, the person who is responsible for the minor.

**i. Failure to Provide**

Applicant or participant family members who fail to sign required declarations and consent forms or provide documents, as required, will be listed as ineligible members. If the entire family fails to provide and sign as required, the family may be denied or terminated for failure to provide required information.

**j. 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, verification will be completed 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 members move in. Once verification has been completed for any covered program, it need not be replaced except that, in the case of port-in families, if the initial PHA does not supply the documents, the PHA must conduct the determination.

**k. Extension of Time to Provide Documents**

Extensions must be given for persons who declare their eligible immigration status but need time to obtain the required documents. The length of the extension shall be based on individual circumstances. The PHA will generally allow thirty (30) days to provide the document or receipt issued by the INS for issuance of replacement documents.

**l. Acceptable Documents of Eligible Immigration Status**

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-551);

- Arrival-Departure Record (I-94);
- Temporary Resident Card (I-688B);
- Employment Authorization Card (I-688B);
- Receipt issued by the INS for issuance of replacement of any of the above documents that shows the 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 a minimum of five (5) years.

### **3. Briefing of Families and Issuance of Housing Choice Vouchers**

#### **A. Briefing Notices**

Applicants are notified thru mail or phone call prior to the briefing session. If the applicant fails to appear, he/she will be rescheduled for the next briefing session. If the applicant fails to appear a second time, the application will be withdrawn. The applicant family can reapply when the PHA is accepting applications.

#### **B. Contents of the Briefing**

1. The briefing must include information on the following subjects:
  - a. A description of how the program works;
  - b. Family and owner/landlord responsibilities;
  - c. Where the family may lease a unit, including renting a dwelling unit inside;
  - d. An explanation of the advantages of moving to areas outside of poverty or minority concentration.
2. In briefing a family that includes any disabled person, the PHA must take appropriate steps to ensure effective communication in accordance with 24 CFR 8.6.

#### **C. Contents of Briefing Packet**

When a family is selected to participate in the program, the PHA must give the family a packet that includes information on the following subjects:

1. The initial time to locate a unit and PHA policy on any extensions or suspensions of the term. If the PHA allows extensions, the packet must explain how the family can request an extension;
2. How the PHA determines the housing assistance payment for a family including proration of assistance for mixed families who have one or more ineligible family members according to the restrictions on assistance to non-citizen rule;



3. For the voucher program, information on the payment standard and the PHA utility allowance schedule (if certification prior to 10/1/99);
4. How the PHA determines the maximum rent for an assisted unit;
5. What the family should consider in deciding whether to lease a unit, including:
  - The condition of a unit;
  - Whether the rent is reasonable;
  - The cost of any resident-paid utilities and whether the unit is energy-efficient; and;
  - The location of the unit, including proximity to public transportation, centers of employment, schools and shopping.
6. Where the family may lease a unit. For a family that qualifies to lease a unit outside the PHA's jurisdiction under portability procedures, the information packet must include:
  - An explanation of how portability works; and
  - A list of neighboring housing agencies with the name, address and telephone number of portability contact person at each for use by families who move under portability.
7. The HUD-required "lease addendum". The lease addendum is the language that must be included in the lease;
8. The form of Request for Tenancy Approval, and an explanation of how to request PHA approval to lease a unit;
9. A statement of the PHA policy on providing information about a family to a prospective owners/landlords;
10. PHA subsidy standards, including when the PHA will consider granting exceptions to the standards;
11. The HUD brochure on how to select a unit;
12. The HUD lead-based paint (LBP) brochure;
13. Information on Federal, state and local equal opportunity laws, and a copy of the housing discrimination complaint form;
14. A list of owners/landlords or other parties known to the PHA who may be willing to lease a unit to the family, or help the family find a unit;
15. Notice that if the family includes a disabled person, the family may request a current listing of accessible units known to the PHA that may be available;

16. Family obligations under the program;
17. The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act;
18. PHA informal hearing procedures. This information must describe when the PHA is required to give a participant family the opportunity for an informal hearing, and how to request a hearing.
19. HQS Checklist;
20. Procedures for notifying the PHA and/or HUD of program abuses such as side payments, extra charges, violations of tenant rights, and owner failure to repair;
21. Requirements for reporting changes between certifications;
22. Information on security deposits.
23. Housing Search Form.

**D. Extensions and Suspensions**

1. The initial period to locate a unit expires at the end of sixty (60) days from the date of issuance, unless the family has submitted a Request for Tenancy Approval. In order to have the time extended for a period not to exceed an additional sixty (60) days, the family must request the extension in writing. All requests for extensions should be received prior to the expiration date. Family must return a search log document showing that they have been actively searching for housing in order to qualify for an extension.
2. The PHA staff will review with the family the efforts it has made to find a suitable dwelling unit and the problems it has encountered. The staff shall offer advice or assistance which may be helpful in assisting the family locate appropriate and affordable housing. If the PHA determines there is a reasonable possibility that the family cannot locate suitable housing, the PHA will grant an extension for an additional amount of time. In no event shall the time be extended beyond the maximum time limit allowed by Federal regulations.
3. The PHA may grant a family a suspension of the term if the family has submitted a Request for Tenancy Approval during the term.

**E. Occupancy Standards (pursuant to Federal Register, December 22, 1998)**

The PHA's occupancy standards are listed below:

Size	Minimum # of Persons	Maximum #Persons
0 BR	1	1
1 BR	1	3
2 BR	2	5
3 BR	3	7
4 BR	4	9

Occupancy Standards Continued [24 CFR 402]

Exceptions to the above may be granted after review by the Executive Director, to allow for a larger bedroom size if it is determined that the exception is justified by the age, sex, health, handicap or relationship of family members or other personal circumstances. This exception will also be considered regarding the former Public Housing Units converted to the Rental Assistance Demonstration (RAD) program with small square footage bedrooms as to not create an overcrowding situation.

The Following will also be taken into consideration regarding bedroom size assignment;

- A. Normally, two persons will be assigned to each bedroom.
- B. Units will be so assigned that adult family members of the opposite sex, other than a husband and wife, will not be required to occupy the same bedroom, except at the request of the family.
- C. Children who are not of the same sex may share a bedroom until the eldest is six (6) years of age.
- D. For reasons of health (old age, physical disability, etc.) a separate bedroom may be provided for such individual family member as verified by a medical professional.
- E. Foster Children will be counted as family members in determining the number of bedrooms.
- F. Exceptions to the minimum standards will be made if necessary to provide reasonable accommodation for a person with disabilities.
- G. A single head of household shall not be required (but may choose) to share a bedroom with his/her children.

**4. Housing Quality Standards and Inspections**

**A. Applicable Quality Standards**

Any housing unit contracted with the PHA will meet the minimum Housing Quality Standards (HQS) as set forth in 24 CFR 982.401. Local housing codes adopted by PHA must meet or exceed HQS requirements. Codes cannot restrict housing choice.

## **B. Initial HQS Inspection**

1. The Initial Inspection will be conducted to:
  - a. Determine if the unit and property meet the HQS defined in this Plan.
  - b. Document the current condition of the unit as to assist in future evaluations whether the condition of the unit exceeds normal wear and tear.
  - c. Document the information to be used for determination of rent reasonableness.
2. If the unit fails the initial Housing Quality Standards inspection, the family and owner/landlord will be advised to notify the PHA once repairs are completed
3. The owner/landlord will be given up to thirty (30) days to correct the items noted as Fail, at the Inspector's discretion, depending on the amount and complexity of work to be done.
4. The owner/landlord will be allowed up to two (2) re-inspections for repair work to be completed.
5. If the time period given by the Inspector to correct the repairs has elapsed, or the maximum number of failed re-inspections has occurred, the family may select another unit.
6. For PHA's with 1250 or less units, the inspection should be made within fifteen (15) days from the date the unit is available for inspection.
7. PHA and local government certification that SRO's meet local health and safety standards have been eliminated.

## **C. Annual HQS Inspections**

1. Annual inspections shall be conducted 90-120 days prior to the anniversary month of the contract.
2. HQS deficiencies which cause a unit to fail must be corrected by the owner/landlord unless it is a fail for which the resident is responsible.
3. The family must allow the PHA to inspect the unit at reasonable times with reasonable notice. [24 CFR 982.51 (d)]
4. Reasonable hours to conduct an inspection are between 9:00 a.m. and 4:00 p.m.
5. The family shall be notified in writing at least one (1) day prior to the inspection.
6. If the family does not contact the PHA to reschedule the inspection, or if the family misses two (2) inspection appointments, the PHA will consider the family to have violated a Family Obligation and their assistance may be terminated in accordance with the termination procedures in this Plan.
7. Time Standards for Repairs

- a. Life-threatening HQS fail items must be corrected by the owner/landlord or resident, if responsible, within twenty-four (24) hours of notification.
- b. For non-emergency items, repairs must be made within thirty (30) days.
- c. Extensions may be granted in lieu of abatement in the following cases:
  - There is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services;
  - The repairs are expensive (such as exterior painting or roof repair) and the owner/landlord 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 thirty (30) days. At the end of that time, if the work is not completed, the HAP must be abated or the contract terminated.

**D. Special/Complaint Inspections**

- 1. If at any time the family or owner/landlord notifies the PHA that the unit does not meet Housing Quality Standards, an inspection may be conducted.
- 2. The PHA may also conduct a special inspection based on information from third parties such as neighbors or public officials. A fee may be charged.
- 3. The PHA may 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.
- 4. The inspector will provide the owner/landlord with a notice and inspection report, identifying the HQS violations, including the appointment to re-inspect the unit. The appointment for the re-inspection will coincide with the conclusion of the notice given
- 5. If the anniversary date is within 120 days of a special inspection, the special inspection may be categorized as "Annual" and all annual procedures will be followed.

**E. Quality Control Inspections**

- 1. Quality Control inspections will be performed by a supervisor or other qualified staff member using the same minimum sample size as is now required for other supervisory quality control reviews pursuant to the SEMAP regulations. The purpose of Quality Control inspections is to ascertain that each Inspector is conducting accurate and complete inspections, and to ensure that there is consistency among Inspectors in application of the HQS.
- 2. The results of the inspection are reviewed with the Inspector.
- 3. Housing Quality Standards Control Inspections Reports are compared with Annual Inspection Reports recently completed by inspection staff. Discrepancies between the two (2)

inspection reports are evaluated. Discrepancies categorized as Inspector error are catalogued and reviewed with the Inspector. The review is to be instructional and informational, not punitive.

#### **F. Acceptability Criteria Changes Effective October 2, 1995**

1. A microwave oven may be substituted for resident-supplied oven and stove or range.
2. A microwave oven may be substituted for owner/landlord-supplied oven and stove or range if the resident agrees and microwave ovens are furnished instead of an oven and stove or range to both subsidized and unsubsidized residents.
3. Windows that are nailed shut are acceptable only if they are not necessary for ventilation or an alternate means of exit in the event of a fire.
4. Lead-based paint is defined as a paint surface with lead content greater than or equal to 1 mg/cm<sup>2</sup>, 0.5% weight, or 5000 parts per million.
  - a. Lead-based paint requirements are not applicable to SRO, Zero Bedroom, and Elderly units, units built after 1978, or units not occupied by children under the age of six (6), under units certified to be free of lead-based paint.
  - b. An elevated blood level of 20 ug/dl or greater than 1 teat, or 15-19 ug/dl in two (2) consecutive tests three (3) to four (4) months apart.
  - c. The PHA must inspect all painted surfaces within the unit, entrance and hallway providing access to the unit and exterior building surfaces up to five (5) feet from the floor or ground that are readily accessible to children for defective paint.
  - d. Treatment of defective paint in applicable units and on applicable surfaces. Defective paint on inspected surfaces must be treated if:
    - More than 10 Sq. Ft. on an exterior wall;
    - More than 12 Sq. Ft. of large surface areas such as ceilings, floors, doors, interior (but not exterior) walls, decks and stairs.

#### **G. Life Threatening HQS Deficiencies**

1. Items of an emergency nature must be corrected by the owner/landlord or resident, whoever is responsible, within twenty-four (24) hours of notice by the Inspector.
2. The PHA may give a short extension (not more than 72 additional hours) whenever the responsible party cannot be notified or it is impossible to effect the repair within the twenty-four (24)-hour period.
3. If the emergency repair item(s) are not corrected in the time period required by the PHA and the owner/landlord is responsible, the housing assistance payment will be abated and the HAP contract will be terminated.

4. If the emergency repair item(s) are not corrected in the period required and it is an HQS breach which is a family obligation, assistance to the family may be terminated.

#### **H. Consequences if Owner/Landlord is Responsible (Non-Emergency Items)**

1. When it has been determined that a unit on the program fails to meet Housing Quality Standards, and the owner/landlord is responsible for completing the necessary repair(s) in the time period specified by the PHA, the assistance payment to the owner/landlord will be abated.
  - a. A Notice of Abatement will be sent to the owner/landlord, and the abatement will be effective from the day after the date of the failed inspection. The notice is generally for thirty (30) days, depending on the nature of the repair(s) needed.
  - b. The PHA may inspect abated units within three (3) days of the owner's/landlord's notification that the work has been completed.
  - c. If the owner/landlord makes repairs during the abatement period, payment will resume on the day the unit passes inspection.
  - d. The PHA will advise owners/landlords and resident of when the re-inspection will take place and request owner/landlord/resident to be present.
  - e. No retroactive payments will be made to the owner/landlord for the period of time the rent was abated and the unit did not comply with HQS.
2. Termination of Contract
  - a. If the owner/landlord is responsible for repairs, and fails to correct all the deficiencies cited prior to the repair deadline or extension, the contract may be terminated.
  - b. If repairs are completed before the effective termination date, the termination may be rescinded if the resident chooses to remain in the unit.

#### **I. Determination of Responsibility**

1. Certain HQS deficiencies are considered the responsibility of the family:
  - a. Resident-paid utilities not in service;
  - b. Failure to provide or maintain family-supplied appliances;
  - c. Damage to the unit or premises caused by a household member or guest beyond normal wear and tear:
    - "Normal wear and tear" is defined as items which would be charged against the resident's security deposit under state law or court practice.
2. The owner/landlord is responsible for all other HQS violations.
3. The owner/landlord 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/landlord may evict for serious or repeated violation of the lease. The PHA may terminate the family's assistance on that basis.

4. The Inspector will make a determination of owner/landlord or family responsibility during the inspection.
5. If the family is responsible but the owner/landlord carries out repairs, the owner/landlord will be encouraged to bill the family for the cost of the repairs and the family's file will be noted.

#### **J. Consequences if Family is Responsible**

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

#### **5. Approval/Disapproval of Request for Tenancy Approval, Rent Reasonableness, Execution of HAP Contract, and Rent Increase**

##### **A. Request for Tenancy Approval**

1. The Request for Tenancy Approval (RTA) must be submitted by the family during the term of the voucher.
2. The Request for Tenancy Approval must be signed by both the owner/landlord and the family holder before it can be accepted by the PHA.
3. The family is not permitted to submit more than one Request for Tenancy Approval (RTA) at a time.
4. The Request for Tenancy Approval will be reviewed to determine whether or not it is approvable.

##### **B. Rent Reasonableness Determination and Documentation**

1. The PHA will not approve a lease until it is determined that the initial rent to the owner/landlord is a reasonable rent. The PHA must also determine the reasonable rent before any increase in the rent is approved, and if there is a five percent (5%) decrease in the published FMR in effect sixty (60) days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the contract anniversary.
2. The PHA will also determine rent reasonableness when the owner/landlord requests an increase in the rent for a voucher unit.



3. Local government or independent entities (approved by HUD) must perform HQS inspections and rent reasonableness determinations for PHA-owned units leased by voucher holders:
  - The PHA will pay expenses associated with the performance;
  - The family cannot be charged for these services;
  - The PHA may use administrative fee income to compensate the independent agencies for their services.
  
4. The following items will be used for rent reasonableness documentation:
  - Size (number of bedrooms/square footage);
  - Location;
  - Quality;
  - Amenities (bathrooms, dishwasher, air conditioning, etc.);
  - Housing Services;
  - Age of unit;
  - Unit Type;
  - Utilities;
  - Maintenance.
  
5. The following basic methodology may be used to certify that the requested rent is reasonable in relation to rents being charged to unassisted units:
  - a. PHA collects the required data concerning the unit to be assisted from the Request for Tenancy Approval and during the inspection.
  - b. Data from comparable units may be collected from the following sources:
    - Multiple Listing Service;
    - Newspapers and owner/landlord interviews;
    - Other methods as needed;
    - Owner/agent questionnaires;
    - Other units on the program;
    - On-site visits.

- c. Data concerning at least three (3) comparables and the assisted unit may be recorded on a Rent Reasonableness Determination form (RRD). This form may be attached to the inspection records.
  - d. The data on the RRD form is analyzed and an approvable rent is determined and recorded on the RRD with the date and name of the staff person.
  - e. The analysis may either utilize the appraisal method comparing point or dollar values or the standard deviation method using rents adjusted for all of the comparable items.
  - f. Rent rolls may be requested from owner/agents if needed to determine that rents charged for unassisted units in a complex are favorably comparable to the assisted unit.
6. The PHA must re-determine rent reasonableness if directed by HUD. The PHA may elect to re-determine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to owner/landlord may not exceed the reasonable rent as most recently determined or re-determined by the PHA.
  7. The owner/landlord will be advised that by accepting each monthly housing assistance payment he/she will be certifying that:
    - a. The rent to owner/landlord is not more than rent charged by the owner/ landlord for comparable unassisted units in the premises;
    - b. The assisted family is currently occupying; and
    - c. The assisted family is not in violation of lease obligations.

**C. Disapproval of Owners/Landlords**

The PHA may disapprove an owner/landlord for one or more of the following reasons:

1. The PHA must not approve a unit if it has been informed (by HUD or otherwise) that the owner/landlord is debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24;
2. The owner/landlord has violated obligations under a Housing Assistance Payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
3. The owner/landlord has committed fraud, bribery or any other corrupt, criminal or violent criminal activity in connection with any Federal housing program;
4. The owner/landlord has engaged in drug-trafficking;
5. The owner/landlord has a history or practice of non-compliance with the HQS for units leased under the resident-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other Federal housing program;
6. The owner/landlord refused, or has a history of refusing, to take action against residents (including household members or guest) who constitute:

- a. A threat to the health or safety of, or right to peaceful enjoyment of the premises by other residents or employees of the PHA, an owner/landlord, or other manager of the housing;
  - b. Threat to the health or safety of, or right to peaceful enjoyment of the residences by persons residing in the immediate vicinity of the premises;
  - c. A threat by being involved in drug-related or violent criminal activity.
7. When directed by HUD, the PHA must not approve a unit if:
- a. The Federal government has instituted an administrative or judicial action against the owner/landlord for violation of the Fair Housing Act or other Federal equal opportunity requirements, and such actions are pending; or
  - b. A court or administrative agency has determined that the owner/landlord violated the Fair Housing Act or other Federal equal opportunity requirements; or
  - c. If the owner/landlord is the parent, child, grandparent, grandchild, sister or brother of the family, unless the PHA determines that approving the unit would provide reasonable accommodations for a family member who is a person with disabilities.
  - d. Stepchildren are eligible as they are not included in section 982.306 (d).
  - e. This restriction does not apply to continued tenant based assistance in the same unit.

The provision governing PHA disapproval of the owner/landlord does not apply when a family enters into a new tenancy in the same assisted unit. (See 24 CFR Sec. 982.306)

#### **D. Execution of the Lease and Contract**

1. The PHA may recommend the use of a standard lease.
2. If the owner/landlord does not use the standard lease, the owner/landlord and resident must execute the HUD mandated Lease Addendum after the owner's/landlord's lease is approved by PHA.
3. The effective date of the lease and HAP Contract shall be on the same date or after the unit passes the HQS inspection.
4. The lease must be consistent with state and local laws.
5. The lease must be generally applied to unassisted residents.
6. Defines “resident's legal capacity” as having legal capacity under state and local law and that “the resident is bound by the terms of the lease and may enforce the lease against the owner”.
7. At a minimum, the lease must include:
  - a. The residents’ and owner’s/landlord’s name;

- b. The term of the lease (and any conditions of renewal);
- c. The monthly rent to owner/landlord;
- d. Specifications regarding which utilities and appliances are furnished by the owner/landlord and which by the resident.
- e. Clarifies conditions under which execution of a new HAP contract and PHA approval of the lease would be required:
  - Change in owner or tenant provided utilities or appliances;
  - Changes in the term of the lease;
  - Family move to a new unit in the same building or complex.

**E. Rent Increases**

1. The owner/landlord must request a rent increase in writing at least sixty (60) days in advance of anniversary date of the contract. The owner/landlord must itemize the reasons and supporting documentation for the proposed increase. The PHA will review each increase to determine whether or not the request is justified. Based on the comparable rent for the unit, and in an amount not to exceed the applicable annual adjustment factor, the owner/landlord will be notified as to what amount the contract rent will be adjusted.
2. The adjustment in the rent will be the lower of:
  - The current rent multiplied by the Annual Adjustment Factor (AAF) published by HUD; or
  - The rent reasonableness determination.
3. Owners/landlords may request and HUD may approve special rent increase pursuant to the HAP Contract.

**F. Manufactured Homeowners Leasing Pad**

The subsidy amount for expenses associated with pad leasing for mobile homeowners are increased from thirty percent (30%) of the two-bedroom FMR to forty percent (40%).

**6. Payment Standards**

- A. Each year, the PHA will establish Payment Standards between 90-110% of the current Fair Market Rent. HUD approval will be obtained if subsidy amount is below or above established FMR. If below FMR, HUD will not approve if more than forty percent (40%) of the PHA's participants are paying a family share above thirty percent (30%) of adjusted monthly income.
- B. When the Payment Standard is adjusted, staff will make the appropriate changes during the family's annual reexamination.

C. Factors that the PHA may review on an annual basis, within sixty (60) days of the publication of the Fair Market Rents schedule, include the following:

1. Participant rent burdens (percent of Tenant Rent to adjusted household income);
2. Participant rent burden relative to the quality of units selected by participant families;
3. Participant rent burden relative to availability by bedroom size;
4. Actual contract rents for specific bedroom sizes;
5. Actual rent increases for participating households;
6. The applicable annual adjustment factor(s) which may be an indication of the prospective average percent of rent increases;
7. The average time period for finding eligible housing;
8. Rent reasonableness data;
9. The local vacancy rate; and
10. Prior approved rent exceptions will apply.

D. If the payment standard is decreased, affected families are protected from having their family share increased as a result of the first 24 months of the HAP contract. The regulations stipulate that during the time, the family's payment standard is:

1. The initial payment standard used for the family while under the contract (minus any amount by which the initial rent to owner exceeds current rent to owner); or
2. The payment standard determined at the family's most recent regular reexamination.

**E. Maximum Initial Rent Burden**

1. Families receiving initial assistance or moving after October 1, 1999; may not pay more than forty percent (40%) of Annual Income;
2. This does not apply if family stays in unit; and
3. Applicable with each move.

**F. Procedures for Evaluation**

During the annual evaluation process, the PHA may use the above data to determine what impact an increase in the payment standard will have on the number of families who can be assisted.

## **7. Owner/Landlord Responsibility for Screening Residents**

### **A. Owner/Landlord Screening**

1. Listing a family on the PHA waiting list, or selecting a family for participation in the program, is not a representation by the PHA to the owner/landlord about the family's expected behavior, or the family's suitability for tenancy. At or before PHA approval to lease a unit, the PHA must inform the owner/landlord that the PHA has not screened the family's behavior or suitability for tenancy and that such screening is the owner's/landlord's own responsibility.
2. Owners/landlords are permitted and encouraged to screen families on the basis of their tenancy histories. An owner/landlord may consider a family's background with respect to such factors as:
  - a. Payment of rent and utility bills;
  - b. Caring for a unit and premises;
  - c. Respecting the rights of others to the peaceful enjoyment of their housing;
  - d. Drug-related criminal activity or other criminal activity that is a threat to the life, safety or property of others; and
  - e. Compliance with other essential conditions of tenancy.

### **B. PHA Information About Resident**

1. If requested in writing, the PHA must give the owner/landlord:
  - a. The family's current address (as shown in the PHA records); and
  - b. The name and address (if known to the PHA) of the owner/landlord at the family's current and prior address.
2. When a family wants to lease a dwelling unit, the PHA may offer the owner/landlord other information in the PHA possession, about the family, including information about the tenancy history of family member, or about drug- trafficking by family members.
3. The PHA must give the family a statement of the PHA's policy on providing information to owners/landlords. The statement must be included in the information packet that is given to a family selected to participate in the program.

## **8. Payments to Owners/Landlords**

### **A. Controls and Accountability**

1. All payments are computed according to HUD approved formulas and schedules.
2. New contracts are dated on or after the unit is approved and the participant has moved in.

3. Computations are reviewed before being submitted to the Finance department for payment.
4. A HAP register is maintained to monitor timeliness and accuracy.
5. The owner/landlord may not charge extra for items customarily included in rents in the locality or provided at no additional cost to the unsubsidized residents on the premises.

**B. Basic Procedures**

1. Annual rent increases are effective the first of the month.
2. Request for payments are submitted by no later than the 3rd week of each month to insure that payments can be reviewed by the Finance department for accuracy and so that payments are made in a timely manner to the owners/landlords.
3. Payments are made to the families (Utility Reimbursement Payments) and the owners/landlords by check, or Direct Deposit.

**C. HAP Late Payments to Owners/Landlords (24 CFR Sec. 982.451)**

HAP contract provides for penalties against the PHA. To assess such fees, the policy and practice must meet the following criteria:

1. The penalties follow the generally accepted practice and law in the local housing market;
2. The owner/landlord charges both assisted and non-assisted residents;
3. The owner/landlord charges the resident for late rent payments;
4. Late fee will be paid from the Administrative fees income and reserve;
5. PHA will not be penalized if circumstances that are beyond their control;
6. When the HAP payment is mailed by the PHA it is considered received;
7. The first HAP payment of a contract is not considered for a late payment.

**9. Annual and Interim Participant Re-Certification**

**A. Annual Participation Re-Certification**

1. Reexamination of family income and composition will be conducted at least annually for families in the Housing Choice Voucher Program. The family will be requested to provide information on income, assets, allowances and deductions, and family composition at least annually.
2. Families will be obligated to supply any information that the PHA or HUD determines is necessary for use in regularly scheduled reexaminations or an interim reexamination.
3. Families must submit consent forms for obtaining wage and claim information from

Federal, State, or local agency to furnish or release to the PHA such information determined necessary.

4. The PHA will obtain and document in the family's file the third-party verification received or document why it is not available.
5. The annual re-certification date shall be the first of the month in which the lease was executed.
6. When families move to another dwelling unit, an annual re-certification will be scheduled.
7. Income limits will not be used as a test for continued eligibility at re-certification.
8. Reexamination Notice to the Family
  - a. The PHA will maintain a reexamination tracking system and at least sixty (60) days in advance of the scheduled annual reexamination effective date, the head of household will be notified by mail that she/he is required to attend an reexamination interview on a specified date (or re-arrange a date in advance if the scheduled date is unacceptable).
  - b. The notice will inform the family about what documents the family must bring to the re-certification interview.
  - c. If requested as an accommodation by a person with a disability, the PHA will provide the notice in an accessible format.
  - d. A home-visit (telephone interview) may be conducted for elderly or disabled clients.
  - e. If requested by an elderly or disabled client, a family representative or social service representative may assist with the process.
  - f. All family members eighteen (18) years of age or older must attend the annual reexamination appointment.
9. Verification of Information Provided
  - a. The PHA will send out third-party verifications whenever possible. If third-party verifications are not returned by the given deadline, documents provided by the resident may be used for verification.
  - b. The PHA will follow the verification procedures and guidelines described in this Plan. Verifications for reexaminations must be less than one hundred twenty (120) days old.
  - c. Families declaring zero income may be required to execute verification forms to determine the sources of income such as unemployment benefits; TANF, SSI, etc. are not received by the household. The PHA may request information from the state employment office. Enterprise Income Verification (EIV) will also be checked.



- d. For families with zero income reexamination is scheduled no less than every ninety (90) days. The family is required to provide proof of assistance by methods of contribution letter, receipts or agency confirmation.

## **B. Changes to Tenant Rent**

1. When the family income information is analyzed, and all other annual re- certification requirements have been met, the Tenant Rent will be recalculated.
2. The PHA will notify both the owner/landlord and resident in writing of the new rent shares.
3. If there is a tenant rent increase, the new rent portion will go into effect following a full thirty (30)-days notice prior to the first of the month. (If there has been misrepresentation by the resident, or if the resident caused a delay in the re-examination processing, an increase in rent will be made retroactively).
4. If less than thirty (30) days are remaining before the anniversary date, the tenant rent increase will be effective on the first of the month following the thirty (30) -days notice.
5. 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. At the discretion of the PHA, the resident may be placed on a promissory note or terminated from the program.
6. If there is a rent decrease, it will be effective on the scheduled effective re- examination date (unless the family has caused a delay in re-examination processing).
7. Retroactive rent is charged when the participant has failed to provide information within the required time period.
8. Rent will be prorated when a mixed family is not eligible for continued assistance or deferral of termination; chooses not to defer termination; or is at the end of the deferral period. The total housing subsidy is calculated in the usual manner for either assistance programs, using income for all family members. Proration is calculated by multiplying the total subsidy by a fraction which shows the number of eligible family members as the top number and is divided by the number of total family members as the bottom number.

## **C. Failure to Respond to Annual Re-Certification Notice**

1. The written notification must state which family members are required to attend the interview. The family may call to request another appointment date up to one day prior to the interview.
2. If the family does not appear for the re-certification interview, and has not rescheduled or made prior arrangements with the PHA, the PHA may reschedule a second appointment.
3. If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, the PHA may send the family notice of termination and offer them an informal hearing.

4. Exceptions to these policies may be made if the family is able to document an emergency situation that prevented them from canceling or attending the appointment or if requested as a reasonable accommodation for a person with a disability.
5. A maximum of two (2) scheduled reexamination appointments will be mailed to the participant. Extenuating circumstances may be considered at the discretion of the PHA. The second appointment must be mailed immediately (within 24 hours) allowing the participant ten (10) working days for the next scheduled appointment.

#### **D. Interim Reexaminations**

The PHA will conduct interim reexaminations of the family income, composition and other eligibility factors to adjust the Total Tenant Payment for the following reasons:

1. For families whose income cannot be projected with any reasonable degree of accuracy, special reexaminations will be scheduled not less than every ninety (90) days nor more than every thirty (30) days;
2. For families where an error was made at admissions or reexamination; that family will not be charged retroactive rent (increase) for error(s) made by PHA personnel;
3. For families whose rent was based on false or incomplete information supplied by the applicant/participant;
4. For families who requested a review due to a decrease in income or increase in allowable expenses;
5. For families who have had their rent reduced under a previously requested reexamination;
6. For families who have added and/or deleted member(s) of their household from the original family composition; (mandatory that this be reported to PHA);
7. For families whose income source is changed excluding changing from one full- time employer to another, receipt of an unscheduled increase in wages, or receipt of an increase in Social Security or SSI benefits not due to a reevaluation of benefits;
8. For families or household members previously reporting zero income;
9. Any requirements imposed by HUD.

#### **E. Public Assistance Benefit Changes**

1. If the welfare or public assistance benefits of a covered family are reduced because of an act of non-compliance with program requirements or fraud by a member of the family under the law or program, the amount required to be paid by the covered family as a monthly contribution toward the rent may not be decreased, during the period of the reduction, as a result of any decrease in the income of the family (to the extent that the decrease in income is a result of the benefits reduction). The reduction of benefits due to non-compliance with program requirements or fraud must be verified by written notification from the welfare agency.

2. A family's loss of welfare benefits due to the expiration of the lifetime limit will not be considered as failure to comply, the rent will be lowered.

#### **F. Requirements to Add to Family Composition**

The PHA is required to amend the lease when there are additions or deletions to the family composition. The following requirements to add to the family composition:

##### **1. Minors**

- a. The PHA will require birth verification, social security numbers and proof of guardianship (if applicable) for minors. The provision of social security numbers for any household member is required by HUD. Failure to comply to provide social security number will result in termination of assistance for failure to comply with program requirements.
- b. Legal guardianship will be required when the participant is caring for minor children of a relative or friend. Documentation may include verification from the Department of Public Services that the participant is the guardian of said minor child.

##### **2. Persons eighteen (18) year of age or older:**

- a. When the participant requests an adult person (defined as someone 18 years of age or older) be added to the family composition, the following will be required:
  - (1) Photo identification, social security number, verification of income and other eligibility related requirements. The individual will be required to sign HUD form 9886 (Release of Information);
  - (2) Background screening will be conducted for criminal activity prior to authorizing approval to add an adult person to family composition and the PHA will determine, after receipt, of the report the acceptability of this adult member in the same manner other applicants are screened for appropriate behavior.
  - (3) If upon review of the individuals criminal history background check there is no record, the PHA will add the adult member to the family composition.
  - (4) If upon review of the individuals criminal history background check there is a criminal history, the PHA may deny the admission and addition to the lease of the participant.
  - (5) The PHA will consider any violent criminal or drug-related criminal activity as grounds to deny admission, unless the individual can prove rehabilitation.
  - (6) Because the adult member who wished to be added has no formal relationship with the PHA, she/he will not be afforded a review of the reasons for denial.
- b. The participant may request an informal hearing as outlined in the Administrative Plan.

## 10. Termination of Assistance

### A. Basic Policy

The PHA may terminate assistance for a family because of the family's action or failure to act. The PHA will provide families with a written description of the family obligations under the program, grounds under which the PHA can terminate assistance, and the informal hearing procedures.

### B. The PHA May Terminate Assistance of the Family for the Following Reasons:

1. A family must not engage in drug-related criminal activity, violent criminal activity, or other criminal activity, including criminal activity by any family member.
2. A family must not engage in the abuse of alcohol to the extent that the abuse interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

Drug-Related Criminal Activity means: the illegal use, or possession for personal use, the manufacturer, sale or distribution or the possession with intent to manufacture, sell or distribute a controlled substance (as defined in the Controlled Substance Act.).

3. The PHA may not terminate assistance for such use or possession by a family member, if the family member can demonstrate the he/she:
  - a. Is recovering or has recovered from such an addiction and does not currently use or possess controlled substances. In this instance, the PHA shall require the family to submit evidence of participation in, or successful completion of a treatment program as a condition of continued assistance for the family or to allow the affected family member to reside in the assisted units.
4. 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 the person or property of another.
5. Abuse of alcohol includes behavior or a pattern of behavior of any Section 8 program participant and any family member and/or guest that as a result of the abuse of alcohol interferes with the health, safety, or right of peaceful enjoyment of the premises by other residents.
6. As a measure to determine whether the person has violated this family obligation, one of the following situations must be present:
  - a. There has been an arrest for engaging in drug-related criminal activity or violent criminal activity (as defined above) or other criminal activity, including criminal activity by any family member, which resulted in a conviction within the past thirty-six (36) months; or
  - b. There must have been an arrest within the prior twelve (12) months for engaging in drug-related criminal activity or violent criminal activity (as defined above) including criminal activity by any family member, which did or did not result in a conviction

within the last thirty-six (36) months; or

- c. The family has been evicted from federally-assisted housing in the last three (3) years (see 24 CFR Sec. 982.552) for engaging in drug-related criminal activity or violent criminal activity (as defined above) including criminal activity by any family member;
  - d. Drug-related or criminal activity in, on or near the premises by any tenant, household member, or guest, and any such activity engaged in on the premises by any other person in the tenant's control.
  - e. The PHA has acquired/been presented with the preponderance of evidence that the family, including any family member, is engaging in drug-related criminal activity or violent criminal activity or other criminal activity or alcohol abuse, regardless of whether the family member has been arrested or convicted for such activity.
7. Families who are guilty of program abuse or fraud in any Federal Housing Assistance program. (This presupposes that the program abuse or fraud is substantiated and that a Repayment Agreement was not entered into.)
8. Families who have violated one of their family obligations.
9. Families who are in default of an executed Repayment Agreement by missing one (1) monthly payment may pay their outstanding balance prior to the issuance of or execution of a HAP Contract participants will be able to stay in their current unit under the same Contract.
10. Families whose Total Tenant Payment is sufficient to pay the full gross rent and where 180 days has elapsed since the PHA's last HAP payment was made.
11. Families whose appropriate household members do not provide their Social Security information and documentation within the time required and specified by the PHA.
12. Families who fail to comply with HUD requirements for Assistance to non- citizens.
13. Income limits are solely used to determine eligibility for initial applicants. Income limits are not a consideration for termination of assistance once the family is under lease and contract and already "on the program."

However, the following examples may be reasons for termination of assistance:

- If the family did not report an interim change in family composition or income, etc., which they were required to report, the PHA would determine how much the family owed the PHA, due to the unreported or untimely reported information.
- If the PHA entered into a Repayment Agreement with the family, for unreported family income or multiple occasions of unreported income, and the family is current in its payments to the PHA, there is no reason to terminate the family's assistance.
- If the family stops paying on their Repayment Agreement, the family will be under

the termination of assistance procedures above.

14. If a participant signs an agreement with an owner/landlord to pay for the owner/landlord to repair resident-caused HQS fail items, and the participant fails to repay the owner/landlord pursuant to said agreement, assistance may be terminated.
15. If a household member is fleeing to avoid prosecution, or custody or confinement after prosecution for a crime that is a felony under the law of the place from which the individual flees, or in some states is a high misdemeanor.
16. If a family member has violated or is violating a condition of probation or parole imposed under Federal or State law.
17. If any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

### **C. Family Self-Sufficiency (FSS) Participants**

The PHA will not deny or terminate the Section 8 assistance if a family fails to comply with the Contract of Participation. However, PHA may take the following action against a Family Self-Sufficiency family:

1. Withhold Supportive Services
  - a. If the family has repeatedly failed to comply with the requirements of the Contract of Participation and/or other rules outlined in the FSS Action Plan, the PHA will withhold supportive services.
  - b. The family will be notified of the action to be taken.
2. Recommend probation or terminate the families participation in the FSS Program.
  - a. If after counseling and negotiating with the family, they still fail to comply with the Contract of Participation, PHA will inform the family of the action to be taken (probation or termination of their participation in the FSS Program).
  - b. The family will have ten (10) days to request an informal hearing. The PHA will conduct the hearing and inform the family within ten (10) days of the hearing of their final decision.
3. Withholding of the Escrow Account

If a family fails to comply with the Contract of Participation and they are terminated from participation in the FSS Program or they leave the program before completion, the escrow account will be forfeited according to current regulations.

### **D. Zero Housing Assistance**

1. If the Total Tenant Payment is equal to the Contract Rent or the Payment Standard, then the owner/landlord will no longer receive an assistance check from the PHA. The family

will be notified that the zero housing assistance is available for six (6) months. At that time, if there have been no changes which reflect the ability for the PHA to provide monetary assistance on the contract, the contract and the family's assistance will be terminated.

2. This determination does not preclude the family from asking to terminate assistance immediately, nor does it impact any rights under the lease.
3. Families whose assistance is terminated under this instance will have to reapply for assistance when PHA is accepting applications.

#### **E. Computer Matching (24 CFR 5.211)**

The PHA along with the Department of Housing and Urban Development will conduct a computer matching initiative (Enterprise Income Verification, EIV) in order to provide an independent source for verifying resident income. The matched information regarding income, earnings, wages, or unemployment compensation will be disclosed to the assisted family. The family must take appropriate action. Appropriate action may include, but not necessarily be limited to, review of information with the client and changing the family's rent as needed. If a documented case of fraud is verified, the PHA will take action to recover excess housing assistance received by the tenant due to unreported income.

### **11. Utility Allowances**

- A. The Utility Allowance Schedule is used to determine how much credit the assisted family will be given for estimated utility cost. If the family pays for some or all utilities, the Section 8 office will provide the family with a utility allowance. The allowances are based on actual rates and average consumption.
- B. The utility allowance is given as a reduction in the residents portion of rent to be paid to the owner/landlord. The Total Tenant Payment is reduced by the utility rate since the last revision.
- C. The PHA's Section 8 office will review the Utility Allowance annually and adjust if there is a ten percent (10%) or more change in the utility rate since the last revision.
- D. Approved utility allowance schedule(s) are provided to families at the briefing sessions when the family receives initial or continued assistance.
- E. The PHA will use the utility allowance for the actual size unit rented.
- F. Allowances will be established for family's who supply the range & refrigerator.

### **12. Portability**

#### **A. Outgoing Housing Choice Vouchers**

1. Section 8 waiting list applicants who are residents of the PHA's jurisdiction (plus 5 miles beyond the city limits) may elect to exercise their option to use the portability features of their housing assistance.

2. Section 8 waiting list applicants, who reside in areas outside of its jurisdiction (defined above), must utilize their assistance within the jurisdiction for at least twelve (12) months before being able to relocate to another jurisdiction.
3. Family Self-Sufficiency (FSS) program participant(s) must reside in the jurisdiction for at least twelve (12) months.
4. Participants may not port-out if they are in violation off family obligations or if they owe a balance due.
5. If a portable family was already a participant in the initial PHA Voucher program, income eligibility is not redetermined unless the family transfers between the programs.
6. The PHA follows the portability requirements of 24 CFR 982.553-555 and any subsequent regulations, notices, memos or directives from HUD regarding the administration of Section 8 under portability.

**B. Receiving PHA (see 24 CFR 982.355)**

1. The receiving PHA is required to provide assistance to porting families unless the family has breached its obligations.
2. The receiving PHA may opt to screen portable families using the receiving PHA's admission criteria only if the family is not a current participant in the tenant-based program.
3. Portability admissions are counted against the initial PHA's income targeting requirement (75% of extremely low-income admissions) - unless the receiving PHA absorbs the family (24 CFR 982.201).

**13. Moves with Continued Tenant-Based Assistance**

**A. Eligibility to Move**

1. The assisted lease for the old unit has terminated. This includes a termination because:
  - a. The PHA has terminated the HAP contract for the owner's/landlord's breach; or
  - b. The lease has terminated by mutual agreement of the owner/landlord and the resident; or
  - c. The lease expired and either the owner/landlord or resident decided not to renew.
2. The owner/landlord has given the resident a notice to vacate.
3. The resident has given proper notice of lease termination after the 1<sup>st</sup> year.

**B. How Many Moves**

1. A participant family may move one time with continued assistance under the program, either inside the jurisdiction or under the portability procedures during any one-year period. (See 24 CFR Sec. 982.353)



2. The family may not move during the initial term of the lease. (See 24 CFR Sec. 982.314)
3. The PHA may deny a request to move for the following reasons:
  - a. The participant intentionally causes the unit to fail housing quality standards;
  - b. The participant owes the PHA a balance due;
  - c. The participant has violated the family obligations.
4. Failure to provide at least thirty (30) days notice may result in termination of assistance.
5. Agreement to Remain in Occupancy
  - a. If the family does not locate a new dwelling they may be required to submit an “Agreement to Remain in Occupancy”.
  - b. The assisted tenancy may be extended for any period of time mutually agreed upon by the owner/landlord and resident.
  - c. Absence of the Agreement to Remain in Occupancy HAP payments and the HAP contract may terminate at the end of the thirty (30)-days notice issued by the resident.

**C. Notice of Family Move**

1. The Owner is permitted to require the family to give a termination notice of any lease-specified minimum length. (See 24 CFR Sec. 982.309)
2. If the family terminates the lease with proper notice to the owner/landlord, the family must give the PHA a copy of the notice at the same time.
3. If the family wants to move to a new unit that is located outside the initial PHA jurisdiction, the notice to the PHA must specify the area where the family wants to move.

**14. Family Break-Up**

**A. PHA Discretion**

1. The PHA has discretion to determine which members of an assisted family continue to receive assistance in the program if the family breaks up.
2. The decision to determine who continues to receive the assistance will be made by the HCV Manager with the approval of the Executive Director.

**B. Criteria**

The factors to be considered in making this decision may include:

1. Whether the assistance should remain with family members remaining in the original assisted unit;

2. The interest of minor children or of ill, elderly or disabled family members;
3. Whether family members are forced to leave the unit as a result of actual or threatened physical violence against family members by a spouse or other member of the household; or
4. Other factors specified by the PHA.

### **C. Court Orders**

If a court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement or judicial decree, the PHA is bound by the court's determination of which family members continue to receive assistance in the program.

### **D. Remaining Member of Tenant Family**

1. The Section 8 office may assist an individual left in an assisted housing unit who may or may not otherwise qualify for assistance under their own circumstances.
2. A single adult (whether elderly or non-elderly, disabled or non-disabled, children in residence/household or no children present) may become the head of household.
3. A live-in aide will not be considered a remaining member of the resident family by definition.
4. A minor child(ren) will not be allowed to retain status of remaining family member(s) unless:
  - The court has awarded emancipated minor status to the minor; or
  - An income eligible court appointed or legal guardian moves into the unit with the minor child(ren).
5. If both parents must leave the household and the Department of Social Services and/or the Juvenile Court has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the Section 8 office will treat that adult as a visitor for sixty (60) days.
  - a. After that period, the Section 8 office will determine whether court awarded custody or legal guardianship has been granted to the caretaker.
  - b. If so, the assistance will be transferred to the caretaker.

## **15. Absence from Unit**

### **A. Time Limits**

1. The family may be absent from the unit for brief periods. Generally, the family may not be absent from the unit for a period of more than sixty (60) consecutive calendar days.
2. Generally, the housing assistance payments terminate if the family is absent for longer than sixty (60) days. The term of the HAP contract and assisted lease also terminate.

3. The Executive Director may approve an absence of up to 180 consecutive calendar days for extraordinary reasons.
4. Absence means that no member of the family is residing in the unit.
5. The owner/landlord must reimburse the PHA for any housing assistance payments for the period after termination.

#### **B. Verifications**

1. The family must supply any information or certification requested to verify that the family is residing in the unit.
2. The family must promptly notify the PHA of absence from the unit, including any information requested on the purpose of family absences.
3. The PHA may adopt appropriate techniques to verify family occupancy or absence, including letters to the family at the unit, phone calls, visits or questions to the landlord or neighbors.

#### **C. Reinstatement of Assistance**

The PHA will allow households, who due to illness or hospitalization of the head of household, spouse or immediate family members, to resume assistance (without reapplying for admission) as long as no more than a year has lapsed since the termination of assistance. If the family owes the PHA money, that debt must be paid prior to resuming assistance.

### **16. Admission of Live-In Aide or Foster Children**

#### **A. Live-In Aide**

1. The PHA will permit the live-in aide to reside with a disabled family as long as the live-in aide meets the criteria for the definition of Live-In Aide (see the Definitions section on this Plan).
2. In the case where a live-in aide is arrested at or near the premises of the Section 8 participant for drug-related or violent criminal activity, the PHA shall advise the Section 8 participant that the live-in aide cannot be housed with the participant.
3. The PHA will not be required to wait until conviction of the live-in aide, but will use the criteria of preponderance of the evidence.
4. None of the above mentioned procedures precludes the Section 8 owner/landlord from taking action to initiate an eviction for good cause.

#### **B. Foster Children**

1. Foster children will be allowed as additions to the household if the anticipated length of stay is at least six (6) months.
2. Documentation from the Child Welfare Services agency responsible for placement must be provided prior to the placement of the child(ren), except in cases of emergency.

3. If the participating family requires a larger size unit, it will be issued as soon as possible.

## **17. Informal Hearings and Reviews**

### **A. Definitions**

1. “Informal Review”. A review of the PHA's decision on an applicant's application for participation in the Section 8-Existing Housing Program in accordance with the procedures outlined below.
2. “Informal Hearing”. A hearing regarding a decision affecting a participating family in the Section 8-Existing Housing Program in accordance with the procedures outlined below.
3. “Informal Review Officer”. A person designated to informally review a decision concerning an application for participation and give his/her decision.
4. “Informal Hearing Officer”. A person designated to conduct an informal hearing concerning a participant and gives his/her decision.

### **B. Procedures for Informal Review**

1. The PHA shall give an applicant written notice of a decision denying assistance or a decision denying listing on the waiting list within ten (10) calendar days from the date of the decision.
2. The notice shall contain a brief statement of the reason(s) for the decision, that the applicant may submit a signed written request for an informal review of the decision if he/she disagrees with the decision, and that the request must be made within ten (10) calendar days from the date of the notice, and that the applicant should keep proof of making the request.
3. The PHA may or may not conduct an informal review if the applicant fails to submit his/her request within the time stipulated. If the request is not submitted timely, it shall mean that the applicant waived his/her right to request an informal review.
4. Reasonable accommodations shall be made for applicants who are disabled.
5. The PHA shall conduct an informal review, provided the applicant submits a proper request for an informal review within the time allowed.
6. Informal Review Officer
  - a. The PHA has designated persons that act as Review Officers, and they have been approved by the Executive Director. The power to designate any person or persons as review officer or review officers shall rest with the PHA.
  - b. The person or persons designated as the review officers shall not be the person who made or approved the decision under review or a subordinate of such person.
7. The Informal Review
  - a. The proceedings of the review shall be informal and confined to factors relating to

eligibility and to decide if the decision denying assistance to the applicant is justified or not.

- b.** The PHA shall notify the applicant of the date, the time, and the place of conducting the informal review at least a week prior to the date of the review.
  - c.** The applicant shall have the right to present his objections either orally or in writing.
  - d.** A representative of the Section 8 Department may be present.
- 8.** The Decision
  - a.** The review officer or officers shall decide whether the decision denying assistance to the applicant was justified and according to the Federal regulations and rules of the PHA. This final decision shall be given within seven (7) calendar days from the date of the review.
  - b.** The PHA shall promptly notify the applicant in writing of the final decision, and a brief statement of the reasons for the final decision.
- 9.** Informal Reviews are not required for established policies and procedures and determinations such as:
  - a.** Discretionary administrative determinations;
  - b.** General policy issues or class grievances;
  - c.** A determination of the family unit size under the subsidy standards;
  - d.** Refusal to extend or suspend a Voucher;
  - e.** Disapproval of a lease;
  - f.** Determination that a unit is not in compliance with HQS;
  - g.** Determination that a unit is not in accordance with HQS due to family size or composition.

### **C. Procedures for Informal Hearing**

- 1.** The PHA must provide participants with the opportunity for an Informal Hearing for decisions related to any of the following determinations:
  - a.** Termination of assistance;
  - b.** Determination of the family's annual or adjusted income and the calculation of the housing assistance payment;
  - c.** Family unit size determination under the subsidy standards;
  - d.** Determination to terminate assistance for any reason;

- e. Notice of Determination to pay an owner/landlord claim for damages, unpaid rent or vacancy loss.
- 2. Informal Hearings are not required for established policies and procedures such as:**
- a. Discretionary administrative determinations;
  - b. General policy issues or class grievances;
  - c. Establishment of the schedule of utility allowances;
  - d. Determination not to approve an extension or suspension of a voucher term;
  - e. Determination not to approve a unit or lease;
  - f. Determination that an assisted unit is not in compliance with HQS (the PHA must provide a hearing for family breach of HQS because that is a family obligation determination);
  - g. Determination that the unit is not in accordance with HQS because of the family size;
  - h. Determination to exercise or not exercise any right or remedy against the owner/landlord under a HAP contract.
- 3. Notice to Participant**
- a. When decisions are made, the PHA shall give the participant prompt written notice of the decision made.
  - b. The written notice shall contain a brief statement of the reasons for the decision, and a statement that if the participant does not agree with the decision, she/he may request an informal hearing on the decision within ten (10) calendar days from receipt of the notice.
  - c. The PHA may or may not conduct an informal hearing if the participant does not request an informal hearing within the time fixed herein to do so. If the request is not submitted timely, it shall mean that the participant waived his/her right to request an informal hearing.
- 4. The Hearing Officer**
- a. The PHA designates persons as Hearing Officers who have been approved by the Executive Director to conduct the informal hearing. The power to designate a hearing officer shall rest solely with the PHA.
  - b. The hearing officer can be any person other than a person who made or approved the decision under review, or a subordinate of such person.
- 5. Rights of the Participant**
- a. The participant can either appear in person at the hearing, or can be represented by a lawyer or other representative at his/her own expense.

- b.** The participant shall have the right to present evidence, both oral and documentary, without regard to admissibility under the rules of evidence applicable to judicial proceedings.
  - c.** The client shall have the right to arrange for an interpreter to attend the hearing, at the client's expense.
- 6. Rights of the PHA**
- a.** The PHA can be represented by a lawyer, or any other representative in the informal hearing.
  - b.** The PHA can introduce evidence, both oral and documentary, without regard to admissibility under the rules of evidence applicable to judicial proceedings.
  - c.** The PHA shall have the right to question any witness examined in the informal hearing and to make final submissions.
- 7. The Informal Hearing**
- a.** The hearing officer will regulate the conduct of the hearing in accordance with hearing procedures commonly accepted and followed.
  - b.** If the participant who requested the informal hearing fails to appear at the hearing on the date fixed for hearing without any request for an adjournment on strong grounds, the matter will be decided *ex parte*, or dismissed forthwith with no right for its restoration. The hearing officer may or may not allow an application for adjournment.
  - c.** The participant will begin his/her case by introducing documents it relies on and by taking oral testimony of witnesses in support of his/her contention.
  - d.** The PHA will then begin its defense by introducing documents it relies on and by taking oral statements from witnesses, if necessary, in justification of its decision.
  - e.** The participant and the PHA will then close their cases and make final submissions, if they choose to, prior to the decision.
- 8. The Decision**
- a.** The hearing officer will consider the evidence introduced by the parties and give such evidence due weight.
  - b.** Factual determinations relating to the individual circumstances of the participant shall be based on the evidence presented at the hearing.
  - c.** The decision shall be in writing and based on the facts established, HUD regulations, PHA policy, and the applicable law.
  - d.** The decision shall clearly state the reason on which the decision is arrived.
  - e.** A copy of the decision shall be furnished promptly to the participant.

#### **D. Hearing and Appeal Provisions for “Restrictions on Assistance to Non-Citizens”**

1. 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 decisions on the INS appeal.
2. Assistance to a family may not be terminated or denied while the PHA hearing is pending but assistance to an applicant may be delayed pending the PHA hearing.
3. INS Determination
  - a. If a family member claims to be an eligible immigrant and the manual search do not verify the claim, the PHA notifies the applicant or participant within ten (10) days of their right to appeal to the INS within thirty (30) days or to request an informal hearing with the PHA either in lieu of or subsequent to the INS appeal.
  - b. If the family appeals to the INS, they must give the PHA a copy of the appeal and proof of mailing or the PHA may proceed to deny or terminate. The time period to request an appeal may be extended by the PHA for good cause.
  - c. The request for an PHA hearing must be made within fourteen (14) days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within fourteen (14) days of receipt of that notice.
4. After receipt of a request for an informal review/hearing, the review/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 member(s) the PHA will:
  - a. Deny the applicant family;
  - b. Defer termination if the family is a participant and qualifies for deferral;
  - c. Terminate the participant if the family does not qualify for deferral.
5. If there are eligible members in the family, the PHA will offer to prorate assistance or give the family the option to remove the ineligible member(s).
6. All other complaints related to eligible citizen/immigrant status:
  - a. If any family member fails to provide documentation of certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.
  - b. Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.
  - c. 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.

- d. Families denied or terminated for fraud in connection with the non-citizen rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

#### **E. Mitigating Circumstances for Applicants/Participants with Disabilities**

1. When applicants are denied placement on the waiting list, or the PHA is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review process.
2. Examples of mitigating circumstances are:
  - a. A person with a cognitive disorder may not have understood the requirement to report increases in income;
  - b. A person may not understand the need to make regular repayments on a promissory note;
  - c. Minor criminal records for public drunkenness may be due to medication; prior incarcerations for being disorderly may be emotional disorder.

### **18. Operating Reserve Expenditures Statement**

Operating Reserves      This amount is credited with earned income administrative fees that exceed expenditures for program administration.

#### **A. Required Use for Program Administration**

1. The operating reserve must first be used to pay Section 8 administrative costs that exceed earned administrative fees or a fiscal year.
2. Projected administrative fees and the Operating Reserve must cover all projected costs of program administration through the remaining ACC terms.

#### **B. Permitted Use for Other Housing Purposes**

Operating reserve funds may be expended for other housing purposes consistent with the State and local law. If the PHA anticipates that ongoing fees will not be sufficient for ongoing administrative cost through its ACC terms, an appropriate amount must be retained in the Operating Reserve for projected administrative cost.

#### **C. Board of Commissioners Approval for Operating Reserve Expenditures**

1. The Board of Commissioners must set a threshold for the amount of expenditures which may be made from the Operating Reserve for other housing purposes without prior approval of the Board.
2. For Operating Reserve expenditures that exceed the Board threshold, the PHA Board, as part of its approval, must make an affirmative determination that the expenditures are necessary and reasonable for the other purposes consistent with state and local law.

## **19. Repayment Agreements**

### **A. Establishing the Agreement**

1. Repayment Agreements are executed with Section 8 families and owners/landlords who owe the PHA funds.
2. Families may owe money for special claims (unpaid rent, damages or vacancy loss) paid on their behalf by the Section 8 office to owners/landlords or for unreported information which affected the assistance paid on their behalf to owners/landlords.
3. The maximum amount of time the HA will enter into a repayment agreement with a family is eighteen (18) months.
4. Any additional money owed will have to be paid-in-full.

### **B. Enforcing Repayment Agreements**

1. The Section 8 office will set up monthly payments on the Repayment Agreements.
2. A payment will be considered in arrears if:

The payment has not been received by the close of the business day on which the payment was due. If the due date falls on a weekend or holiday, the due date will be at the close of the next business day.

3. If the family's repayment agreement is arrears, the PHA will:

Require the family to pay the balance in full.

4. If the resident enters into a Repayment Agreement after the execution of the HAP Contract and does not pay, the Section 8 office will require the family to bring their Repayment Agreement current prior to issuance of a Voucher to move to another unit.
5. If the resident refuses to enter into a Repayment Agreement because of a claim paid for unpaid rent, the PHA will terminate assistance.
6. The Section 8 office must notify the family of the amount of its liability and inform them of the consequences if they do not pay.

### **C. Ineligibility for Repayment Agreements**

If the Section 8 office determines that the family committed willful and intentional fraud, the Section 8 office may require the family to repay the entire amount in-full or have their assistance terminated.

### **D. Owner/Landlord Fraud and Program Abuse**

1. When the Section 8 office determines that the owner/landlord has retained Housing Assistance Payments the owner/landlord was not entitled to, the Section 8 office may reclaim

the Housing Assistance Payment amount from future Housing Assistance Payments owed the owner/landlord, no matter what Section 8 Program is involved.

2. If the future Housing Assistance Payments owed are insufficient to reclaim the amount owed, the addition amount(s) may be referred to collection.
3. The Section 8 office will use Chapter 9 of HUD Handbook 7420.7 as a guide in dealing with owner/landlord fraud and program abuse, which may include barring the owner/landlord from participating in the Section 8 Rental Assistance Program.

## Glossary

### Acronyms Used in Subsidized Housing:

AAF	Annual Adjustment Factor. A factor published by HUD in the Federal Register which used to compute annual rent adjustments.
ACC	Annual Contributions Contract.
BR	Bedroom
CDBG	Community Development Block Grant
CFP	Certificate of Family Participation
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 statute.
CPI	Consumer Price Index. CPI is published monthly by the Department of Labor as an inflation indicator.
CR	Contract Rent
EBL	Elevated Blood-Lead Level
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
FSS	Family Self-Sufficiency
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
HCVP	Housing Choice Voucher Program
HQS	Housing Quality Standards
HUD	The Department of Housing and Urban Development
HURRA	Housing and Urban/Rural Recovery Act of 1983
HV	Housing Voucher
IG	Inspector General
IGR	Independent Group Residence
IPA	Independent Public Accountant
IRA	Individual Retirement Accountant
MSA	Metropolitan Statistical Area established by the U.S. Census Bureau
PHA	Public Housing Authority
PMSA	A Primary Metropolitan Statistical Area established by the U.S. Census Bureau
PS	Payment Standard
QHWRA	Quality Housing and Work Responsibility Act
QC	Quality Control
RLA or RFLA	Request for Lease Approval
RFP	Request for Proposal
RRP	Rental Rehabilitation Program

SEMAP	Section 8 Management Assessment 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
UARP	Utility Allowance Reimbursement Payment
URP	Utility Reimbursement Payment

## DEFINITIONS

### Section 8 Program

#### Absorption

In portability, the point at which the receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

#### Accessible

1. When used with respect to the design, construction, or alteration of a facility or a portion of a facility other than an individual dwelling unit, means that the facility or portion of the facility when designed, constructed or altered, can be approached, entered, and used by individuals with physical disabilities. The phrase "accessible to and usable by" is synonymous with accessible.
2. When used with respect to the design, construction, or alteration of an individual dwelling unit, means that the unit is located on an accessible route, and when designed, constructed, altered or adapted, can be approached, entered, and used by individuals with physical disabilities.

A unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in 24 CFR, Part 8, Section 8.32, is "accessible" within the meaning of this paragraph 2.

When a unit in an existing facility which is being made accessible as a result of alterations is intended for use by a specific qualified individual with disabilities (e.g., a current occupant of such unit or of another unit under the control of the same recipient, or an applicant on a waiting list), the unit will be deemed accessible if it meets the requirements of applicable standards that address the particular disability or impairment of such person.

#### Accessible Route

A continuous unobstructed path connecting accessible elements and spaces in a building or facility that complies with the space and reach requirements of applicable standards prescribed by 24 CFR, Part 8, Section 8.32.

An accessible route that serves only accessible units occupied by persons with hearing or vision impairments need not comply with those requirements intended to effect accessibility for persons with mobility impairments.

#### Adaptability

The ability of certain elements of a dwelling unit, such as kitchen counters, sinks, and grab bars, to be added to, raised, lowered, or otherwise altered, to accommodate the needs of persons with or without disabilities, or to accommodate the needs of persons with different types or degrees of disability.

For example, in a unit adaptable for a hearing-impaired person, the wiring for visible emergency alarms may be installed, but the alarms need not be installed until such time as the unit is made ready for

occupancy by a hearing-impaired person.

Adjusted Income means Annual Income less the following allowances, determined in accordance with HUD instructions:

1. \$480 for each Dependent;
2. \$400 for any Elderly Family;
3. For any family that is not an Elderly Family or disabled family, but has a member other than the head of household or spouse, Disabled Assistance Expenses in excess of three percent (3%) of Annual Income, but this allowance may not exceed the employment income received by Family members who are 18 years of age or older, as a result of the assistance to the Disabled Person;
4. For any Elderly or Disabled Family;
  - a. That has no disability assistance expenses, an allowance for Medical Expenses, equal to the amount by which the Medical Expenses exceed three percent (3%) of Annual Income;
  - b. That has Disability Assistance Expenses greater than or equal to three percent (3%) of Annual Income, an allowance for Disability Assistance expenses computed in accordance with paragraph 3, above, plus an allowance for medical expenses, that is equal to the Family's Medical Expenses;
  - c. That has Disability Assistance Expenses that are less than three percent (3%) of Annual Income, an allowance for combined Disability Assistance Expenses and Medical Expenses, that is equal to the amount by which the sum of these expenses exceeds three percent (3%) of Annual Income, and
5.
  - a. Child Care Expenses; or
  - b. In the case of families assisted by Indian housing authorities, the greater of:
    - (1) Child care expenses, or
    - (2) Excessive travel expenses, not to exceed \$25 per family per week, for employment or education related travel.

#### Admission

The effective date of the first HAP contract for a family (first day of initial lease term) in a resident-based program. This is the point when the family becomes a participant in the program.

#### Annual Contributions Contract

A contract under the Housing Act of 1937, as amended, between HUD and the PHA, containing the terms and conditions under which the Department assists the PHA in providing decent, safe, and sanitary housing for low-income families.

The ACC must be in a form prescribed by HUD, under which HUD agrees to provide assistance in the development, modernization, and/or operation of a low-income housing development under the Act, and the PHA agrees to develop, modernize, and operate the development in compliance with all provisions of the ACC and the Act, and all HUD regulations and implementing requirements and procedures.

A written agreement between HUD and a PHA to provide annual contributions to the PHA to cover housing assistance payments and other expenses pursuant to the Act.

### Annual Income

- 1.** Annual Income means all amounts, monetary or not, which:
  - a.** Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
  - b.** Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
  - c.** Which are not specifically excluded in this section.
  - d.** Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.
  
- 2.** Annual Income includes, but is not limited to:
  - a.** The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
  - b.** The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
  - c.** Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness and an allowance for depreciation of capital assets shall not be used as deductions in determining the net income. An allowance for depreciation is permitted only as authorized in the paragraph immediately above this paragraph. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the Family. Where the Family has Net Family Assets in excess of \$5,000, Annual Income shall include the greater of the actual income derived from all Net Family Assets, or a percentage of the value of such Assets, based on the current passbook savings rate, as determined by HUD;
  - d.** The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided under Annual Income exclusions);



- e. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (but see the paragraph on lump sum additions to family assets, below).
  - f. Welfare Assistance. If the Welfare Assistance payment includes an amount specifically designated for shelter and utilities, and such amount is subject to adjustment by the Welfare Assistance agency in accordance with the actual cost of shelter and utilities, the amount of Welfare Assistance income to be included as income shall consist of:
    - (1) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities, plus
    - (2) The maximum amount that the Welfare Assistance Agency could in fact allow the family for shelter and utilities. If the family's Welfare Assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.
  - g. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling.
  - h. All regular pay, special pay and allowances of a member of the Armed Forces (but see paragraph below, on special pay to an Armed Forces person exposed to hostile fire).
3. Annual Income does not include the following (Exclusions):
- a. Income from the employment of children (including foster children) under the age of 18 years;
  - b. Payment received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the resident family, who are unable to live alone);
  - c. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and Workers' Compensation), capital gains and settlement for personal or property losses (but see the paragraph on payments in lieu of earnings, above).
  - d. Amounts received by the family, that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
  - e. Income of a Live-In Aide, as defined in the regulations, who is a person who resides with an Elderly, Disabled Person or Persons and who:
    - (1) Is determined to be essential to the care and well-being of the Person(s);
    - (2) Is not obligated for the support of the Person(s); and
    - (3) Would not be living in the unit except to provide the necessary supportive services.
  - f. The full amount of student financial assistance paid directly to the student or to the educational institution;

- g.** The special pay to a Family member serving in the Armed Forces who is exposed to hostile fire;
- h.** Amounts received under training programs funded by HUD;
- i.** Amounts received by a person with a disability, that are disregarded for a limited time, for purposes of Supplemental Security Income eligibility and benefits, because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS); or
- j.** Amounts received by a participant in other publicly assisted programs which are specifically for, or in reimbursement of, out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.), and which are made solely to allow participation in a specific program;
- k.** A resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a public housing resident for performing a service for the PHA, on a part-time basis, that enhances the quality of life in public housing. Such services may include, but are not limited to, fire patrol, hall monitoring lawn maintenance, and resident initiatives coordination. No Resident may receive more than one such stipend during the same period of time;
- l.** Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;
- m.** Temporary, nonrecurring or sporadic income (including gifts);
- n.** Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
- o.** Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
- p.** Adoption assistance payments in excess of \$480 per adopted child;
- q.** Deferred periodic payments of supplemental security income and social security benefits that are received in a lump sum payment, or in prospective monthly amounts;
- r.** Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;
- s.** Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home;
- t.** Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that

includes assistance under the United States Housing Act of 1937, including the following:

- 1.** The value of the allotment provided to an eligible household for coupons under the Food Stamp Act of 1977. [7 United States Code (USC)§ 2017 (b)];
- 2.** Payment to volunteers under the Domestic Volunteer Service Act of 1973. [42 USC § 5044(g), § 5058];
- 3.** Payments received under the Alaska Native Claims Settlement Act. [43 USC § 1626(c)];
- 4.** Income derived from certain sub-marginal land of the United States, that is held in trust for certain Indian tribes. [25 USC§ 459(e)];
- 5.** Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program. [42 USC§ 8624(f)];
- 6.** Payments received under programs funded in whole or in part under the Job Training Partnerships Act. [29 USC § 1552(b)];
- 7.** Income derived from the disposition of funds of the Grand River Band of Ottawa Indians. [Public Law (P.L.) 94-540, 90 Stat. 2503-2504];
- 8.** The first \$2,000 of per capita shares received from judgement funds awarded by the Indian Claims Commission or the Court of Claims [25 USC § 1407-1408), or from funds held in trust for an Indian tribe by the Secretary of the Interior. [25 USC § 117b, 1407];
- 9.** Amounts of scholarships funded under Title IV of the Higher Education Act of 1965 including awards under the Federal work-study program or under the Bureau of Indian Affairs student assistance programs [20 USC § 1087uu]. Since Pell Grants are funded under Title IV, PHAs should exclude the FULL value of any Pell Grant. These changes are effective 10-1-92;
- 10.** Payments received from programs funded under Title V of the Older Americans Act of 1965. [42 USC § 3056(f)];
- 11.** Payments received on and after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the "In Re Agent Orange product" liability litigation. [M.D.L. No. 381 (E.D.N.Y.)];
- 12.** Payments received under the Maine Indian Claims Settlement Act of 1980. [P.L. 96-420, 94 Stat. 1785];
- 13.** The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 [42 USC§ 9858q]. This change was effective November 4, 1992;
- 14.** Earned Income Tax Credit (EITC) refund payments received after January 1, 1991. [USC § 32(j)];

15. Deferred Periodic Payments of Social Security and Supplemental Security Income (SSI) received after October 28, 1992. This lump sum payment may represent the accumulation of periodic payments from a preceding period. Collections activity on deferred periodic payments regardless of when they were received. See Notice PIH 93-11 issued March 16, 1993;
  16. Holocaust reparations received after April 23, 1993. [42 USC § 1437a, § 1437d, § 1437n and § 3535(d)].
4. If it is not feasible to anticipate a level of income over a 12-month period, the income anticipated for a shorter period may be annualized, subject to a redetermination at the end of the shorter period.

#### Applicable Surface

All intact and non-intact interior and exterior painted surfaces of a residential structure (with reference to lead-based paint poisoning prevention).

#### Applicant

Applicant (or applicant family). A family that has applied for admission to a program, but is not yet a participant in the program.

#### Assisted Lease

A written agreement between an owner/landlord and a Family for the leasing of a dwelling unit by the owner/landlord to the Family under a Housing Assistance Contract between the owner/landlord and the PHA.

In the case of cooperative of mutual housing, "lease" means the occupancy agreement or other written agreement establishing the conditions for occupancy of the unit.

#### Auxiliary Aids

Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving Federal financial assistance.

For example, auxiliary aids for persons with impaired vision may include readers, Brailled materials, audio recordings, and other similar services and devices.

Auxiliary aids for persons with impaired hearing may include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, note takers, written materials, and other similar services and devices.

#### Voucher Holder

A family holding a Voucher with unexpired search time.

### Child

A member of the family, other than the family head or spouse, who is under 18 years of age.

For continued assistance under Restrictions on Assistance to Non-citizen only: Biological or adopted children only. Stepchildren (not related to either the head of the household or the spouse) and guardianship of minors (either formal or informal) are excluded.

### Child Care Expenses

Amounts anticipated being paid by the Family for the care of children under thirteen (13) years of age during the period for which Annual Income is computed, but only where such care is necessary to enable a Family member to be gainfully employed, or to further his or her education, and only to the extent such amounts are not reimbursed.

The amount deducted shall reflect reasonable charges for child care, and in the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of income. Reasonable child care expenses, as defined by the PHA, shall not exceed the actual costs incurred.

### Citizen

A citizen (by birth or naturalization) or national of the United States.

### Codes

Includes building codes, housing codes, health and safety codes, sanitation codes and any law, ordinance or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy or use of a dwelling unit.

### Common Space

Space available for use by assisted families and other occupants of the unit.

### Consolidated ACC

Consolidated annual contributions contract. See § 982.151.

### Contiguous MSA

In portability, an MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

### Continued Assistance Family

This is a mixed family who meets all the following requirements:

1. The family was receiving assistance under a Section 214 covered program on June 19, 1995, and
2. Whose head of the household or spouse has eligible immigration status according to the requirements of the restrictions on assistance to non-citizen, and

3. The family does not include any person (who does not have eligible immigration status) other than:

- The head of the household;
- Any spouse of the head of the household;
- Any parents of the head of the household;
- Any parents of the spouse;
- Any children of the head of the household or spouse.

This does not define "family" for purposes of eligibility at the PHA (see "Family" in this Definition section.)

A family entitled to continued assistance before November 29, 1996 is entitled to continued assistance as described in the above paragraph. A family entitled to continued assistance after November 29, 1996 shall receive prorated assistance as described in section 5.520.

#### 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 voucher program.

#### Contract Rent

The total amount of rent specified in the Housing Assistance Payments (HAP) Contract as payable to the owner/landlord by the Family, and by HUD or the PHA on the Family's behalf.

The monthly rent which an owner/landlord is entitled to receive for the leasing of a Manufactured Home Space to an Assisted Family, including any separate fees or charges. This rent includes the maintenance and management services described in the definition of Manufactured Home Space, but excludes ongoing utility charges. Separate fees or charges for services or facilities not included in the definition of Manufactured Home Space shall be included in the Contract Rent only if their payment is required as a condition of the leasing of the Manufactured Home Space. In the case of a cooperative Manufactured Home park, "Contract Rent" means the charges under the occupancy agreements between the members and the cooperative.

#### Contract of Participation

A contract in a form approved by HUD, entered into between a participating family and a PHA operating an FSS program that sets forth the terms and conditions governing participation in the FSS program. The contract of participation includes all individual training and services plans entered into between the PHA and all members of the family who elect to participate in the FSS program, and which plans are attached to the contract of participation as exhibits.

#### Controlled Substance

Any drug or other substance, or immediate precursor included in the definition in Section 102 of the

Controlled Substances Act (21 U.S.C. 802).

Decent, Safe and Sanitary Housing

Housing is decent, safe and sanitary if the requirements of 982.401 are met (Housing Quality Standards).

Defective Paint Surface

Paint on applicable surfaces that is cracking, scaling, chipping, peeling or loose (with reference to lead-based paint poisoning prevention).

Dependent

A member of the Family household (except foster children and foster adults) other than the Family head or spouse, who is under 18 years of age or is a person with a disability, or is a full-time student.

Deposit

Means an amount of currency, or an instrument delivered to the owner/landlord by the resident as a pledge to abide by terms or conditions of the rental agreement.

Dilapidated Housing

See the definitions of Substandard Housing.

Disability Assistance Expenses

Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Disabled Person or Family

A person or family whose head, spouse, or sole member is a person with disabilities; or two (2) or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides. A person who is under a disability, as defined in Section 233 of the Social Security Act (42 U.S.C. 423), or 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)).

Section 223 of the Social Security Act defines disability as:

1. Inability to engage in any substantial, gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months; or
2. In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in the Social Security Act), inability by reason of such blindness to engage in substantial gainful activity in which he/she has previously engaged with some regularity and over a period of time.

People who have been diagnosed with alcoholism or drug abuse are not part of the definition of “disabled”.

### Discriminatory Housing Practice

An act that is unlawful under Section 804, 805, 806, or 818 of the Fair Housing Act.

### Displaced Person or Family

A person or family in which each member, or whose sole member, is 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 pursuant to Federal disaster relief laws. (See also the definition of Involuntary Displacement. See 24 CFR, Part Subpart A, Section 5.420.)

### Domicile

The legal residence of the household head or spouse as determined in accordance with State and local law.

### Drug Abuse and Other Criminal Activity Definitions

- Adult (Drug-Related and criminal Activity- a person who is 18years of age or older, or has been convicted of a crime as an adult under any federal, state or tribal law.
- Covered Person- a tenant, any member of the tenant's household, a guest or another person under the tenant's control.
- Currently Engaging in Illegal Use of a Drug- with respect to behavior such as illegal use of a drug, other drug-related criminal activity, or other criminal activity, currently engaging in, means that the individual has engaged in the behavior recently enough to justify a reasonable belief that the individual's behavior is current.
- Drug- a controlled substance as defined in Section 102 of the Controlled Substance Act.
- Drug Abuse Treatment Facility - An entity: (a) that holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to illegal drug use; and (b) that is either an identified unit within a general care facility, or an entity other than a general medical care facility

### Drug-Trafficking

The illegal manufacture, sale or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

### Dwelling

Any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.



### Dwelling Unit

A single unit of residence for a family of one or more persons. Examples of dwelling units include: a single family home; an apartment unit within an apartment building; and in other types of dwellings in which sleeping accommodations are provided, but toileting or cooking facilities are shared by occupants of more than one room or portion of the dwelling, rooms in which people sleep. Examples of the latter include dormitory rooms and sleeping accommodations in shelters intended for occupancy as a residence for homeless persons.

### Earned Income

Earned income means income or earnings included in annual income from wages, tips, salaries, other employee compensation, and self-employment (see 24 CFR 5.609). Earned income does not include any pension or annuity, transfer payments, any cash or in-kind benefits, or funds deposited in or accrued interest on the FSS escrow account established by a PHA on behalf of a participating family.

### Effective Date of Contract

Effective date of contract of participation means the first day of the month following the month in which the FSS family and the PHA entered into the contract of participation.

### Elderly Person

A person who is at least 62 years of age. Allowance for medical expenses may be allowed for persons who are elderly but not disabled.

### Elderly Household

A household whose head and/or spouse is considered elderly by definition. Allowance for medical expenses may be allowed for all persons who reside in the household.

### Elevated Blood Lead Level

Excessive absorption of lead, that is, a confirmed concentration of lead in whole blood of 25 ug/dl (micrograms of lead per deciliter of whole blood) or greater.

### Employer Identification Number

The taxpayer identifying number of an individual, trust, estate, partnership, association, company, or corporation that is assigned pursuant to Section 6011(b) of the Internal Revenue Code of 1986, or corresponding provisions of prior law, or pursuant to Section 6109 of the Code. The Employer Identification Number has nine digits separated by a hyphen, as follows: 00-0000000.

### Enrollment

Enrollment means the date that the FSS family entered into the contract of participation with the PHA.

### Entrance

Any access point to a building or portion of a building used by residents for the purpose of entering.

### Eviction

Means any action initiated by the owner/landlord to regain possession of a dwelling unit and use of the premises.

### Evidence of Citizenship of Eligible Immigration Status

The documents which must be submitted to evidence citizenship or eligible immigration status.

### Exception Rent

In the Pre-Merger Certificate program, an initial rent (contract rent plus any utility allowance) in excess of the published FMR only to make a reasonable accommodation for a family with disabilities on a unit by unit basis. Housing agencies may request approval from HUD for an exception rent for a geographical area.

### Exterior

All areas of the premises outside of an individual dwelling unit.

### Extremely Low-Income Families

Families with incomes below thirty percent (30%) of the area median and households of various races and ethnic groups--within the Quality Housing Work Responsibility Act (QHWRA).

### Facility

All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property.

### Fair Housing Act

Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3600-3620).

### Fair Market Rent

The rent, including utilities (except telephone), and all maintenance, management, and other services, which would be required to be paid in order to obtain privately owned, existing, decent, safe, and affordable rental housing of modest (non luxury) nature with suitable amenities in the market area.

Fair Market Rents are used by PHA's in the Housing Voucher Program to develop the payment standard used to determine the appropriate amounts of housing assistance to be paid on behalf of participating families.

The rent which would be required to be paid in order to obtain a privately owned, decent, safe and affordable Manufactured Home Space of a modest nature. This rent includes maintenance and management services described in the definition of Manufactured Home Space for single-wide and double-wide Manufactured Home Spaces. Rents for double-wide spaces will be permitted for Assisted Families of five (5) or more persons so long as the Manufactured Home meets the minimum occupancy

standards for families. Fair Market Rents will be established by HUD and will be published in the Federal Register.

### Familial Status

One or more individuals (who have not attained the age of 18 years) being domiciled with:

1. A parent or another person having legal custody of such individual or individuals; or
2. The designee of such parent or other person having such custody, with the written permission of such parent or other person

The protections afforded against discrimination on the basis of familial status apply to any person who is pregnant, or is in the process of securing legal custody of any individual who has not attained the age of the eighteen (18) years.

### Family

"Family" includes, but is not limited to:

1. Two (2) or more persons who intend to share a residency whose income and resources are available to meet the family's needs and who have a history as a family unit or have evidence of a stable relationship for at least one year if not legally married. Evidence of a "stable relationship" may include any of the following: birth certificate of the children, joint tax returns, prior lease, joint bank accounts, insurance policies, informal marriage certificates or equivalent documentation.
2. A group of persons living together, related by blood, marriage or operation of law;
3. A common-law husband or wife, as recognized under State law;
4. 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;
5. An elderly person;
6. A disabled person;
7. A displaced person;
8. The remaining member of a resident family; and
9. A single person who is not an elderly or displaced person or a person with disabilities, or the remaining member of a resident family.

### Family Income

Means Monthly Income as defined in HUD regulations, i.e., using Annual Income divided by 12.

### Family Self-Sufficiency

Family Self-Sufficiency program or FSS program means the program established by a PHA within its jurisdiction to promote self-sufficiency among participating families, including the provision of supportive services to these families, as authorized by Section 23 of the U.S. Housing Act of 1937.

### Family Share

In the voucher program, the portion of the rent to owner paid by the family. It is calculated by subtracting the amount of the housing assistance payment to the owner from the rent to owner. Same as Tenant Rent.

### Family Unit Size

The appropriate number of bedrooms for a family. Family unit size is determined by the PHA under the PHA subsidy standards.

### Former Federal Preferences (24 CFR Sec. 982.207)

The PHA may implement the following former federal preferences as Local Preferences:

1. Working families (head or spouse);
2. Families for person with a disability;
3. Victims of domestic violence;
4. Single persons who are elderly, displaced, homeless or a person with disabilities; and
5. Provide the same benefit to families whose head and spouse, is either 62 or older or a person with disabilities (if the PHA adopts local preference for working families).

### FSS Account

FSS account means the FSS escrow account authorized by Section 23 of the U.S. Housing Act of 1937, and as provided by § 984.305 of this part.

### FSS Credit

FSS credit means the amount credited by the PHA to the participating family's FSS account.

### FSS Family

FSS family or participating family means a family that receives assistance under the rental voucher programs, and that elects to participate in the FSS program, and whose designated head of the family has signed the contract of participation.

### FSS Related Service Program

Means any program, publicly or privately sponsored, that offers the kinds of supportive services described in the definition of "supportive services" set forth in 24 CFR § 984.

### FSS Slots

FSS slots refer to the total number of rental vouchers that comprise the minimum size of a PHA's Section 8 FSS program.

### First Occupancy

A building that has never before been used for any purpose.

### FMR

Fair Market Rent. Defined in 24 CFR 982.4.

### 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.

### Good Faith

Means honesty in fact, in the conduct of the transaction concerned, as evidenced by all surrounding circumstances.

### Gross Rent

The total monthly cost of housing an eligible Family, which is the sum of the Contract Rent and any Utility Allowance. In the case of rental of only a manufactured home space, Gross Rent also includes the Family's monthly payment to amortize the purchase price of the manufactured home.

### Ground Floor

A floor of a building with a building entrance on an accessible route. A building may have more than one ground floor.

### Guest

A person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. The limit for each year is 14 days per guest.

### HA

A housing authority--both a public housing agency and an Indian housing authority.

### Handicap/Disability

With respect to a person, a physical or mental impairment which substantially limits one or more of such person's major life activities; a record of having such an impairment, or being regarded as having such an impairment.

This term does not include current, illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)).

For the purpose of 24 CFR Part 100, Discriminatory Conduct under the Fair Housing Act, an individual shall not be considered to have a disability solely because that individual is a transvestite (a person, especially a male, who dresses in the clothing of the opposite sex for psychological reasons).

#### Handicapped/Disabled Assistance Expenses

Reasonable expenses that are anticipated, during the period for which Annual Income is computed, for attendant care and auxiliary apparatus for a Disabled Family member, and that are necessary to enable a Family member (including the Disabled member) to be employed, provided that the expenses are neither paid to a member of the Family nor reimbursed by an outside source.

#### Handicapped/Disabled Person (included under "Disabled")

A person having a physical or mental impairment that:

1. Is expected to be of long-continued and indefinite duration;
2. Substantially impedes the person's ability to live independently; and
3. Is of such a nature that such ability could be improved by more suitable housing conditions.

#### Has a Record of Such an Impairment

As used in the definition of Disability, means has a history of, or has been mis-classified as having, a mental or physical impairment that substantially limits one or more major life activities.

#### Head of Household

The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

#### Home-visit (telephone interview)

When applicants/participants are unable to physically come into the PHA's office due age or medical condition, a home-visit (telephone interview) can be done to gather the needed to either complete an application for housing or for annual re-certification. Verifications needing signatures can be either mailed to the individual or other arrangements can be made at PHA's discretion.

#### Housing Agency (PHA)

Any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in, or to assist in the development or operation of low-income housing. For the purposes of 24 CFR, Part 942, Resident Participation and Management in Public Housing, the term Public Housing Agency does not include Indian Housing Authorities. As used in 24 CFR, Part 965, Subpart E, Resident Allowance for Utilities, PHA includes an Indian Housing Authority.

### Housing Assistance Payment

The monthly assistance payment by a PHA. The total assistance payment consists of:

1. A payment to the owner/landlord for rent to owner/landlord under the family's lease.
2. An additional payment to the family if the total assistance payment exceeds the rent to owner/landlord. In the voucher program, the additional payment is called a "utility reimbursement".

### Housing Assistance Payments Contract

A written contract between the PHA and all owner/landlord in the form prescribed by HUD headquarters, for the purpose of providing housing assistance payments to the owner/landlord on behalf of an Eligible Family.

### Housing Quality Standards

The HUD minimum quality standards for housing assisted under the resident-based programs.

### Housing Choice Voucher Program

The statutory merger of the Section 8 tenant-based certificate and voucher programs into the new Housing Choice Voucher program and makes other amendments to other provisions of the interim rule published on May 14, 1999.

### Housing Voucher Contract

A written contract between a PHA and an owner/landlord, in the form prescribed by HUD for the Housing Voucher Program, in which the PHA agrees to make housing assistance payments to the owner/landlord on behalf of an Eligible Family.

### Housing Voucher Holder

A family that has an unexpired housing voucher.

### HUD

The Department of Housing and Urban Development or its designated officer or employee.

### HUD Local Office

Any HUD Office which has been delegated authority under the U.S. Housing Act of 1937 to perform functions pertaining to the area in which the PHA is located. Biloxi falls under the Jackson HUD Office.

### Income Limits

HUD establishes Extremely Low Income, Very Low-Income and Low-Income limits that are used to determine if assisted housing program applicants qualify for admission to HUD-assisted programs. These

income limits are based on HUD estimates for area median family income (using Metropolitan Statistical Areas or Primary Metropolitan Statistical Areas as defined by the Office of Management and Budget (OMB), and the Bureau of the Census definition of family) with specific statutorily permissible adjustments. If the income limits based on this approach would be less than if based on the relevant State non-metropolitan median family income level, income limits are based on the State non-metropolitan family income level.

#### Independent Group Residence

1. A dwelling unit for the exclusive residential use of two to twelve elderly or disabled individuals (excluding live-in Resident Assistant(s) if any), who are not capable of living independently, and who require a planned program of continual supportive services.
2. Individuals residing in an Independent Group Residence and receiving Section 8 assistance shall not require continual medical or nursing care, and shall be ambulatory or not require continual medical or nursing care, and shall be ambulatory or not confined to a bed continuously, and must be capable of taking appropriate actions for their own safety under emergency conditions.

#### Individual Lease Shared Housing

The type of Shared Housing in which the PHA enters into a separate HAP Contract for each assisted Family residing in a Shared Housing unit.

#### Individual Training Services Plan

Means a written plan that is prepared for the head of the FSS family, and each adult member of the FSS family who elects to participate in the FSS program, by the PHA in consultation with the family member, and which sets forth:

1. The supportive services to be provided to the family member;
2. The activities to be completed by that family member; and
3. The agreed upon completion dates for the services and activities. Each individual training and services plan must be signed by the PHA and the participating family member, and is attached to, and incorporated as part of the contract of participation. An individual training and services plan must be prepared for the head of the FSS family.

#### Individual With Disability

A person having a physical or mental impairment that (a) is expected to be of long-continued and indefinite duration, (b) substantially impedes the person's ability to live independently, and (c) is of such a nature that such ability could be improved by more suitable housing conditions.

#### Initial Contract Rent

The contract rent at the beginning of the initial lease term.



### Initial PHA

In portability, the term refers to both:

1. A PHA that originally selected a family that subsequently decides to move out of the jurisdiction of the selecting PHA.
2. PHA that absorbed a family that subsequently decides to move out of the jurisdiction of the absorbing PHA.

### Initial Lease Term

The initial term of the assisted lease. The initial lease term is at least one year. At the PHA's discretion, lease term may be shorter than 1 year.

### INS

The U.S. Immigration and Naturalization Service.

### Interior

The spaces, parts, components or elements of an individual dwelling unit.

### Interim Reexaminations

Some Housing Authorities also call this “special” reexaminations. The family must comply with regulations requiring them to report changes in income and family composition. The PHA requires the reporting of the changes within 10 days of the effective change (or other date as established by the PHA). The Housing Authority must determine if there is to be an adjustment to the Total Tenant Payment, Tenant Rent, and/or Housing Assistance Payment.

### Is Regarded as Having an Impairment

As used in the definition of Disability, means:

1. Has a physical or mental impairment that does not substantially limit one or more major life activities, but that is treated by another person as constituting such a limitation;
2. Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
3. Has none of the impairments defined under the definition of “physical or mental impairment,” below, but is treated by another person as having such an impairment.

### Jurisdiction

The area in which the PHA has authority under State and local law to administer the program.

### Lead-Based Paint

A paint surface, whether or not defective, identified as having a lead content greater than or equal to one

microgram of lead per square centimeter (one centimeter is slightly more than three-eighths of an inch).

#### Lease

1. A written agreement between an owner/landlord and a resident for the leasing of a dwelling unit to the resident. The lease established the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP Contract between the owner/landlord and the PHA.
2. In cooperative housing, a written agreement between a cooperative and a member of the cooperative. The agreement established the conditions for occupancy of the member's cooperative dwelling unit by the member's family with housing assistance payments to the cooperative under a HAP contract between the cooperative and the PHA.

#### Lease Addendum

In the lease between the resident and the owner/landlord, the lease language required by HUD.

#### Live-In Aide

A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

1. Is determined by the PHA to be essential to the care and well-being of the person or persons;
2. Is not obligated for support of the person or persons; and
3. Would not be living in the unit except to provide necessary supportive services. (See the definition of Annual Income for treatment of a Live-In Aid's income.)

#### Local Preference

1. A preference used by the PHA to select among applicant families.
2. PHA can not deny or otherwise penalize a family solely because the family resides in public housing.

#### 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. 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-income family.

#### Major Life Activities

As used in the definition of Disability, means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

### Manufactured Home

A structure, with or without a permanent foundation, which is built on a permanent chassis, is designed for use as a principle place of residence, and meets the HUD Housing Quality Standards set forth in 24 CFR, Part 8, Sections 882.109 and 887.473.

### Manufactured Home Space

The space, leased by an owner/landlord to an Assisted Family, on which the Manufactured Home owned and occupied by the Family, is located. The space shall include all maintenance and management services necessary for decent, safe and sanitary housing, such as maintenance of utility lines, garbage and trash collection, and maintenance of roads, walkways and other common areas and facilities.

### Marriage

Marriage certified by a formal marriage license, or an informal marriage, as may be specified in State or local laws or regulations.

### Medical Expenses

Those 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. (Medical expenses are allowable only for Elderly or Disabled Families.)

### Minor

A person who is under the age of legal competence, unless otherwise determined by State Law.

### 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 of Adjusted Income.

### Monthly Income

One-twelfth of 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, including Puerto Rico, the U.S. Virgin Islands, Guam, Canal Zone, etc.

### Net Family Assets

1. Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in

Indian trust land and excluding equity accounts in HUD home-ownership programs.

2. The value of necessary items of personal property, such as furniture and automobiles, shall be excluded.
3. In cases where a trust fund has been established and the trust is not revocable by, or under the control of any member of the Family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining Annual Income.
4. In determining Net Family Assets, the Authority shall include the value of any assets disposed of by an applicant or resident for less than fair market value, including a disposition in trust, but not in a foreclosure or bankruptcy sale, during the two (2) years preceding the date of application for the program, or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or resident received important consideration not measurable in dollar terms.

#### Non-citizen

A person who is neither a citizen nor a national of the United States.

#### Normal Wear and Tear

Means deterioration which occurs, based upon the use for which the rental unit is intended, without negligence, carelessness, accident, abuse or intentional damage of the premises, equipment or chattels of the owner/landlord by the resident, members of the resident's household, or by his/her invitees or guests. However, uncleanliness does not constitute normal wear and tear.

#### Owner/Landlord

Any person or entity, including a cooperative, having the legal right to lease or sublease a unit to a participant.

#### Participant

A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

#### Payment Standard

In the voucher program, an amount used by the PHA to calculate the housing assistance payment for a family. Each payment standard amount is based on the fair market rent. The PHA adopts a payment standard for each bedroom size and for each fair market rent area in the PHA jurisdiction. The payment standard for a family is maximum monthly subsidy payment.

#### Person

Includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees,

trustees in cases under Title 11 of the United States Code, receivers, and fiduciaries.

### PHA Jurisdiction

The area in which the PHA is not legally barred from entering into Housing Assistance Contracts. City limits of Biloxi and incorporated area.

### Physical or Mental Impairment

As used in the definition of Disability, includes:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; muscular-skeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; Genitourinary; hemic and lymphatic; skin; and endocrine; or
2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

### Portability

Renting a dwelling unit with Section 8 resident-based assistance outside the jurisdiction of the initial PHA.

### Preference Over Single Persons

An applicant that is a one- or two-persons elderly, disabled or displaced family, must be given a preference over an applicant that is a single person who is not all elderly, displaced person, or a person with disabilities.

### Premises

The building or complex in which the dwelling units is located, including common areas and grounds.

### Public Housing Agency (PHA)

Any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in, or to assist in the development or operation of low-income housing.

### Public Use Areas

Interior or exterior rooms or spaces of a building that are made available to the general public. Public use may be provided at a building that is privately or publicly owned.

### Qualified Individual With Disabilities

1. With respect to employment, an individual with disabilities who, with reasonable accommodation, can perform the essential functions of the job in question; and
2. With respect to any non-employment program or activity which requires a person to perform services or to achieve a level of accomplishment, an Individual With Disabilities who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the recipient can demonstrate would result in a fundamental alteration in its nature; or
3. With respect to any other non-employment program or activity, an Individual With Disabilities who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity.

Essential eligibility requirements include stated eligibility requirements, such as income, as well as other explicit or implicit requirements inherent in the nature of the program or activity, such as requirements that an occupant of multifamily housing be capable of meeting the recipient's selection criteria, and be capable of complying with all obligations of occupancy with or without supportive services provided by persons other than the recipient.

### Reasonable Accommodation

Means making alterations or adaption to provide access to otherwise qualified individuals with disabilities, in the use of the program and facilities, without causing undue hardship or substantially altering the program or activity.

### Reasonable Rent

A rent to owner/landlord that is not more than either:

1. Rent charged for comparable units in the private unassisted market; or
2. Rent charged by the owner/landlord for a comparable assisted or unassisted unit in the building or premises.

### Residency Preference 24 CFR Sec. 982.207

Eliminates the explicit requirement that PHA's seek HUD approval before establishing a residency preference (although the Section 8 Administrative plan is a supporting document to the annual PHA Plan). PHA's may adopt a residency preference if the preference does not delay or deny admission to the program based on race, color ethnic origin, gender, religion, disability or age. Residency area must not be smaller than a county or municipality.

### Receiving PHA

In portability, a PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher, and provides program assistance to the family.

### Regular Reexaminations

The PHA must reexamine the income and composition of all families at least once every twelve (12) months. The family is required to submit any certification, release, information or documentation that the Housing Authority or HUD has determined necessary.

The PHA will adjust the Total Tenant Payment and Housing Assistance Payment to reflect the changes in income and family composition.

#### Related Lease Shared Housing

The type of Shared Housing in which the PHA enters into a single HAP Contract for two assisted Families residing in a Shared Housing unit.

#### Rent to Owner/landlord

The monthly rent payable to the owner/landlord under the lease. Rent to owner/landlord includes payment for any services, maintenance and utilities to be provided by the owner/landlord in accordance with the lease.

#### Rental Voucher

A document issued by a PHA to a family selected for admission to the voucher program. The voucher describes the program, and the procedures for PHA approval of a unit selected by the family. The voucher also states the obligations of the family under the program.

#### Resident

Means a person entitled, under a rental agreement, to occupy a dwelling unit in peaceful possession, to the exclusion of others, and includes the owner/landlord of a mobile home renting premises, other than a lot or parcel in a mobile home park, for use as a site for the location of the mobile home.

#### Responsible Entity

The person or entity responsible for administering the restrictions on providing assistance to Non- citizens with ineligible immigration status:

1. For the Section 8 Rental Housing Voucher and the Section 8 Moderate Rehabilitation programs, the housing authority (PHA) administering the program under an ACC with HUD;
2. For all other Section 8 programs, the owner/landlord.

#### Section 214

Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a). Section 214 restricts HUD from making financial assistance available for non-citizen unless they meet one of the categories of eligible immigration status specified in Section 214. See also paragraph 1-2, Authority.

#### Section 214 Covered Programs

Programs to which the restrictions imposed by Section 214 apply are programs that make available financial assistance pursuant to the United States Housing Act of 1937 (42 U.S.C. 1437-1440), Section 235 or Section 236 of the National Housing Act (12 U.S.C. 1715z-1) and Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

#### Section 504

Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, as it applies to programs or activities receiving Federal financial assistance.

#### Setup Charges

Charges payable by an Assisted Family for assembling, skirting and anchoring the mobile home unit.

#### Sex-Offender

HUD determines a sex-offender to be someone who is required to be registered in a "State life-time sexual offender" registry.

#### Single Family Residence

Means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it is a single family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit.

#### Single Person

A person who lives alone, or intends to live alone, and who does not qualify as an Elderly Family, a Displaced Person, or the Remaining Member of a Resident Family.

#### Single Room Occupancy Housing

A unit which contains no sanitary facilities or food preparation facilities, or which contains one but not both types of facilities (as those facilities are defined in 24 CFR 882.109(a) and (b) and which is suitable for occupancy by a single eligible individual capable of independent living. The unit is located within a multifamily structure consisting of more than 12 units.

#### Social Security Number

The number that is assigned to a person by the Social Security Administration of the Department of Health and Human Services, and that identifies the record of the person's earnings that are reported to the Administration.

The Social Security Number has nine digits separated by hyphens, as follows: 000-00-0000. It does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary under the Social Security System.

#### Special Admission



Admission of an applicant that is not on the PHA waiting list, or without considering the applicant's waiting list position.

#### Special Reexaminations

See Interim Reexaminations.

#### Spouse

Means the husband or wife of the head of the household.

Spouse refers to 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-head.” “Co-head” is a term recognized by some HUD programs, but not by public and Indian housing programs. This definition applies to Restrictions on Assistance to Non-citizen.

#### State

Any of the several States of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and Indian tribes.

#### Statement of Family Responsibility

An agreement, in the form prescribed by HUD, between the PHA and a Family to be assisted under the Program, stating the obligations and responsibilities of the two parties.

#### Subsidy Standards

Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions (see definition of “family unit size”).

#### Suspension

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

#### Temporary

Temporary time frame is less than 12 months.

#### Temporary Deferral

Temporary deferral of termination of assistance is granted, the deferral period shall be for an initial period not to exceed six (6) months. The initial period may be renewed for additional periods of six (6) months, but the aggregate deferral period for deferrals provided after November 29, 1996 shall not exceed a period of eighteen (18) months. The aggregate deferral period for deferrals granted prior to November 29, 1996 shall not exceed three (3) years. These time periods do not apply to a family which includes a refugee

under section 207 of the Immigration and Nationality Act or an individual seeking asylum under section 208 of that Act.

### Tenant

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

### Tenant-Based

Rental assistance that is not attached to the structure.

### Tenant Rent

In the voucher program, the portion of the rent to the owner paid by the family. It is calculated by subtracting the amount of the housing assistance payment to the owner from the rent to owner.

### Term

Means the period of occupancy specified in the rental agreement.

### Total Tenant Payment (check for validity)

Total Tenant Payment for families whose initial lease is effective on or after August 1, 1982:

Total tenant payment is the amount calculated under section 3(a) (1) of the 1937 Act (42 U.S.C. 1437a (a) (1)). Total Tenant Payment shall be the highest of the following, rounded to the nearest dollar:

1. 30 percent of Monthly Adjusted Income
2. 10 percent of Monthly Income; or
3. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under paragraph (C) of section 3(a)(1) of the 1937 Act (42 U.S.C. 1437a (a) (1) (C)) shall be the amount resulting from one application of the percentage.
4. A minimum amount of tenant rent plus utility allowance as defined by the housing agency up to \$50.00.

### Utility Allowance

If the cost of utilities (except telephone) 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 the PHA or HUD under applicable sections of HUD regulations of the monthly costs 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 healthful living environment.

### Utility Allowance Reimbursement Payment

See Utility Reimbursement

### Utility Hook Up Charges

Costs payable by an Assisted Family for connecting its Manufactured Home to utilities such as water, gas, electrical and sewer lines.

### Utility Reimbursement Payment

In the voucher program, the portion of the housing assistance payment that exceeds the amount of rent to the owner. May also be referred to as Utility Allowance Reimbursement Payment.

### Very Low-Income Family

1. A low-income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.
2. HUD may establish income limits higher or lower than 50 percent 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.

### Veteran

Means any person honorably discharged from the Armed Forces.

### Violent Criminal Activity

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

### Voucher (rental voucher)

A document issued by a PHA to a family selected for admission to the voucher program. The voucher describes the program, and the procedures for PHA approval of a unit selected by the family. The voucher also states the obligations of the family under the program.

### Waiting List Admission

An admission from the PHA waiting list.

### 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-to- Work

Families assisted by a PHA with Voucher funding awarded to the PHA under the HUD welfare-to- work voucher program.

**UTILITY ALLOWANCES**

**ALL FORMS**

**INFORMATIONAL MATERIALS**

**PROJECT-BASED VOUCHER PROGRAM**

**LIMITED ENGLISH PROFICIENCY (LEP) POLICY  
[24 CFR 100.5/982.53/TITLE VI OF THE CIVIL RIGHTS ACT]**