

# PHA Plans

## Streamlined 5-Year/Annual Version

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

OMB No. 2577-0226  
(exp 05/31/2006)

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This information collection is authorized by Section 511 of the Quality Housing and Work Responsibility Act, which added a new section 5A to the U.S. Housing Act of 1937 that introduced 5-year and annual PHA Plans. The full PHA plan provides a ready source for interested parties to locate basic PHA policies, rules, and requirements concerning the PHA's operations, programs, and services, and informs HUD, families served by the PHA, and members of the public of the PHA's mission and strategies for serving the needs of low-income and very low-income families. This form allows eligible PHAs to make a streamlined annual Plan submission to HUD consistent with HUD's efforts to provide regulatory relief to certain PHAs. Public reporting burden for this information collection is estimated to average 11.7 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information and respondents are not required to complete this form, unless it displays a currently valid OMB Control Number.

**Privacy Act Notice.** The United States Department of Housing and Urban Development, Federal Housing Administration, is authorized to solicit the information requested in this form by virtue of Title 12, U.S. Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. Information in PHA plans is publicly available.

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## Streamlined 5-Year Plan for Fiscal Years 2005 - 2010

## Streamlined Annual Plan for Fiscal Year 2005

**NOTE:** This PHA Plan template (HUD-50075-SA) is to be completed in accordance with instructions contained in previous Notices PIH 99-33 (HA), 99-51 (HA), 2000-22 (HA), 2000-36 (HA), 2000-43 (HA), 2001-4 (HA), 2001-26 (HA), 2003-7 (HA), and any related notices HUD may subsequently issue. Full reporting for each component listed in the streamlined Annual Plan submitted with the 5-year plan is required.

## Streamlined Five-Year PHA Plan Agency Identification

**PHA Name: TERRE HAUTE, INDIANA**      **PHA Number: IN021**

**PHA Fiscal Year Beginning: 10/01/2005**

**PHA Programs Administered:**

**Public Housing and Section 8**       **Section 8 Only**       **Public Housing Only**

Number of public housing units:  
Number of S8 units:

Number of S8 units:

Number of public housing units:

**PHA Consortia: (check box if submitting a joint PHA Plan and complete table)**

Participating PHAs	PHA Code	Program(s) Included in the Consortium	Programs Not in the Consortium	# of Units Each Program
Participating PHA 1:				
Participating PHA 2:				
Participating PHA 3:				

**Public Access to Information**

Information regarding any activities outlined in this plan can be obtained by contacting: (select all that apply)

- Main administrative office of the PHA**
- PHA development management offices
- PHA local offices**

**Display Locations For PHA Plans and Supporting Documents**

The PHA Plans and attachments (if any) are available for public inspection at: (select all that apply)

- Main administrative office of the PHA**
- PHA development management offices
- PHA local offices**
- Main administrative office of the local government
- Main administrative office of the County government
- Main administrative office of the State government
- Public library
- PHA website

Other (list below)

PHA Plan Supporting Documents are available for inspection at: (select all that apply)

**Main business office of the PHA**

PHA development management offices

Other (list below)

## Streamlined Five-Year PHA Plan PHA FISCAL YEARS 2005 - 2010

[24 CFR Part 903.12]

### A. Mission

State the PHA's mission for serving the needs of low-income, very low income, and extremely low-income families in the PHA's jurisdiction. (select one of the choices below)

The mission of the PHA is the same as that of the Department of Housing and Urban Development: To promote adequate and affordable housing, economic opportunity and a suitable living environment free from discrimination.

The PHA's mission is: **to provide decent, safe, sanitary and affordable housing to persons or families of low-income who cannot achieve such without assistance from the public sector.**

### B. Goals

The goals and objectives listed below are derived from HUD's strategic Goals and Objectives and those emphasized in recent legislation. PHAs may select any of these goals and objectives as their own, or identify other goals and/or objectives. Whether selecting the HUD-suggested objectives or their own, **PHAS ARE STRONGLY ENCOURAGED TO IDENTIFY QUANTIFIABLE MEASURES OF SUCCESS IN REACHING THEIR OBJECTIVES OVER THE COURSE OF THE 5 YEARS.** (Quantifiable measures would include targets such as: numbers of families served or PHAS scores achieved.) PHAs should identify these measures in the spaces to the right of or below the stated objectives.

**HUD Strategic Goal: Increase the availability of decent, safe, and affordable housing.**

PHA Goal: Expand the supply of assisted housing  
Objectives:

**Apply for additional rental vouchers:**

**Reduce public housing vacancies:**

**Leverage private or other public funds to create additional housing opportunities:**

**Acquire or build units or developments**

Other (list below)

PHA Goal: Improve the quality of assisted housing

Objectives:

- Improve public housing management: (PHAS score)
- Improve voucher management: (SEMAP score)
- Increase customer satisfaction:
- Concentrate on efforts to improve specific management functions:  
(list; e.g., public housing finance; voucher unit inspections)
- Renovate or modernize public housing units:**
- Demolish or dispose of obsolete public housing:
- Provide replacement public housing:
- Provide replacement vouchers:
- Other: (list below)

- PHA Goal: Increase assisted housing choices

Objectives:

- Provide voucher mobility counseling:
- Conduct outreach efforts to potential voucher landlords
- Increase voucher payment standards
- Implement voucher homeownership program:**
- Implement public housing or other homeownership programs:**
- Implement public housing site-based waiting lists:
- Convert public housing to vouchers:
- Other: (list below)

**HUD Strategic Goal: Improve community quality of life and economic vitality**

- PHA Goal: Provide an improved living environment

Objectives:

- Implement measures to deconcentrate poverty by bringing higher income public housing households into lower income developments:
- Implement measures to promote income mixing in public housing by assuring access for lower income families into higher income developments:
- Implement public housing security improvements:**
- Designate developments or buildings for particular resident groups (elderly, persons with disabilities)
- Other: (list below)

**HUD Strategic Goal: Promote self-sufficiency and asset development of families and individuals**

- PHA Goal: Promote self-sufficiency and asset development of assisted households**  
**Objectives:**

- Increase the number and percentage of employed persons in assisted families:**
- Provide or attract supportive services to improve assistance recipients' employability:**
  - Provide or attract supportive services to increase independence for the elderly or families with disabilities.
  - Other: (list below)

**HUD Strategic Goal: Ensure Equal Opportunity in Housing for all Americans**

- PHA Goal: Ensure equal opportunity and affirmatively further fair housing**
  - Objectives:
    - Undertake affirmative measures to ensure access to assisted housing regardless of race, color, religion national origin, sex, familial status, and disability:**
      - Undertake affirmative measures to provide a suitable living environment for families living in assisted housing, regardless of race, color, religion national origin, sex, familial status, and disability:
      - Undertake affirmative measures to ensure accessible housing to persons with all varieties of disabilities regardless of unit size required:
      - Other: (list below)

**Other PHA Goals and Objectives: (list below)**



## Streamlined Annual PHA Plan PHA Fiscal Year 2005

[24 CFR Part 903.12(b)]

### Table of Contents

Provide the following table of contents for the streamlined Annual Plan submitted with the Five-Year Plan, including all streamlined plan components, and additional requirements, together with the list of supporting documents available for public inspection.

#### A. ANNUAL STREAMLINED PHA PLAN COMPONENTS

- X 1. Housing Needs
- X 2. Financial Resources
- X 3. Policies on Eligibility, Selection and Admissions
- X 4. Rent Determination Policies
- X 5. Capital Improvements Needs
- 6. Demolition and Disposition
- X 7. Homeownership
- X 8. Civil Rights Certifications (included with PHA Certifications of Compliance)
- X 9. Additional Information
  - a. PHA Progress on Meeting 5-Year Mission and Goals
  - b. Criteria for Substantial Deviations and Significant Amendments
  - c. Other Information Requested by HUD
    - i. Resident Advisory Board Membership and Consultation Process
    - ii. Resident Membership on the PHA Governing Board
    - iii. PHA Statement of Consistency with Consolidated Plan
    - iv. (Reserved)
- X 10. Project-Based Voucher Program
- X 11. Supporting Documents Available for Review
- X 12. FY 20\_\_ Capital Fund Program and Capital Fund Program Replacement Housing Factor, Annual Statement/Performance and Evaluation Report
- X 13. Capital Fund Program 5-Year Action Plan
- 14. Other (List below, providing name for each item)

#### B. SEPARATE HARD COPY SUBMISSIONS TO LOCAL HUD FIELD OFFICE

**Form HUD-50077, PHA Certifications of Compliance with the PHA Plans and Related Regulations: Board Resolution to Accompany the Standard Annual, Standard Five-Year, and Streamlined Five-Year/Annual Plans;**

**Certification by State or Local Official of PHA Plan Consistency with Consolidated Plan.**

For PHAs APPLYING FOR CAPITAL FUND PROGRAM (CFP) GRANTS:

**Form HUD-50070, Certification for a Drug-Free Workplace;**

**Form HUD-50071, Certification of Payments to Influence Federal Transactions;**

**Form SF-LLL & SF-LLLa, Disclosure of Lobbying Activities.**

**Executive Summary (optional)**

[903.7(r)]. If desired, provide a brief overview of the contents of the streamlined 5-Year/Annual Plan.

**1. Statement of Housing Needs** [24 CFR Part 903.12 (b), 903.7(a)]

**A. Housing Needs of Families on the Public Housing and Section 8 Tenant- Based Assistance Waiting Lists**

State the housing needs of the families on the PHA’s waiting list/s. **Complete one table for each type of PHA-wide waiting list administered by the PHA.** PHAs may provide separate tables for site-based or sub-jurisdictional public housing waiting lists at their option.

Housing Needs of Families on the PHA’s Waiting Lists			
Waiting list type: (select one)			
<input checked="" type="checkbox"/> <b>Section 8 tenant-based assistance</b>			
<input checked="" type="checkbox"/> <b>Public Housing</b>			
<input type="checkbox"/> Public Housing Site-Based or sub-jurisdictional waiting list (optional)			
If used, identify which development/subjurisdiction:			
	# of families	% of total families	Annual Turnover
Waiting list total	<b>UNLIMITED</b>		
Extremely low income <=30% AMI	<b>UNLIMITED</b>		
Very low income (>30% but <=50% AMI)	<b>UNLIMITED</b>		
Low income (>50% but <80% AMI)	<b>UNLIMITED</b>		
Families with children			
Elderly families	<b>10</b>		
Families with Disabilities			
Race/ethnicity			
Race/ethnicity			
Race/ethnicity			
Race/ethnicity			
Characteristics by Bedroom Size (Public Housing Only)			
1BR			
2 BR			
3 BR			
4 BR			
5 BR			
5+ BR			



Housing Needs of Families on the PHA's Waiting Lists
Is the waiting list closed (select one)? <input type="checkbox"/> No <b>X Yes (Section 8)</b>
How long has it been closed (# of months)? <b>12</b>
Does the PHA expect to reopen the list in the PHA Plan year <b>X No</b> <input type="checkbox"/> Yes
Does the PHA permit specific categories of families onto the waiting list, even if generally closed? <input type="checkbox"/> No <b>X Yes</b>

## B. Strategy for Addressing Needs

Provide a brief description of the PHA's strategy for addressing the housing needs of families on the PHA's public housing and Section 8 waiting lists **IN THE UPCOMING YEAR**, and the Agency's reasons for choosing this strategy.

### (1) Strategies

**Need: Shortage of affordable housing for all eligible populations**

**Strategy 1. Maximize the number of affordable units available to the PHA within its current resources by:**

Select all that apply

- X** **Employ effective maintenance and management policies to minimize the number of public housing units off-line**
- X** **Reduce turnover time for vacated public housing units**
- Reduce time to renovate public housing units
- Seek replacement of public housing units lost to the inventory through mixed finance development
- Seek replacement of public housing units lost to the inventory through section 8 replacement housing resources
- Maintain or increase section 8 lease-up rates by establishing payment standards that will enable families to rent throughout the jurisdiction
- Undertake measures to ensure access to affordable housing among families assisted by the PHA, regardless of unit size required
- Maintain or increase section 8 lease-up rates by marketing the program to owners, particularly those outside of areas of minority and poverty concentration
- Maintain or increase section 8 lease-up rates by effectively screening Section 8 applicants to increase owner acceptance of program
- Participate in the Consolidated Plan development process to ensure coordination with broader community strategies
- Other (list below)

**Strategy 2: Increase the number of affordable housing units by:**

Select all that apply

- X** **Apply for additional section 8 units should they become available**

Leverage affordable housing resources in the community through the creation of mixed - finance housing

Pursue housing resources other than public housing or Section 8 tenant-based assistance.

Other: (list below)

**Need: Specific Family Types: Families at or below 30% of median**

**Strategy 1: Target available assistance to families at or below 30 % of AMI**

Select all that apply

Exceed HUD federal targeting requirements for families at or below 30% of AMI in public housing

Exceed HUD federal targeting requirements for families at or below 30% of AMI in tenant-based section 8 assistance

Employ admissions preferences aimed at families with economic hardships

Adopt rent policies to support and encourage work

Other: (list below)

**Need: Specific Family Types: Families at or below 50% of median**

**Strategy 1: Target available assistance to families at or below 50% of AMI**

Select all that apply

Employ admissions preferences aimed at families who are working

Adopt rent policies to support and encourage work

Other: (list below)

**Need: Specific Family Types: The Elderly**

**Strategy 1: Target available assistance to the elderly:**

Select all that apply

Seek designation of public housing for the elderly

Apply for special-purpose vouchers targeted to the elderly, should they become available

Other: (list below)

**Need: Specific Family Types: Families with Disabilities**

**Strategy 1: Target available assistance to Families with Disabilities:**

Select all that apply

- Seek designation of public housing for families with disabilities
- Carry out the modifications needed in public housing based on the section 504 Needs Assessment for Public Housing**
- Apply for special-purpose vouchers targeted to families with disabilities, should they become available
- Affirmatively market to local non-profit agencies that assist families with disabilities**
- Other: (list below)

**Need: Specific Family Types: Races or ethnicities with disproportionate housing needs**

**Strategy 1: Increase awareness of PHA resources among families of races and ethnicities with disproportionate needs:**

Select if applicable

- Affirmatively market to races/ethnicities shown to have disproportionate housing needs
- Other: (list below)

**Strategy 2: Conduct activities to affirmatively further fair housing**

Select all that apply

- Counsel section 8 tenants as to location of units outside of areas of poverty or minority concentration and assist them to locate those units
- Market the section 8 program to owners outside of areas of poverty /minority concentrations
- Other: (list below)

**Other Housing Needs & Strategies: (list needs and strategies below)**

**(2) Reasons for Selecting Strategies**

Of the factors listed below, select all that influenced the PHA's selection of the strategies it will pursue:

- Funding constraints**
- Staffing constraints**
- Limited availability of sites for assisted housing
- Extent to which particular housing needs are met by other organizations in the community**
- Evidence of housing needs as demonstrated in the Consolidated Plan and other information available to the PHA
- Influence of the housing market on PHA programs
- Community priorities regarding housing assistance
- Results of consultation with local or state government
- Results of consultation with residents and the Resident Advisory Board
- Results of consultation with advocacy groups

Other: (list below)

## 2. Statement of Financial Resources

[24 CFR Part 903.12 (b), 903.7 (c)]

List on the following table the financial resources that are anticipated to be available to the PHA for the support of Federal public housing and tenant-based Section 8 assistance programs administered by the PHA during the Plan year. Note: the table assumes that Federal public housing or tenant based Section 8 assistance grant funds are expended on eligible purposes; therefore, uses of these funds need not be stated. For other funds, indicate the use for those funds as one of the following categories: public housing operations, public housing capital improvements, public housing safety/security, public housing supportive services, Section 8 tenant-based assistance, Section 8 supportive services or other.

<b>Financial Resources: Planned Sources and Uses</b>		
<b>Sources</b>	<b>Planned \$</b>	<b>Planned Uses</b>
<b>1. Federal Grants (FY 2005 grants)</b>		
a) Public Housing Operating Fund	<b>2,000,000</b>	
b) Public Housing Capital Fund	<b>1,400,000</b>	
c) HOPE VI Revitalization		
d) HOPE VI Demolition		
e) Annual Contributions for Section 8 Tenant-Based Assistance	<b>2,200,000</b>	
f) Resident Opportunity and Self-Sufficiency Grants	<b>100,000</b>	
g) Community Development Block Grant		
h) HOME		
Other Federal Grants (list below)		
<b>2. Prior Year Federal Grants (unobligated funds only) (list below)</b>	<b>0</b>	
<b>3. Public Housing Dwelling Rental Income</b>	<b>1,240,000</b>	
<b>4. Other income (list below)</b>		
<b>4. Non-federal sources (list below)</b>		
<b>IMPACT</b>	<b>206,000</b>	

Financial Resources: Planned Sources and Uses		
Sources	Planned \$	Planned Uses
Total resources	5,146,000	

### 3. PHA Policies Governing Eligibility, Selection, and Admissions

[24 CFR Part 903.12 (b), 903.7 (b)]

#### **A. Public Housing**

Exemptions: PHAs that do not administer public housing are not required to complete subcomponent 3A.

##### (1) Eligibility

a. When does the PHA verify eligibility for admission to public housing? (select all that apply)

- When families are within a certain number of being offered a unit: (state number)
- X** **When families are within a certain time of being offered a unit: (state time)**
- Other: (describe)

b. Which non-income (screening) factors does the PHA use to establish eligibility for admission to public housing (select all that apply)?

- X** **Criminal or Drug-related activity**
- X** **Rental history**
- X** **Housekeeping**
- Other (describe)

**c.X Yes**  No: Does the PHA request criminal records from local law enforcement agencies for screening purposes?

**d.X Yes**  No: Does the PHA request criminal records from State law enforcement agencies for screening purposes?

e.  Yes **X No**: Does the PHA access FBI criminal records from the FBI for screening purposes? (either directly or through an NCIC-authorized source)

##### (2)Waiting List Organization

a. Which methods does the PHA plan to use to organize its public housing waiting list (select all that apply)

- Community-wide list**
- Sub-jurisdictional lists
- Site-based waiting lists
- Other (describe)

b. Where may interested persons apply for admission to public housing?

- PHA main administrative office
- PHA development site management office
- Other (list below)

c. Site-Based Waiting Lists-Previous Year

1. Has the PHA operated one or more site-based waiting lists in the previous year? If yes, complete the following table; if not skip to d. **NO**

Site-Based Waiting Lists				
Development Information: (Name, number, location)	Date Initiated	Initial mix of Racial, Ethnic or Disability Demographics	Current mix of Racial, Ethnic or Disability Demographics since Initiation of SBWL	Percent change between initial and current mix of Racial, Ethnic, or Disability demographics

2. What is the number of site based waiting list developments to which families may apply at one time? \_\_\_

3. How many unit offers may an applicant turn down before being removed from the site-based waiting list? \_\_\_

4.  Yes  No: Is the PHA the subject of any pending fair housing complaint by HUD or any court order or settlement agreement? If yes, describe the order, agreement or complaint and describe how use of a site-based waiting list will not violate or be inconsistent with the order, agreement or complaint below:

d. Site-Based Waiting Lists – Coming Year

If the PHA plans to operate one or more site-based waiting lists in the coming year, answer each of the following questions; if not, skip to subsection **(3) Assignment**

1. How many site-based waiting lists will the PHA operate in the coming year?
2.  Yes  No: Are any or all of the PHA's site-based waiting lists new for the upcoming year (that is, they are not part of a previously-HUD-approved site based waiting list plan)?  
If yes, how many lists?
3.  Yes  No: May families be on more than one list simultaneously  
If yes, how many lists?
4. Where can interested persons obtain more information about and sign up to be on the site-based waiting lists (select all that apply)?
  - PHA main administrative office
  - All PHA development management offices
  - Management offices at developments with site-based waiting lists
  - At the development to which they would like to apply
  - Other (list below)

**(3) Assignment**

a. How many vacant unit choices are applicants ordinarily given before they fall to the bottom of or are removed from the waiting list? (select one)

- One**  
 Two  
 Three or More

**b.X Yes**  No: Is this policy consistent across all waiting list types?

c. If answer to b is no, list variations for any other than the primary public housing waiting list/s for the PHA:

**(4) Admissions Preferences**

a. Income targeting:

- Yes  **No:** Does the PHA plan to exceed the federal targeting requirements by targeting more than 40% of all new admissions to public housing to families at or below 30% of

median area income?

b. Transfer policies:

In what circumstances will transfers take precedence over new admissions? (list below)

- Emergencies**
- Over-housed**
- Under-housed**
- Medical justification**
- Administrative reasons determined by the PHA (e.g., to permit modernization work)**
- Resident choice: (state circumstances below)
- Other: (list below)

c. Preferences

1.  **Yes**  No: Has the PHA established preferences for admission to public housing (other than date and time of application)? (If "no" is selected, skip to subsection (5) **Occupancy**)

2. Which of the following admission preferences does the PHA plan to employ in the coming year? (select all that apply from either former Federal preferences or other preferences)

Former Federal preferences:

- Involuntary Displacement (Disaster, Government Action, Action of Housing Owner, Inaccessibility, Property Disposition)**
- Victims of domestic violence**
- Substandard housing
- Homelessness
- High rent burden (rent is > 50 percent of income)

Other preferences: (select below)

- Working families and those unable to work because of age or disability**
- Veterans and veterans' families
- Residents who live and/or work in the jurisdiction
- Those enrolled currently in educational, training, or upward mobility programs
- Households that contribute to meeting income goals (broad range of incomes)
- Households that contribute to meeting income requirements (targeting)
- Those previously enrolled in educational, training, or upward mobility programs
- Victims of reprisals or hate crimes
- Other preference(s) (list below)

3. If the PHA will employ admissions preferences, please prioritize by placing a "1" in the space that represents your first priority, a "2" in the box representing your second priority, and so on. If you give



equal weight to one or more of these choices (either through an absolute hierarchy or through a point system), place the same number next to each. That means you can use "1" more than once, "2" more than once, etc.

## 1 Date and Time

Former Federal preferences:

**2 Involuntary Displacement (Disaster, Government Action, Action of Housing Owner, Inaccessibility, Property Disposition)**

**2 Victims of domestic violence**

- Substandard housing
- Homelessness
- High rent burden

Other preferences (select all that apply)

**3 Working families and those unable to work because of age or disability**

- Veterans and veterans' families
- Residents who live and/or work in the jurisdiction
- Those enrolled currently in educational, training, or upward mobility programs
- Households that contribute to meeting income goals (broad range of incomes)
- Households that contribute to meeting income requirements (targeting)
- Those previously enrolled in educational, training, or upward mobility programs
- Victims of reprisals or hate crimes
- Other preference(s) (list below)

4. Relationship of preferences to income targeting requirements:

- The PHA applies preferences within income tiers
- X Not applicable: the pool of applicant families ensures that the PHA will meet income targeting requirements**

## (5) Occupancy

a. What reference materials can applicants and residents use to obtain information about the rules of occupancy of public housing (select all that apply)

- X The PHA-resident lease**
- X The PHA's Admissions and (Continued) Occupancy policy**
- PHA briefing seminars or written materials
- Other source (list)

b. How often must residents notify the PHA of changes in family composition? (select all that apply)

- At an annual reexamination and lease renewal
- X Any time family composition changes**
- At family request for revision

Other (list)

**(6) Deconcentration and Income Mixing**

a.  Yes **X No:** Does the PHA have any general occupancy (family) public housing developments covered by the deconcentration rule? If no, this section is complete. If yes, continue to the next question.

b.  Yes  No: Do any of these covered developments have average incomes above or below 85% to 115% of the average incomes of all such developments? If no, this section is complete. If yes, list these developments on the following table:

Deconcentration Policy for Covered Developments			
Development Name	Number of Units	Explanation (if any) [see step 4 at §903.2(c)(1)(iv)]	Deconcentration policy (if no explanation) [see step 5 at §903.2(c)(1)(v)]

**B. Section 8**

Exemptions: PHAs that do not administer section 8 are not required to complete sub-component 3B. Unless otherwise specified, all questions in this section apply only to the tenant-based section 8 assistance program (vouchers, and until completely merged into the voucher program, certificates).

**(1) Eligibility**

a. What is the extent of screening conducted by the PHA? (select all that apply)  
**X Criminal or drug-related activity only to the extent required by law or regulation**  
 Criminal and drug-related activity, more extensively than required by law or regulation  
 More general screening than criminal and drug-related activity (list factors):  
 Other (list below)

b. **X Yes**  No: Does the PHA request criminal records from local law enforcement agencies for screening purposes?

c. **X Yes**  No: Does the PHA request criminal records from State law enforcement agencies for screening purposes?

d.  Yes **X No:** Does the PHA access FBI criminal records from the FBI for screening purposes? (either directly or through an NCIC-authorized source)

e. Indicate what kinds of information you share with prospective landlords? (select all that apply)

**Criminal or drug-related activity**

Other (describe below)

**(2) Waiting List Organization**

a. With which of the following program waiting lists is the section 8 tenant-based assistance waiting list merged? (select all that apply)

**None**

Federal public housing

Federal moderate rehabilitation

Federal project-based certificate program

Other federal or local program (list below)

b. Where may interested persons apply for admission to section 8 tenant-based assistance? (select all that apply)

**PHA main administrative office**

Other (list below)

**(3) Search Time**

a.  Yes  **No:** Does the PHA give extensions on standard 60-day period to search for a unit? If yes, state circumstances below:

**(4) Admissions Preferences**

a. Income targeting

Yes  **No:** Does the PHA plan to exceed the federal targeting requirements by targeting more than 75% of all new admissions to the section 8 program to families at or below 30% of median area income?

b. Preferences

1.  **Yes**  **No:** Has the PHA established preferences for admission to section 8 tenant-based assistance? (other than date and time of application) (if no, skip to subcomponent **(5) Special purpose section 8 assistance programs**)

2. Which of the following admission preferences does the PHA plan to employ in the coming year? (select all that apply from either former Federal preferences or other preferences)

Former Federal preferences

**Involuntary Displacement (Disaster, Government Action, Action of Housing Owner, Inaccessibility, Property Disposition)**

**Victims of domestic violence**

- Substandard housing  
 Homelessness  
 High rent burden (rent is > 50 percent of income)

Other preferences (select all that apply)

**Working families and those unable to work because of age or disability**

- Veterans and veterans' families  
 Residents who live and/or work in your jurisdiction  
 Those enrolled currently in educational, training, or upward mobility programs  
 Households that contribute to meeting income goals (broad range of incomes)  
 Households that contribute to meeting income requirements (targeting)  
 Those previously enrolled in educational, training, or upward mobility programs  
 Victims of reprisals or hate crimes  
 Other preference(s) (list below)

3. If the PHA will employ admissions preferences, please prioritize by placing a "1" in the space that represents your first priority, a "2" in the box representing your second priority, and so on. If you give equal weight to one or more of these choices (either through an absolute hierarchy or through a point system), place the same number next to each. That means you can use "1" more than once, "2" more than once, etc.

### **1 Date and Time**

Former Federal preferences:

**2 Involuntary Displacement (Disaster, Government Action, Action of Housing Owner, Inaccessibility, Property Disposition)**

**2 Victims of domestic violence**

- Substandard housing  
 Homelessness  
 High rent burden

Other preferences (select all that apply)

**3 Working families and those unable to work because of age or disability**

- Veterans and veterans' families  
 Residents who live and/or work in your jurisdiction

- Those enrolled currently in educational, training, or upward mobility programs
- Households that contribute to meeting income goals (broad range of incomes)
- Households that contribute to meeting income requirements (targeting)
- Those previously enrolled in educational, training, or upward mobility programs
- Victims of reprisals or hate crimes
- Other preference(s) (list below)

4. Among applicants on the waiting list with equal preference status, how are applicants selected? (select one)

**X** **Date and time of application**

- Drawing (lottery) or other random choice technique

5. If the PHA plans to employ preferences for “residents who live and/or work in the jurisdiction” (select one)

- This preference has previously been reviewed and approved by HUD
- The PHA requests approval for this preference through this PHA Plan

6. Relationship of preferences to income targeting requirements: (select one)

- The PHA applies preferences within income tiers

**X** **Not applicable: the pool of applicant families ensures that the PHA will meet income targeting requirements**

#### **(5) Special Purpose Section 8 Assistance Programs**

a. In which documents or other reference materials are the policies governing eligibility, selection, and admissions to any special-purpose section 8 program administered by the PHA contained? (select all that apply)

**X** **The Section 8 Administrative Plan**

- Briefing sessions and written materials
- Other (list below)

b. How does the PHA announce the availability of any special-purpose section 8 programs to the public?

**X** **Through published notices**

- Other (list below)

#### **4. PHA Rent Determination Policies**

[24 CFR Part 903.12(b), 903.7(d)]

##### **A. Public Housing**

Exemptions: PHAs that do not administer public housing are not required to complete sub-component 4A.

**(1) Income Based Rent Policies**

Describe the PHA's income based rent setting policy/ies for public housing using, including discretionary (that is, not required by statute or regulation) income disregards and exclusions, in the appropriate spaces below.

a. Use of discretionary policies: (select one of the following two)

The PHA employs discretionary policies for determining income-based rent (If selected, continue to question b.)

b. Minimum Rent

1. What amount best reflects the PHA's minimum rent? (select one)

- \$0
- \$1-\$25
- \$26-\$50**

2.  Yes  **No:** Has the PHA adopted any discretionary minimum rent hardship exemption policies?

3. If yes to question 2, list these policies below:

c. Rents set at less than 30% of adjusted income

1.  Yes  **No:** Does the PHA plan to charge rents at a fixed amount or percentage less than 30% of adjusted income?

2. If yes to above, list the amounts or percentages charged and the circumstances under which these will be used below:

d. Which of the discretionary (optional) deductions and/or exclusions policies does the PHA plan to employ (select all that apply)

For the earned income of a previously unemployed household member  
 For increases in earned income  
 Fixed amount (other than general rent-setting policy)  
If yes, state amount/s and circumstances below:

Fixed percentage (other than general rent-setting policy)  
If yes, state percentage/s and circumstances below:

- For household heads
- For other family members
- For transportation expenses
- For the non-reimbursed medical expenses of non-disabled or non-elderly families
- Other (describe below)

e. Ceiling rents

1. Do you have ceiling rents? (rents set at a level lower than 30% of adjusted income) (select one)

- Yes for all developments**  
 Yes but only for some developments  
 No

2. For which kinds of developments are ceiling rents in place? (select all that apply)

- For all developments**  
 For all general occupancy developments (not elderly or disabled or elderly only)  
 For specified general occupancy developments  
 For certain parts of developments; e.g., the high-rise portion  
 For certain size units; e.g., larger bedroom sizes  
 Other (list below)

3. Select the space or spaces that best describe how you arrive at ceiling rents (select all that apply)

- Market comparability study  
 **Fair market rents (FMR)**  
 95<sup>th</sup> percentile rents  
 75 percent of operating costs  
 100 percent of operating costs for general occupancy (family) developments  
 Operating costs plus debt service  
 The "rental value" of the unit  
 Other (list below)

f. Rent re-determinations:

1. Between income reexaminations, how often must tenants report changes in income or family composition to the PHA such that the changes result in an adjustment to rent? (select all that apply)

- Never**  
 At family option  
 Any time the family experiences an income increase  
 Any time a family experiences an income increase above a threshold amount or percentage: (if selected, specify threshold) \_\_\_\_\_  
 Other (list below)

- g.  Yes **X No:** Does the PHA plan to implement individual savings accounts for residents (ISAs) as an alternative to the required 12 month disallowance of earned income and phasing in of rent increases in the next year?

## **(2) Flat Rents**

- a. In setting the market-based flat rents, what sources of information did the PHA use to establish comparability? (select all that apply.)

- The section 8 rent reasonableness study of comparable housing  
 Survey of rents listed in local newspaper  
 Survey of similar unassisted units in the neighborhood

**X Other (list/describe below)**

**There is no situation in Terre Haute where a “flat rent”, as defined by statute, would be beneficial to any recipient of public housing assistance.**

## **B. Section 8 Tenant-Based Assistance**

Exemptions: PHAs that do not administer Section 8 tenant-based assistance are not required to complete sub-component 4B. **Unless otherwise specified, all questions in this section apply only to the tenant-based section 8 assistance program (vouchers, and until completely merged into the voucher program, certificates).**

### **(1) Payment Standards**

Describe the voucher payment standards and policies.

- a. What is the PHA’s payment standard? (select the category that best describes your standard)

- At or above 90% but below 100% of FMR  
 100% of FMR  
**X Above 100% but at or below 110% of FMR**  
 Above 110% of FMR (if HUD approved; describe circumstances below)

- b. If the payment standard is lower than FMR, why has the PHA selected this standard? (select all that apply)

- FMRs are adequate to ensure success among assisted families in the PHA’s segment of the FMR area  
 The PHA has chosen to serve additional families by lowering the payment standard  
 Reflects market or submarket  
 Other (list below)

- c. If the payment standard is higher than FMR, why has the PHA chosen this level? (select all



that apply)

**FMRs are not adequate to ensure success among assisted families in the PHA's segment of the FMR area**

**Reflects market or submarket**

**To increase housing options for families**

Other (list below)

d. How often are payment standards reevaluated for adequacy? (select one)

**Annually**

Other (list below)

e. What factors will the PHA consider in its assessment of the adequacy of its payment standard? (select all that apply)

**Success rates of assisted families**

Rent burdens of assisted families

Other (list below)

## (2) Minimum Rent

a. What amount best reflects the PHA's minimum rent? (select one)

\$0

\$1-\$25

**\$26-\$50**

b.  Yes  **No:** Has the PHA adopted any discretionary minimum rent hardship exemption policies? (if yes, list below)

## 5. Capital Improvement Needs

[24 CFR Part 903.12(b), 903.7 (g)]

Exemptions from Component 5: Section 8 only PHAs are not required to complete this component and may skip to Component 6.

## A. Capital Fund Activities

Exemptions from sub-component 5A: PHAs that will not participate in the Capital Fund Program may skip to component 5B. All other PHAs must complete 5A as instructed.

### (1) Capital Fund Program

a.  **Yes**  **No** Does the PHA plan to participate in the Capital Fund Program in the upcoming year? If yes, complete items 12 and 13 of this template (Capital Fund Program tables). If no, skip to B.

b.  **Yes**  **No:** Does the PHA propose to use any portion of its CFP funds to repay debt incurred to finance capital improvements?  
If so, the PHA must identify in its annual and 5-year capital plans the development(s) where such improvements will be made and show both how the proceeds of the financing will be used and the amount of the annual payments required to service the debt.

(Note that separate HUD approval is required for such financing activities.).

## B. HOPE VI and Public Housing Development and Replacement Activities (Non-Capital Fund)

Applicability of sub-component 5B: All PHAs administering public housing. Identify any approved HOPE VI and/or public housing development or replacement activities not described in the Capital Fund Program Annual Statement.

### (1) Hope VI Revitalization

- a.  Yes **X No:** Has the PHA received a HOPE VI revitalization grant? (if no, skip to next component; if yes, provide responses to questions on chart below for each grant, copying and completing as many times as necessary)
- b. Status of HOPE VI revitalization grant (complete one set of questions for each grant)  
Development name:  
Development (project) number:  
Status of grant: (select the statement that best describes the current status)  
 Revitalization Plan under development  
 Revitalization Plan submitted, pending approval  
 Revitalization Plan approved  
 Activities pursuant to an approved Revitalization Plan underway
- c.  Yes **X No:** Does the PHA plan to apply for a HOPE VI Revitalization grant in the Plan year? If yes, list development name/s below:
- d.  Yes **X No:** Will the PHA be engaging in any mixed-finance development activities for public housing in the Plan year? If yes, list developments or activities below:
- e.  Yes **X No:** Will the PHA be conducting any other public housing development or replacement activities not discussed in the Capital Fund Program Annual Statement? If yes, list developments or activities below:

## 6. Demolition and Disposition

[24 CFR Part 903.12(b), 903.7 (h)]

Applicability of component 6: Section 8 only PHAs are not required to complete this section.

- a.  Yes **X No:** Does the PHA plan to conduct any demolition or disposition activities (pursuant to section 18 or 24 (Hope VI) of the U.S. Housing Act of 1937 (42 U.S.C. 1437p) or Section 202/Section 33 (Mandatory Conversion) in the plan Fiscal Year? (If "No", skip to component 7; if "yes", complete one activity

description for each development on the following chart.)

<b>Demolition/Disposition Activity Description</b>	
1a. Development name:	
1b. Development (project) number:	
2. Activity type: Demolition <input type="checkbox"/>	
Disposition <input type="checkbox"/>	
3. Application status (select one)	
Approved <input type="checkbox"/>	
Submitted, pending approval <input type="checkbox"/>	
Planned application <input type="checkbox"/>	
4. Date application approved, submitted, or planned for submission: <u>(DD/MM/YY)</u>	
5. Number of units affected:	
6. Coverage of action (select one)	
<input type="checkbox"/> Part of the development	
<input type="checkbox"/> Total development	
7. Timeline for activity:	
a. Actual or projected start date of activity:	
b. Projected end date of activity:	

**7. Section 8 Tenant Based Assistance--Section 8(y) Homeownership Program**

[24 CFR Part 903.12(b), 903.7(k)(1)(i)]

**(1) X Yes**  No: Does the PHA plan to administer a Section 8 Homeownership program pursuant to Section 8(y) of the U.S.H.A. of 1937, as implemented by 24 CFR part 982 ? (If “No”, skip to the next component; if “yes”, complete each program description below (copy and complete questions for each program identified.)

**(2) Program Description**

a. Size of Program

Yes **X No:** Will the PHA limit the number of families participating in the Section 8 homeownership option?

If the answer to the question above was yes, what is the maximum number of participants this fiscal year?\_\_\_

b. PHA-established eligibility criteria

**X** Yes  No: Will the PHA's program have eligibility criteria for participation in its Section 8 Homeownership Option program in addition to HUD criteria?  
If yes, list criteria below:

**FAMILY SELF-SUFFICIENCY PROGRAM**

c. What actions will the PHA undertake to implement the program this year (list)?

**(3) Capacity of the PHA to Administer a Section 8 Homeownership Program**

The PHA has demonstrated its capacity to administer the program by (select all that apply):

**a. X Establishing a minimum homeowner downpayment requirement of at least 3 percent of purchase price and requiring that at least 1 percent of the purchase price comes from the family's resources.**

**b. X Requiring that financing for purchase of a home under its Section 8 homeownership will be provided, insured or guaranteed by the state or Federal government; comply with secondary mortgage market underwriting requirements; or comply with generally accepted private sector underwriting standards.**

**c. X Partnering with a qualified agency or agencies to administer the program (list name(s) and years of experience below). FIFTH THIRD BANK**

d.  Demonstrating that it has other relevant experience (list experience below).

**8. Civil Rights Certifications**

[24 CFR Part 903.12 (b), 903.7 (o)]

Civil rights certifications are included in the *PHA Plan Certifications of Compliance with the PHA Plans and Related Regulations: Board Resolution to Accompany the Standard Annual, Standard Five-Year, and Streamlined Five-Year/Annual Plans*, which is submitted to the Field Office in hard copy—see Table of Contents.

**9. Additional Information**

[24 CFR Part 903.12 (b), 903.7 (r)]

**A. PHA Progress in Meeting the Mission and Goals Described in the 5-Year Plan**

*(Provide a statement of the PHA's progress against the goals and objectives established in the previous 5-Year Plan for the period* **FY 2000 THRU 2005.**

**100% COMPLETE**

## **B. Criteria for Substantial Deviations and Significant Amendments**

### **(1) Amendment and Deviation Definitions**

24 CFR Part 903.7(r)

PHAs are required to define and adopt their own standards of substantial deviation from the 5-year Plan and Significant Amendment to the Annual Plan. The definition of significant amendment is important because it defines when the PHA will subject a change to the policies or activities described in the Annual Plan to full public hearing and HUD review before implementation.

a. Substantial Deviation from the 5-Year Plan

**Any dollar deviation of more than \$100,000.00**

b. Significant Amendment or Modification to the Annual Plan

## **C. Other Information**

[24 CFR Part 903.13, 903.15]

### **(1) Resident Advisory Board Recommendations**

a.  Yes **X No:** Did the PHA receive any comments on the PHA Plan from the Resident Advisory Board/s?

If yes, provide the comments below:

b. In what manner did the PHA address those comments? (select all that apply)

Considered comments, but determined that no changes to the PHA Plan were necessary.

The PHA changed portions of the PHA Plan in response to comments  
List changes below:

Other: (list below)

### **(2) Resident Membership on PHA Governing Board**

The governing board of each PHA is required to have at least one member who is directly assisted by the PHA, unless the PHA meets certain exemption criteria. Regulations governing the resident board member are found at 24 CFR Part 964, Subpart E.

a. Does the PHA governing board include at least one member who is directly assisted by the PHA this year?

**X Yes**  No:

If yes, complete the following:

**CAROL SMITH**

Name of Resident Member of the PHA Governing Board:

Method of Selection:

**Appointment by the Mayor pursuant to Indiana Statute**  
**The term of appointment is (include the date term expires): 4/20/2008**

Election by Residents (if checked, complete next section--Description of Resident Election Process)

**Description of Resident Election Process**

Nomination of candidates for place on the ballot: (select all that apply)

- Candidates were nominated by resident and assisted family organizations
- Candidates could be nominated by any adult recipient of PHA assistance
- Self-nomination: Candidates registered with the PHA and requested a place on ballot
- Other: (describe)

Eligible candidates: (select one)

- Any recipient of PHA assistance
- Any head of household receiving PHA assistance
- Any adult recipient of PHA assistance
- Any adult member of a resident or assisted family organization
- Other (list)

Eligible voters: (select all that apply)

- All adult recipients of PHA assistance (public housing and section 8 tenant-based assistance)
- Representatives of all PHA resident and assisted family organizations
- Other (list)

b. If the PHA governing board does not have at least one member who is directly assisted by the PHA, why not?

- The PHA is located in a State that requires the members of a governing board to be salaried and serve on a full time basis
- The PHA has less than 300 public housing units, has provided reasonable notice to the resident advisory board of the opportunity to serve on the governing board, and has not been notified by any resident of their interest to participate in the Board.
- Other (explain):

Date of next term expiration of a governing board member:

Name and title of appointing official(s) for governing board (indicate appointing official for the

next available position):

**(3) PHA Statement of Consistency with the Consolidated Plan**

[24 CFR Part 903.15]

For each applicable Consolidated Plan, make the following statement (copy questions as many times as necessary).

**Consolidated Plan jurisdiction: TERRE HAUTE CITY**

a. The PHA has taken the following steps to ensure consistency of this PHA Plan with the Consolidated Plan for the jurisdiction: (select all that apply):

- The PHA has based its statement of needs of families on its waiting list on the needs expressed in the Consolidated Plan/s.
- The PHA has participated in any consultation process organized and offered by the Consolidated Plan agency in the development of the Consolidated Plan.**
- The PHA has consulted with the Consolidated Plan agency during the development of this PHA Plan.**
- Activities to be undertaken by the PHA in the coming year are consistent with the initiatives contained in the Consolidated Plan. (list below)**
- Other: (list below)

b. The Consolidated Plan of the jurisdiction supports the PHA Plan with the following actions and commitments: (describe below)

**(4) (Reserved)**

Use this section to provide any additional information requested by HUD.

**10. Project-Based Voucher Program**

- a.  **Yes** : Does the PHA plan to “project-base” any tenant-based Section 8 vouchers in the coming year? If yes, answer the following questions.
- b.  **Yes**  No: Are there circumstances indicating that the project basing of the units, rather than tenant-basing of the same amount of assistance is an appropriate option?

If yes, check which circumstances apply:

- Low utilization rate for vouchers due to lack of suitable rental units
- Access to neighborhoods outside of high poverty areas
- Other (describe below):**

- c. Indicate the number of units and general location of units (e.g. eligible census tracts or smaller areas within eligible census tracts):

**HOMEOWNERSHIP IN DECLINING NEIGHBORHOODS**

**11. List of Supporting Documents Available for Review for Streamlined Five-Year/ Annual PHA Plans**

PHAs are to indicate which documents are available for public review by placing a mark in the “Applicable & On Display” column in the appropriate rows. All listed documents must be on display if applicable to the program activities conducted by the PHA.

<b>List of Supporting Documents Available for Review</b>		
<b>Applicable &amp; On Display</b>	<b>Supporting Document</b>	<b>Related Plan Component</b>
<b>X</b>	<i>PHA Certifications of Compliance with the PHA Plans and Related Regulations and Board Resolution to Accompany the Standard Annual, Standard Five-Year, and Streamlined Five-Year/Annual Plans.</i>	Standard 5 Year and Annual Plans; streamlined 5 Year Plans
<b>X</b>	State/Local Government Certification of Consistency with the Consolidated Plan.	5 Year Plans



List of Supporting Documents Available for Review		
Applicable & On Display	Supporting Document	Related Plan Component
X	Fair Housing Documentation Supporting Fair Housing Certifications: Records reflecting that the PHA has examined its programs or proposed programs, identified any impediments to fair housing choice in those programs, addressed or is addressing those impediments in a reasonable fashion in view of the resources available, and worked or is working with local jurisdictions to implement any of the jurisdictions' initiatives to affirmatively further fair housing that require the PHA's involvement.	5 Year and Annual Plans
	Housing Needs Statement of the Consolidated Plan for the jurisdiction(s) in which the PHA is located and any additional backup data to support statement of housing needs for families on the PHA's public housing and Section 8 tenant-based waiting lists.	Annual Plan: Housing Needs
X	Most recent board-approved operating budget for the public housing program	Annual Plan: Financial Resources
X	Public Housing Admissions and (Continued) Occupancy Policy (A&O/ACOP), which includes the Tenant Selection and Assignment Plan [TSAP] and the Site-Based Waiting List Procedure.	Annual Plan: Eligibility, Selection, and Admissions Policies
	Any policy governing occupancy of Police Officers and Over-Income Tenants in Public Housing. <u>X</u> Check here if included in the public housing A&O Policy.	Annual Plan: Eligibility, Selection, and Admissions Policies
X	Section 8 Administrative Plan	Annual Plan: Eligibility, Selection, and Admissions Policies
	Public housing rent determination policies, including the method for setting public housing flat rents. <u>X</u> Check here if included in the public housing A & O Policy.	Annual Plan: Rent Determination
	Schedule of flat rents offered at each public housing development. <u>X</u> Check here if included in the public housing A & O Policy.	Annual Plan: Rent Determination
	Section 8 rent determination (payment standard) policies (if included in plan, not necessary as a supporting document) and written analysis of Section 8 payment standard policies. <u>X</u> Check here if included in Section 8 Administrative Plan.	Annual Plan: Rent Determination
X	Public housing management and maintenance policy documents, including policies for the prevention or eradication of pest infestation (including cockroach infestation).	Annual Plan: Operations and Maintenance
X	Results of latest Public Housing Assessment System (PHAS) Assessment (or other applicable assessment).	Annual Plan: Management and Operations
	Follow-up Plan to Results of the PHAS Resident Satisfaction Survey (if necessary)	Annual Plan: Operations and Maintenance and Community Service & Self-Sufficiency
X	Results of latest Section 8 Management Assessment System (SEM AP)	Annual Plan: Management and Operations
	Any policies governing any Section 8 special housing types <u>X</u> check here if included in Section 8 Administrative Plan	Annual Plan: Operations and Maintenance

List of Supporting Documents Available for Review		
Applicable & On Display	Supporting Document	Related Plan Component
	Consortium agreement(s).	Annual Plan: Agency Identification and Operations/ Management
	Public housing grievance procedures <input checked="" type="checkbox"/> Check here if included in the public housing A & O Policy.	Annual Plan: Grievance Procedures
	Section 8 informal review and hearing procedures. <input checked="" type="checkbox"/> Check here if included in Section 8 Administrative Plan.	Annual Plan: Grievance Procedures
<input checked="" type="checkbox"/>	The Capital Fund/Comprehensive Grant Program Annual Statement /Performance and Evaluation Report for any active grant year.	Annual Plan: Capital Needs
	Most recent CIAP Budget/Progress Report (HUD 52825) for any active CIAP grants.	Annual Plan: Capital Needs
	Approved HOPE VI applications or, if more recent, approved or submitted HOPE VI Revitalization Plans, or any other approved proposal for development of public housing.	Annual Plan: Capital Needs
	Self-evaluation, Needs Assessment and Transition Plan required by regulations implementing Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. See PIH Notice 99-52 (HA).	Annual Plan: Capital Needs
	Approved or submitted applications for demolition and/or disposition of public housing.	Annual Plan: Demolition and Disposition
	Approved or submitted applications for designation of public housing (Designated Housing Plans).	Annual Plan: Designation of Public Housing
	Approved or submitted assessments of reasonable revitalization of public housing and approved or submitted conversion plans prepared pursuant to section 202 of the 1996 HUD Appropriations Act, Section 22 of the US Housing Act of 1937, or Section 33 of the US Housing Act of 1937.	Annual Plan: Conversion of Public Housing
	Documentation for required Initial Assessment and any additional information required by HUD for Voluntary Conversion.	Annual Plan: Voluntary Conversion of Public Housing
<input checked="" type="checkbox"/>	Approved or submitted public housing homeownership programs/plans.	Annual Plan: Homeownership
<input checked="" type="checkbox"/>	Policies governing any Section 8 Homeownership program (Section __XX__ of the Section 8 Administrative Plan)	Annual Plan: Homeownership
	Public Housing Community Service Policy/Programs <input checked="" type="checkbox"/> Check here if included in Public Housing A & O Policy	Annual Plan: Community Service & Self-Sufficiency
	Cooperative agreement between the PHA and the TANF agency and between the PHA and local employment and training service agencies.	Annual Plan: Community Service & Self-Sufficiency
<input checked="" type="checkbox"/>	FSS Action Plan(s) for public housing and/or Section 8.	Annual Plan: Community Service & Self-Sufficiency
	Section 3 documentation required by 24 CFR Part 135, Subpart E for public housing.	Annual Plan: Community Service & Self-Sufficiency
<input checked="" type="checkbox"/>	Most recent self-sufficiency (ED/SS, TOP or ROSS or other resident services grant) grant program reports for public housing.	Annual Plan: Community Service & Self-Sufficiency
	Policy on Ownership of Pets in Public Housing Family Developments (as required by regulation at 24 CFR Part 960, Subpart G). <input checked="" type="checkbox"/> Check here if included in the public housing A & O Policy.	Pet Policy

<b>List of Supporting Documents Available for Review</b>		
<b>Applicable &amp; On Display</b>	<b>Supporting Document</b>	<b>Related Plan Component</b>
<b>X</b>	The results of the most recent fiscal year audit of the PHA conducted under the Single Audit Act as implemented by OMB Circular A-133, the results of that audit and the PHA's response to any findings.	Annual Plan: Annual Audit
	Consortium agreement(s), if a consortium administers PHA programs.	Joint PHA Plan for Consortia
	Consortia Joint PHA Plans ONLY: Certification that consortium agreement is in compliance with 24 CFR Part 943 pursuant to an opinion of counsel on file and available for inspection	Joint PHA Plan for Consortia
	Other supporting documents (optional). List individually.	(Specify as needed)

## 12. Capital Fund Program and Capital Fund Program Replacement Housing Factor Annual Statement/Performance and Evaluation Report

<b>Annual Statement/Performance and Evaluation Report</b>					
<b>Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF) Part I: Summary</b>					
PHA Name: <b>TERRE HAUTE</b>		Grant Type and Number Capital Fund Program Grant No: <b>IN36-P021-50105</b> Replacement Housing Factor Grant No: <b>N/A</b>			Federal FY of Grant: <b>2005</b>
<input checked="" type="checkbox"/> <b>Original Annual Statement</b> <input type="checkbox"/> Reserve for Disasters/ Emergencies <input type="checkbox"/> Revised Annual Statement (revision no: ) <input checked="" type="checkbox"/> <b>Performance and Evaluation Report for Period Ending: 09/30/2005</b> <input checked="" type="checkbox"/> <b>Final Performance and Evaluation Report</b>					
Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost	
		Original	Revised	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations				
3	1408 Management Improvements				
4	<b>1410 Administration</b>	<b>400,000</b>		<b>400,000</b>	<b>400,000</b>
5	1411 Audit				
6	1415 Liquidated Damages				
7	<b>1430 Fees and Costs</b>	<b>16,000</b>		<b>16,000</b>	<b>16,000</b>
8	1440 Site Acquisition				
9	<b>1450 Site Improvement</b>	<b>322,000</b>		<b>322,000</b>	<b>322,000</b>
10	<b>1460 Dwelling Structures</b>	<b>350,553,</b>		<b>350,553</b>	<b>350,553</b>
11	1465.1 Dwelling Equipment—Nonexpendable				
12	<b>1470 Nondwelling Structures</b>	<b>265,000</b>		<b>265,000</b>	<b>265,000</b>
13	<b>1475 Nondwelling Equipment</b>	<b>34,000</b>		<b>34,000</b>	<b>34,000</b>
14	1485 Demolition				
15	1490 Replacement Reserve				
16	1492 Moving to Work Demonstration				
17	1495.1 Relocation Costs				
18	1499 Development Activities				
19	1501 Collateralization or Debt Service				
20	1502 Contingency				
21	<b>Amount of Annual Grant: (sum of lines 2 – 20)</b>	<b>1,387,553</b>		<b>1,387,553</b>	<b>1,387,553</b>
22	Amount of line 21 Related to LBP Activities				
23	Amount of line 21 Related to Section 504 compliance				
24	Amount of line 21 Related to Security – Soft Costs				
25	Amount of Line 21 Related to Security – Hard Costs				

**12. Capital Fund Program and Capital Fund Program Replacement Housing Factor Annual Statement/Performance and Evaluation Report**

<b>Annual Statement/Performance and Evaluation Report</b>					
<b>Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF) Part I: Summary</b>					
PHA Name: <b>TERRE HAUTE</b>		Grant Type and Number Capital Fund Program Grant No: <b>IN36-P021-50105</b> Replacement Housing Factor Grant No: <b>N/A</b>		Federal FY of Grant: <b>2005</b>	
<input checked="" type="checkbox"/> <b>Original Annual Statement</b> <input type="checkbox"/> Reserve for Disasters/ Emergencies <input type="checkbox"/> Revised Annual Statement (revision no: )					
<input checked="" type="checkbox"/> <b>Performance and Evaluation Report for Period Ending: 09/30/2005</b> <input checked="" type="checkbox"/> <b>Final Performance and Evaluation Report</b>					
Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost	
		Original	Revised	Obligated	Expended
26	Amount of line 21 Related to Energy Conservation Measures				

<b>Annual Statement/Performance and Evaluation Report</b>								
<b>Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF)</b>								
<b>Part II: Supporting Pages</b>								
PHA Name: <b>TERRE HAUTE</b>			Grant Type and Number Capital Fund Program Grant No: <b>IN36P02150105</b> Replacement Housing Factor Grant No:			Federal FY of Grant: <b>2005</b>		
Development Number Name/HA-Wide Activities	General Description of Major Work Categories	Dev. Acct No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
			<b>1</b>	Original	Revised	Funds Obligated	Funds Expended	
<b>ALL</b>	<b>OPERATIONS</b>	<b>14 10</b>	<b>1</b>	<b>170,000</b>		<b>230,000</b>	<b>230,000</b>	<b>100%</b>
<b>ALL</b>	<b>PRIOR YRS SUBSIDY SHORTFALL</b>	<b>14 10</b>	<b>1</b>	<b>230,000</b>		<b>230,000</b>	<b>230,000</b>	<b>100%</b>
<b>21-3 &amp; 4A</b>	<b>ELECTRICAL UPGRADE</b>	<b>14 50</b>	<b>1</b>	<b>322,000</b>		<b>322,000</b>	<b>322,000</b>	<b>100%</b>
<b>21-1</b>	<b>BUILDING/UNIT UPGRADE</b>	<b>14 60</b>	<b>8</b>	<b>350,000</b>		<b>350,000</b>	<b>350,000</b>	<b>50%</b>
<b>ALL</b>	<b>CENTRAL OFFICE UPGRADE</b>	<b>14 70</b>	<b>1</b>	<b>265,000</b>		<b>265,000</b>	<b>265,000</b>	<b>100%</b>
<b>ALL</b>	<b>NON-DWELLING EQUIPMENT</b>	<b>14 75</b>	<b>2</b>	<b>34,000</b>		<b>34,000</b>	<b>34,000</b>	<b>100%</b>

**12. Capital Fund Program and Capital Fund Program Replacement Housing Factor Annual Statement/Performance and Evaluation Report**

<b>Annual Statement/Performance and Evaluation Report</b>							
<b>Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF) Part I: Summary</b>							
PHA Name: <b>TERRE HAUTE</b>				Grant Type and Number			Federal
				Capital Fund Program Grant No: <b>IN36-P021-50105</b>			FY of
				Replacement Housing Factor Grant No: <b>N/A</b>			Grant:
							<b>2005</b>
<input checked="" type="checkbox"/> <b>Original Annual Statement</b> <input type="checkbox"/> Reserve for Disasters/ Emergencies <input type="checkbox"/> Revised Annual Statement (revision no: )							
<input checked="" type="checkbox"/> <b>Performance and Evaluation Report for Period Ending: 09/30/2005</b> <input checked="" type="checkbox"/> <b>Final Performance and Evaluation Report</b>							
Line	Summary by Development Account	Total Estimated Cost				Total Actual Cost	
		Original		Revised		Obligated	Expended

### 13. Capital Fund Program Five-Year Action Plan

Annual Statement/Performance and Evaluation Report Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF) Part III: Implementation Schedule							
PHA Name: <b>Terre Haute</b>		Grant Type and Number Capital Fund Program No: <b>IN36-P021-50105</b> Replacement Housing Factor No:				Federal FY of Grant: <b>2005</b>	
Development Number Name/HA-Wide Activities	All Fund Obligated (Quarter Ending Date)			All Funds Expended (Quarter Ending Date)			Reasons for Revised Target Dates
	Original	Revised	Actual	Original	Revised	Actual	
<b>ALL</b>	<b>9/30/2005</b>		<b>9/30/2005</b>	<b>9/30/2005</b>		<b>9/30/2005</b>	
<b>21-3 &amp;4A</b>	<b>9/30/2005</b>		<b>9/30/2005</b>	<b>9/30/2005</b>		<b>9/30/2005</b>	
<b>21-1</b>	<b>9/30/2005</b>		<b>9/30/2005</b>	<b>9/30/2005</b>		<b>9/30/2005</b>	

### 13. Capital Fund Program Five-Year Action Plan

Capital Fund Program Five-Year Action Plan					
Part I: Summary					
PHA Name <b>TERRE HAUTE</b>				<input checked="" type="checkbox"/> <b>Original 5-Year Plan</b> <input type="checkbox"/> Revision No:	
Development Number/Name/HA-Wide	Year 1	Work Statement for Year 2 FFY Grant: 2006 PHA FY: 9/30/2006	Work Statement for Year 3 FFY Grant:2007 PHA FY: 9/30/2007	Work Statement for Year 4 FFY Grant: 2008 PHA FY: 9/30/2008	Work Statement for Year 5 FFY Grant: 2009 PHA FY: 9/30/2009
	<b>Annual Statement</b>				
<b>OPERATIONS</b>		<b>150,000</b>	<b>150,000</b>	<b>150,000</b>	<b>150,000</b>
<b>SALARIES &amp; BENEFITS</b>					
<b>OP SUBSIDY SHORTFALL</b>					
<b>BUILDING UNIT UPGRADES</b>					
<b>21-1</b>		<b>665,553</b>	<b>915,553</b>	<b>915,553</b>	<b>915,553</b>
<b>21-3 &amp;4A</b>		<b>322,000</b>	<b>322,000</b>	<b>322,000</b>	<b>322,000</b>
<b>CENTRAL OFFICE</b>		<b>250,000</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CFP Funds Listed for 5-year planning</b>	<b>1,387,553</b>	<b>1,387,553</b>	<b>1,387,553</b>	<b>1,387,553</b>	<b>1,387,553</b>
<b>Replacement Housing Factor Funds</b>					



### **13. Capital Fund Program Five-Year Action Plan**

<b>Capital Fund Program Five-Year Action Plan</b>						
<b>Part II: Supporting Pages—Work Activities</b>						
Activities for Year 1	Activities for Year : <u>2</u> FFY Grant 2006 PHA FY:9/30/2006			Activities for Year: <u>3</u> FFY Grant: 2007 PHA FY: 9/30/2007		
	Development Name/Number	Major Work Categories	Estimated Cost	Development Name/Number	Major Work Categories	Estimated Cost
<b>See</b>	<b>21-1.</b>	<b>1460</b>	<b>665553</b>	<b>21-1 ET AL</b>	<b>1460</b>	<b>915,553</b>
<b>Annual</b>	<b>21-3</b>	<b>1450</b>	<b>322,000</b>	<b>21-3</b>	<b>1450</b>	<b>322,000</b>
<b>Statement</b>	<b>CENTRAL OFFICE</b>	<b>1470</b>	<b>250,000</b>			
	<b>OPERATIONS</b>	<b>1410</b>	<b>150,000</b>	<b>OPERATIONS</b>	<b>1410</b>	<b>150,00</b>
<b>Total CFP Estimated Cost</b>			<b>\$1,387,553</b>			<b>\$1,387,553</b>

**13. Capital Fund Program Five-Year Action Plan**

Capital Fund Program Five-Year Action Plan Part II: Supporting Pages—Work Activities					
Activities for Year : <u> 4 </u> FFY Grant: 2008 PHA FY: 9/30/2008			Activities for Year: <u> 5 </u> FFY Grant: 2009 PHA FY: 9/30/2009		
Development Name/Number	Major Work Categories	Estimated Cost	Development Name/Number	Major Work Categories	Estimated Cost
<b>21-1 ET AL</b>	<b>1460</b>	<b>915,553</b>	<b>21-1 ET AL</b>	<b>1460</b>	<b>915,553</b>
<b>21-3</b>	<b>1450</b>	<b>322,000</b>	<b>21-3</b>	<b>1450</b>	<b>322,000</b>
<b>OPERATIONS</b>	<b>1410</b>	<b>150,000</b>	<b>OPERATIONS</b>	<b>1410</b>	<b>150,000</b>
<b>Total CFP Estimated Cost</b>		<b>\$1,387,553</b>			<b>1,387,553\$</b>

**ADMINISTRATIVE POLICIES AND PROCEDURES FOR**  
**PUBLIC HOUSING PROPERTY MANAGEMENT**  
**SECTION 8 ADMINISTRATION OF PROGRAM**  
**AFFIRMATIVE MARKETING**

**HOUSING AUTHORITY OF THE CITY OF TERRE**  
**P.O. BOX 3086, ONE DREISER SQUARE**  
**TERRE HAUTE, VIGO COUNTY, INDIANA 47803**

**THIS DOCUMENT COVERS ALL UNITS - ALL PROGRAMS - OWNED OR MANAGED**

**THIS DOCUMENT IS SUBJECT TO STATUTORY OR REGULATORY MODIFICATION**

**THIS DOCUMENT IS SUBJECT TO MODIFICATION BY THHA BOARD RESOLUTION**

**THIS DOCUMENT IS SUBJECT TO MODIFICATION OF THHA'S ANNUAL PLAN**

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Patrick J. Barder

Executive Director

**APPROVED BY THE BOARD OF COMMISSIONERS**

**RESOLUTION      2005-16**

# THHA

## ADMISSION TO, AND OCCUPANCY OF PUBLIC HOUSING

### Subpart A—Applicability, Definitions, Equal Opportunity Requirements

[§ 960.101 Applicability.](#)

[§ 960.102 Definitions.](#)

[§ 960.103 Equal opportunity requirements.](#)

### Subpart B—Admission

[§ 960.200 Purpose.](#)

[§ 960.201 Eligibility.](#)

[§ 960.202 Tenant selection policies.](#)

[§ 960.203 Standards for THHA tenant selection criteria.](#)

[§ 960.204 Denial of admission for criminal activity or drug abuse by household members.](#)

[§ 960.205 Drug use by applicants: Obtaining information from drug treatment facility.](#)

[§ 960.206 Waiting list: Local preferences in admission to public housing program.](#)

[§ 960.208 Notification to applicants.](#)

### Subpart C—Rent and Reexamination

[§ 960.253 Choice of rent.](#)

[§ 960.255 Self-sufficiency incentives—Disallowance of increase in annual income.](#)

[§ 960.257 Family income and composition: Regular and interim reexaminations.](#)

[§ 960.259 Family information and verification.](#)

[§ 960.261 Restriction on eviction of families based on income.](#)

### Subpart D—Preference for Elderly Families and Disabled Families in Mixed Population Projects

[§ 960.401 Purpose.](#)

[§ 960.403 Applicability.](#)

[§ 960.407 Selection preference for mixed population developments.](#)

### Subpart E—Occupancy by Over-Income Families or Police Officers

[§ 960.503 Occupancy by over-income families.](#)

[§ 960.505 Occupancy by police officers to provide security for public housing residents.](#)

### Subpart F—When Resident Will Perform Community Service Activities or Self-Sufficiency Work Activities

[§ 960.600 Implementation.](#)

[§ 960.601 Definitions.](#)

[§ 960.603 General requirements.](#)

[§ 960.605 How THHA administers service requirements.](#)

[§ 960.607 Assuring resident compliance.](#)

[§ 960.609 Prohibition against replacement of THHA employees.](#)

### Subpart G—Pet Ownership in Public Housing

[§ 960.701 Purpose.](#)

[§ 960.703 Applicability.](#)

[§ 960.705 Animals that assist, support, or provide service to persons with disabilities.](#)

[§ 960.707 Pet ownership.](#)

## Subpart A Applicability, Definitions, Equal Opportunity Requirements

### § 960.101 Applicability.

This part is applicable to public housing.

### § 960.102 Definitions.

(a) *Definitions found elsewhere:*

(1) *General definitions.*

The following terms are defined in part 5, subpart A of this title: *1937 Act, drug, drug-related criminal activity, federally assisted housing, guest, household, HUD, MSA, premises, public housing, public housing agency (THHA), Section 8, violent criminal activity.*

(2) *Definitions under the 1937 Act.*

The following terms are defined in part 5, subpart D of this title: *annual contributions contract (ACC), applicant, elderly family, elderly person, extremely low income family, family, low income family, person with disabilities.*

(3) *Definitions and explanations concerning income and rent.*

The following terms are defined or explained in part 5, subpart F of this title: *Annual income (see §5.609); economic self-sufficiency program, tenant rent, total tenant payment (see §5.628), utility allowance.*

(b) *Additional definitions.*

In addition to the definitions in paragraph (a), the following definitions and cross-references apply:

*Ceiling rent.* See §960.253(d).

*Designated housing.* See part 945 of this chapter.

*Disabled families.* See §5.403 of this title.

*Eligible families* . Low income families who are eligible for admission to the public housing program.

*Flat rent.* See §960.253(b).

*Income-based rent.* See §960.253(c).

*Mixed population development.*

A public housing development, or portion of a development, that was reserved for elderly and disabled families at its inception (and has retained that character).

If the development was not so reserved at its inception, THHA has obtained HUD approval to give preference in tenant selection for all units in the development (or portion of development) to elderly families and disabled families.

These developments were formerly known as elderly projects.

*Over-income family.* A family that is not a low income family. See subpart E of this part.

*THHA plan.* See part 903 of this chapter.

*Residency preference.* A preference for admission of persons who reside in a specified geographic area.

*Tenant-based.* See §982.1(b) of this chapter.

### **§ 960.103 Equal opportunity requirements.**

(a) *Applicable requirements.*

THHA will administer its public housing program in accordance with all applicable equal opportunity requirements imposed by contract or federal law, including the authorities cited in §5.105(a) of this title.

(b) *THHA duty to affirmatively further fair housing.*

THHA will affirmatively further fair housing in the administration of its public housing program.

(c) *Equal opportunity certification.*

THHA will submit signed equal opportunity certifications to HUD in accordance with §903.7(o) of this title, including certification that THHA will affirmatively further fair housing.

## **Subpart B—Admission**

### **§ 960.200 Purpose.**

- (a) This subpart states HUD eligibility and selection requirements for admission to public housing.
- (b) See also related HUD regulations in this title concerning these subjects:
  - (1) 1937 Act definitions: part 5, subpart D;
  - (2) Restrictions on assistance to non-citizens: part 5, subpart E;
  - (3) Family income and family payment: part 5, subpart F;
  - (4) Public housing agency plans: part 903;
  - (5) Rent and reexamination: part 960, subpart C;
  - (6) Mixed population developments: part 960, subpart D;
  - (7) Occupancy by over-income families or police officers: part 960, subpart E.

### **§ 960.201 Eligibility.**

#### *(a) Who is eligible?*

##### *(1) Basic eligibility.*

An applicant will meet all eligibility requirements in order to receive housing assistance.

At a minimum, the applicant will be a family, as defined in §5.403 of this title, and will be income-eligible, as described in this section.

Such eligible applicants include single persons.

##### *(2) Low income limit.*

No family other than a low income family is eligible for admission to a THHA public housing program.

#### *(b) Income used for eligibility and targeting.*

Family annual income (see §5.609) is used both for determination of income eligibility under paragraph (a) and for THHA income targeting under §960.202

#### *(c) Reporting.*

THHA will comply with HUD-prescribed reporting requirements that will permit HUD to maintain the data, as determined by HUD, necessary to monitor compliance with income eligibility and targeting requirement.

### **§ 960.202 Tenant selection policies.**

#### *(a) Selection policies, generally.*

- (1) THHA adopts the following policies for admission of tenants.

(2) These policies provide for and include the following:

(i) Targeting admissions to extremely low income families as provided in paragraph (b) of this section.

(ii) De-concentration of poverty and income-mixing. (see 24 CFR part 903).

(iii) Precluding admission of applicants whose habits and practices reasonably will be expected to have a detrimental effect on the residents or the project environment;

(iv) Objective and reasonable policies

for selection by THHA among otherwise eligible applicants, including requirements for applications and waiting lists (see 24 CFR 1.4), and

for verification and documentation of information relevant to acceptance or rejection of an applicant,

including documentation and verification of citizenship and eligible immigration status under 24 CFR part 5; and

(v) Policies of participant transfer between units, developments, and programs.

(b) *Targeting admissions to extremely low income families.*

(1) *Targeting requirement.*

(i) Not less than 40 percent of the families admitted to a THHA public housing program during THHA fiscal year from THHA waiting list shall be extremely low income families.

(ii) To the extent provided in paragraph (b)(2) of this section, admission of extremely low income families to THHA Section 8 voucher program during the same THHA fiscal year is credited against the basic targeting requirement.

(iii) THHA will comply with both the targeting requirement found in this part and the de-concentration requirements found in part 903 of this chapter.

(2) *Credit for admissions to THHA voucher program.*

(i) If admissions of extremely low income families to THHA voucher program during a THHA fiscal year exceeds the 75 percent minimum targeting requirement for THHA voucher program (see 24 CFR 982.201(b)(2)), such excess shall be credited (subject to the limitations in paragraph (b)(2)(ii) of this section) against THHA basic targeting requirement for the same fiscal year.

(ii) The fiscal year credit for voucher program admissions that exceed the minimum voucher program targeting requirement shall not exceed the lower of:

(A) Ten percent of public housing waiting list admissions during THHA fiscal year;

(B) Ten percent of waiting list admission to THHA Section 8 tenant-based assistance program during THHA fiscal year; or



(C) The number of qualifying low income families who commence occupancy during the fiscal year of THHA public housing units located in census tracts with a poverty rate of 30 percent or more.

For this purpose, qualifying low income family means a low income family other than an extremely low income family.

(c) *Adoption and availability of tenant selection policies.*

These selection policies are:

(1) duly adopted and implemented;

(2) publicized by posting copies thereof in each office where applications are received and by furnishing copies to applicants or tenants upon request, free or at their expense, at the discretion of THHA; and

(3) consistent with the fair housing and equal opportunity provisions of §5.105 of this title; and

(4) submitted to the HUD field office upon request from that office.

**§ 960.203 Standards for THHA tenant selection criteria.**

(a) The tenant selection criteria to be established and information to be considered are reasonably related to individual attributes and behavior of an applicant and are not related to those which will be imputed to a particular group or category of persons of which an applicant will be a member.

THHA uses local preferences, as provided in §960.206.

(b) Under the Public Housing Assessment System, THHA adopts policies and implements procedures and can document that THHA successfully screens out and denies admission to certain applicants with unfavorable criminal histories receive points. (See 24 CFR 902.43(a)(5).)

This policy takes into account the importance of screening to public housing communities and program integrity, and the demand for assisted housing by families who will adhere to lease responsibilities.

(c) In selection of families for admission to its public housing program, or to occupy a public housing development or unit, THHA is responsible for screening family behavior and suitability for tenancy.

THHA considers all relevant information, which will include, but is not limited to:

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

(2) A record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences which will adversely affect the health, safety or welfare of other tenants; and

(3) A history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety or welfare of other tenants. (See §960.204.)

With respect to criminal activity described in §960.204:

(i) THHA will require an applicant to exclude a household member in order to be admitted to the housing program where that household member has participated in or been culpable for actions described in §960.204 that warrants denial.

(ii) THHA will, where a statute requires that THHA prohibit admission for a prescribed period of time after some disqualifying behavior or event, choose to continue that prohibition for a longer period of time.

(d) In the event of the receipt of unfavorable information with respect to an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense).

(1) In a manner consistent with THHA policies, procedures and practices referenced in paragraph (b) of this section, consideration will be given to factors which might indicate a reasonable probability of favorable future conduct.

For example:

(i) Evidence of rehabilitation; and

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

(2) *Consideration of rehabilitation.*

(i) In determining whether to deny admission for illegal drug use or a pattern of illegal drug use by a household member who is no longer engaging in such use, or for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, THHA will 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, THHA will require the applicant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

(ii) If rehabilitation is not an element of the eligibility determination (see §960.204(a)(1)), THHA will choose not to consider whether the person has been rehabilitated.

### **§ 960.204 Denial of admission for criminal activity or drug abuse by household members.**

(a) *Required denial of admission.*

(1) *Persons evicted for drug-related criminal activity*

THHA standards will prohibit admission of an applicant to THHA public housing program **for three years** from the date of the eviction if any household member has been evicted from federally assisted housing for drug-related criminal activity.

However, THHA may admit the household if THHA determines:

(i) The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by THHA; or

(ii) The circumstances leading to the eviction no longer exist (for example, the criminal household member has died or is imprisoned).

*(2) Persons engaging in illegal use of a drug.*

THHA will prohibit admission of a household to THHA public housing program if:

(i) THHA determines that any household member is currently engaging in illegal use of a drug

(For purposes of this section, a household member is “currently engaged in” the criminal activity if the person has engaged in the behavior recently enough to justify a **reasonable** belief that the behavior is current); or

(ii) THHA determines that it has reasonable cause to believe that a household member's illegal use or pattern of illegal use of a drug will threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

*(3) Persons convicted of methamphetamine production.*

THHA will permanently prohibit admission to THHA public housing program 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.

*(4) Persons subject to sex offender registration requirement.*

THHA will prohibit admission to THHA public housing program 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, THHA will perform necessary criminal history background checks in the State where the housing is located and in other States where household members are known to have resided.

(See part 5, subpart J of this title for provisions concerning access to sex offender registration records.)

*(b) Persons that abuse or show a pattern of abuse of alcohol.*

THHA will prohibit admission to THHA public housing program if THHA determines that it has reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol will threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

(c) *Use of criminal records.*

Before a THHA denies admission to THHA public housing program on the basis of a criminal record, THHA will notify the household of the proposed action to be based on the information and will provide the subject of the record and the applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record.

(d) *Cost of obtaining criminal record.*

THHA will not pass along to the applicant the costs of a criminal records check.

**§ 960.205 Drug use by applicants: Obtaining information from drug treatment facility.**

(a) *Purpose.*

This section addresses THHA authority to request and obtain information from drug abuse treatment facilities concerning applicants.

This section does not apply to information requested or obtained from drug abuse treatment facilities other than under the authority of section 6(t).

(b) *Additional terms* used in this section are as follows:

(1) *Currently engaging in illegal use of a drug.*

Illegal use of a drug occurred recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member.

(2) *Drug abuse treatment facility.*

An entity:

(i) That holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal drug use; and

(ii) That is either an identified unit within a general care facility; or an entity other than a general medical care facility.

(c) *Authorization by household member for THHA to receive information from a drug abuse treatment facility.*

(1) THHA will require each applicant to submit for all household members who are at least 18 years of age, and for each family head or spouse regardless of age, one or more consent forms signed by such household member that:

(i) requests any drug abuse treatment facility to inform THHA only whether the drug abuse treatment facility has reasonable cause to believe that the household member is currently engaging in illegal drug use;

(ii) Complies with the form of written consent required by 42 CFR 2.31; and

(iii) authorizes THHA to receive such information from the drug abuse treatment facility, and to utilize such information in determining whether to prohibit admission of the household member to THHA public housing program in accordance with §960.203.

(See the Public Health Service Act, 42 U.S.C. 290dd-2, and implementing regulations at 42 CFR part 2, with respect to responsibilities of the drug abuse treatment facility.)

(2) The consent form submitted for a proposed household member will expire automatically after THHA has made a final decision to either approve or deny the admission of such person.

(d) *THHA request for information from drug use treatment facility.*

(1) THHA will request that a drug abuse treatment facility disclose whether the drug abuse treatment facility has reasonable cause to believe that the proposed household member is currently engaging in the illegal use of a drug (as defined in §5.100 of this title).

(2) THHA request to the drug abuse treatment facility will include a copy of the consent form signed by the proposed household member.

(3) A drug abuse treatment facility is not liable for damages based on any information required to be disclosed under this section if such disclosure is consistent with section 543 of the Public Health Service Act (42 U.S.C. 290dd-2).

(4) THHA is not obligated to request information from a drug treatment facility under this section, and is not liable for damages for failing to request or receive such information.

(5) A drug abuse treatment facility will charge THHA a reasonable fee for information provided under this section.

THHA will **not** pass along to the applicant or tenant the costs of obtaining this information.

(e) *Prohibition of discriminatory treatment of applicants.*

(1) THHA will request information from a drug abuse treatment facility under paragraph (d) of this section **pursuant to Policy B below**, obtaining a signed consent form from the proposed household members:

(i) *Policy A—Request for all families.*

Under Policy A, THHA will submit a request for information to a drug abuse treatment facility in accordance with paragraph (d) of this section before admitting any family to THHA public housing program.

For each such family, the request will be submitted for each proposed household member described in paragraph (c)(1) of this section.

(ii) *Policy B—Request for certain household members.*

Under Policy B, THHA will submit a request to a drug abuse treatment facility only with respect to each proposed household member:

(A) whose criminal record indicates prior arrest or conviction for any criminal activity that will be a basis for denial of admission under §960.205; or

(B) whose prior tenancy records indicate that the proposed household member:

(1) engaged in the destruction of property;

(2) engaged in violent activity against another person; or

(3) interfered with the right of peaceful enjoyment of the premises of other residents.

(f) *Records management and confidentiality.*

When THHA receives information from a drug abuse treatment facility under this section, it will establish and implement a system of records management that ensures that any information which THHA receives from the drug abuse treatment facility about a person:

(1) Is maintained confidentially in accordance with section 543 of the Public Health Service Act (12 U.S.C. 290dd-2);

(2) Is not misused or improperly disseminated; and

(3) Is destroyed, as applicable:

(i) Not later than **5 business days** after THHA makes a final decision to admit the person as a household member under THHA public housing program; or

(ii) If THHA denies the admission of such person as a household member, in a timely manner after the date on which the statute of limitations for the commencement of a civil action based upon that denial of admissions has expired without the filing of a civil action or until final disposition of any such litigation.

### **§ 960.206 Waiting List: Local preferences in admission to public housing program.**

(a) *Establishment of THHA local preferences.*

(1) THHA will adopt a system of local preferences for selection of families admitted to THHA public housing program.

THHA system of selection preferences will be based on local housing needs and priorities as determined by THHA.

In determining such needs and priorities, THHA shall use generally accepted data sources.

Such sources include public comment on THHA plan (as received pursuant to §903.17 of this chapter), and on the consolidated plan for the relevant jurisdiction (as received pursuant to part 91 of this title).

(2) THHA adoption and implementation of local preferences is subject to HUD requirements concerning income-targeting (§960.202(b)), de-concentration and income-mixing (§903.7), and selection preferences for developments designated exclusively for elderly or disabled families or for mixed population developments (§960.407).

(3) THHA will inform all applicants about available preferences and will give applicants an opportunity to show that they qualify for available preferences.

(b) *Particular local preferences—*

(1) *Residency requirements or preferences.*

(i) THHA will only adopt or implement residency preferences in accordance with non-discrimination and equal opportunity requirements listed at §5.105(a) of this title.

(ii) A residency preference is a preference for admission of persons who reside in a specified geographic area (“residency preference area”).

**VIGO COUNTY** will be used as a residency preference area.

(iv) A residency preference will **not** be based on how long an applicant has resided or worked in a residency preference area.

(v) Applicants who are working or who have been notified that they are hired to work in a residency preference area will be treated as residents of the residency preference area.

THHA will treat graduates of, or active participants in, education and training programs in a residency preference area as residents of the residency preference area if the education or training program is designed to prepare individuals for the job market.

(2) *Preference for working families*

THHA will adopt a preference for admission of working families (families where the head, spouse, or sole member, is employed).

However, an applicant will be given the benefit of the working family preference if the head and spouse, or sole member is age 62 or older, or is a person with disabilities.

(3) *Preference for person with disabilities*

THHA does adopt a preference for admission of families that include a person with disabilities.

However, THHA will not adopt a preference for persons with a specific disability.

(4) *Preference for victims of domestic violence.*

THHA does adopt a local preference for admission of families that include victims of domestic violence.

(5) *Preference for single persons who are elderly, displaced, homeless or a person with disabilities.*

THHA will **NOT** adopt a preference for admission of single persons who are age 62 or older, displaced, homeless, or persons with disabilities over other single persons.

(c) *Selection for particular unit.*

In selecting a family to occupy a particular unit, THHA will match characteristics of the family with the type of unit available, for example, number of bedrooms.

In selection of families to occupy units with special accessibility features for persons with disabilities.



THHA will first offer such units to families which include persons with disabilities who require such accessibility features (see §§8.27 and 100.202 of this title).

(d) *Housing assistance limitation for single persons.*

A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a resident family will not be provided a housing unit with two or more bedrooms.

(e) *Selection method.*

(1) THHA will use the following to select among applicants on the waiting list with the same priority for admission:

**(i) Date and time of application; or**

(2) The method for selecting applicants will leave a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in THHA plan.

**§ 960.208 Notification to applicants.**

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

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

## Subpart C—Rent and Reexamination

### § 960.253 Choice of rent.

#### (a) *Rent options.*

##### (1) *Annual choice by family.*

Once a year, THHA will give each family the opportunity to choose between the two methods for determining the amount of tenant rent payable monthly by the family.

The family will choose to pay as tenant rent either a flat rent as determined in accordance with paragraph (b) of this section, or an income-based rent as determined in accordance with paragraph (c) of this section.

Except for financial hardship cases as provided in paragraph (d) of this section, the family will not be offered this choice more than once a year.

##### (2) *Relation to minimum rent.*

Regardless of whether the family chooses to pay a flat rent or income-based rent, the family will pay at least the minimum rent as determined in accordance with §5.630 of this title.

#### (b) *Flat rent.*

(1) The flat rent is based on the market rent charged for comparable units in the private unassisted rental market.

It is equal to the estimated rent for which THHA could promptly lease the public housing unit after preparation for occupancy.

(2) THHA will use a reasonable method to determine the flat rent for a unit.

To determine the flat rent, THHA will consider:

(i) The location, quality, size, unit type and age of the unit; and

(ii) Any amenities, housing services, maintenance and utilities provided by THHA.

(3) The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

(4) If the family chooses to pay a flat rent, THHA does not pay any utility reimbursement.

(5) THHA will maintain records that document the method used to determine flat rents, and also show how flat rents are determined by THHA in accordance with this method, and document flat rents offered to families under this method.

#### (c) *Income-based rent.*

(1) An income-based rent is a tenant rent that is based on the family's income and THHA rent policies for determination of such rents.

(2) THHA rent policies will specify that THHA will use percentage of family income or some other reasonable system to determine income-based rents.

THHA rent policies will **NOT** provide for depositing a portion of tenant rent in an escrow or savings account, for imposing a ceiling on tenant rents, for adoption of permissive income deductions (see §5.611(b) of this title), or for another reasonable system to determining the amount of income-based tenant rent.

(3) The income-based tenant rent will not exceed the total tenant payment (§5.628 of this title) for the family minus any applicable utility allowance for tenant-paid utilities.

If the utility allowance exceeds the total tenant payment, THHA shall pay such excess amount (the utility reimbursement) either to the family or directly to the utility supplier to pay the utility bill on behalf of the family.

If THHA elects to pay the utility supplier, THHA will notify the family of the amount of utility reimbursement paid to the utility supplier.

(d) *Ceiling rent.*

**Instead of using flat rents, THHA will retain ceiling rents which will be set at the published FMRs until further notice..**

THHA will adjust such ceiling rents to the level required for flat rents under this section; however, ceiling rents are subject to paragraph (a) of this section, the annual reexamination requirements, and the limitation that the tenant rent plus any utility allowance will not exceed the total tenant payment.

(e) *Information for families.*

For the family to make an informed choice about its rent options, THHA will provide sufficient information for an informed choice.

Such information will include at least the following written information:

- (1) THHA policies on switching type of rent in circumstances of financial hardship, and
- (2) The dollar amounts of tenant rent for the family under each option.

If the family chose a flat rent for the previous year, THHA is required to provide the amount of income-based rent for the subsequent year only the year THHA conducts an income reexamination or if the family specifically requests it and submits updated income information.

For a family that chooses the flat rent option, THHA will conduct a reexamination of family income at least once every three years.

(f) *Switch from flat rent to income-based rent because of hardship.*

(1) A family that is paying a flat rent will at any time request a switch to payment of income-based rent (before the next annual option to select the type of rent) if the family is unable to pay flat rent because of financial hardship.

(2) If THHA determines that the family is unable to pay the flat rent because of financial hardship, THHA will immediately allow the requested switch to income-based rent. THHA shall make the determination within a reasonable time after the family request.

(3) THHA policies for determining financial hardship provide that financial hardship include the following situations:

(i) The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance;

(ii) The family has experienced an increase in expenses, because of changed circumstances, for medical costs, child care, transportation, education, or similar items; and

(iii) Such other situations determined by THHA to be appropriate.

**§ 960.255 Self-sufficiency incentives—Disallowance of increase in annual income.**

(a) *Definitions.* The following definitions apply for purposes of this section.

*Disallowance/ Exclusion from annual income.*

*Previously unemployed* includes a person who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

*Qualified family.*

A family residing in public housing:

(i) Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment;

(ii) Whose annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or

(iii) Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by THHA in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs.

The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance—provided that the total amount over a six-month period is at least \$500.

(b) *Disallowance of increase in annual income.*

(1) *Initial twelve month exclusion.*

During the cumulative twelve month period beginning on the date a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment,

THHA will exclude from annual income (as defined in §5.609 of this title) of a qualified family any increase in income of the family member as a result of employment over prior income of that family member.

(2) *Second twelve month exclusion and THHA phase-in.*

During the second cumulative twelve month period after the date a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, THHA will exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) *Maximum four year disallowance.*

The disallowance of increased income of an individual family member as provided in paragraph (b)(1) or (b)(2) of this section is limited to a lifetime 48 month period.

It only applies for a maximum of twelve months for disallowance under paragraph (b)(1) and a maximum of twelve months for disallowance under paragraph (b)(2), during the 48 month period starting from the initial exclusion under paragraph (b)(1) of this section.

(c) *Inapplicability to admission.*

The disallowance of increases in income as a result of employment under this section does not apply for purposes of admission to the program (including the determination of income eligibility and income targeting).

**§ 960.257 Family income and composition: Regular and interim reexaminations.**

(a) *When THHA is required to conduct reexamination.*

(1) For families who pay an income-based rent, THHA will conduct a reexamination of family income and composition at least annually and will make appropriate adjustments in the rent after consultation with the family and upon verification of the information.

(2) For families who choose flat rents, THHA will conduct a reexamination of family composition at least annually, and will conduct a reexamination of family income at least once every three years.

(3) For all families who include nonexempt individuals, as defined in §960.601, THHA will determine compliance once each twelve months with community service and self-sufficiency requirements in subpart F of this part.

(4) THHA will use the results of these reexaminations to require the family to move to an appropriate size unit.

(b) *Interim reexaminations.*

A family may request an interim reexamination of family income or composition because of any changes since the last determination.

THHA will make the interim reexamination within a reasonable time after the family request.

The family will report all changes in family income or composition as soon as possible.

## **§ 960.259 Family information and verification.**

### *(a) Family obligation to supply information.*

(1) The family will supply any information that THHA or HUD determines is necessary in administration of the public housing program, including submission of required evidence of citizenship or eligible immigration status (as provided by part 5, subpart E of this title). "Information" includes any requested certification, release or other documentation.

(2) The family will supply any information requested by THHA or HUD for use in a regularly scheduled reexamination or an interim reexamination of family income and composition in accordance with HUD requirements.

(3) For requirements concerning the following, see part 5, subpart B of this title:

(i) Family verification and disclosure of social security numbers;

(ii) Family execution and submission of consent forms for obtaining wage and claim information from State Wage Information Collection Agencies (SWICAs).

(4) Any information supplied by the family will be true and complete.

### *(b) Family release and consent.*

(1) As a condition of admission to or continued assistance under the program, THHA shall require the family head, and such other family members as THHA designates, to execute a consent form (including any release and consent as required under §5.230 of this title) authorizing any depository or private source of income, or any Federal, State or local agency, to furnish or release to THHA or HUD such information as THHA or HUD determines to be necessary.

(2) The use or disclosure of information obtained from a family or from another source pursuant to this release and consent shall be limited to purposes directly connected with administration of the program.

### *(c) THHA responsibility for reexamination and verification.*

(1) THHA will obtain and document in the family file third party verification of the following factors, or will document in the file why third party verification was not available:

(i) Reported family annual income;

(ii) The value of assets;

(iii) Expenses related to deductions from annual income; and

(iv) Other factors that affect the determination of adjusted income or income-based rent.

## **§ 960.261 Restriction on eviction of families based on income.**

(a) THHA will evict or terminate the tenancies of families who are over income, subject to paragraph (b) of this section.

(b) Unless it is required to do so by local law, a THHA will not evict or terminate the tenancy of a family solely because the family is over the income limit for public housing, if the family has a valid contract for participation in an FSS program under 24 Part 984.

THHA will not evict a family for being over the income limit for public housing if the family currently receives the earned income disallowance provided by 42 U.S.C. 1437a(d) and 24 CFR 960.255.



# THHA

## CONTINUED OCCUPANCY POLICY

(For dissemination to the general public)

### **Income Recertification.**

At least once a year, THHA will re-examine the incomes of families living in its communities or who are being assisted through its rental programs pursuant to rules governing the program under which the assistance is administered.

### **Rent Adjustments**

TTP is adjusted annually based upon the results of the annual reexamination

### **Utilities Allowances**

At least annually, THHA shall **review** whether there has been a substantial change in utility rates or other charges of general applicability that would require adjustment of the allowance for utilities and other services and, **if necessary**, submit such review and recommendations to HUD for approval.

### **Scheduling Reexaminations**

The date of reexamination is the date on which any change in rent becomes effective.

Information **will** be gathered **AT LEAST** two months prior to the new effective date in order to accomplish the steps of the re-certification process prior to the new effective date.

Re-certifications will be conducted on a monthly basis with an effective date to be no longer than 12 months from the move in month.

### **Interim Rent Adjustments and Re-certifications**

1. To assist its families in **achieving economic self-sufficiency**, THHA will perform **no** adjustments to TTP between re-certification periods except in those instances when there has been a decrease in income that would violate the statutory limitations pertaining to TTP.

If, **at initial admission**, the tenant was unemployed and becomes employed,

- a) The subsequent increase in income will **not** be counted for **12 months from the initial date of employment**.
- b) If the tenant stays employed, **50%** of the increase in income due to employment will **not** be counted for the **second 12-month period**.

## **ZERO EARNED INCOME POLICY**

THHA does **not** acknowledge “de facto” zero earned income applicants/residents for any housing assistance program.

All rent computations will be performed pursuant to **#2** above.

Should an applicant/resident claim “zero earned income” on an application or for a certification period the following procedures will take place **prior to placement on the Waiting List or prior to Recertification:**

A) 12 months previous income will be verified by using the State of Indiana Wage and Income Verification form (no exceptions);

B) Upon receipt of said form, assuming income eligibility,

a) An **applicant** may be placed on the waiting list, or,

b) Offered housing assistance pursuant to **#2** below, or

c) A **resident** will be recertified pursuant to **#2** below.

2. **THHA will IMPUTE a minimum income** according to the following formula:

### **Federal Minimum Wage X 20 hours per week X 52 weeks per year**

3. If it is found that Tenant has misrepresented to management the facts upon which his rent is based, so that the rent he is paying is less than he/she should have been charged:

a) The increase in rent will be retroactive to the beginning date of the misrepresentation.

b) If fraud is suspected, THHA will elect to terminate or evict the tenant and prosecute through the Court System.

4. If a Tenant does not report a decrease in income in a **timely** manner, the decrease in rent will be made effective the beginning of the next month after the date it was reported.

It will **not** be made retroactive to the date of the decrease.

5. If a Housing Assistance recipient, **in the opinion or management, deliberately** attempts to alter their circumstances in order to keep their rent artificially lower than what it normally would have been under the statute, then

a) Attempted fraud **will have been determined to have been committed** and

b) Rent will be computed according to paragraph **(1A)** above. (i.e., quitting employment a short time before reexamination)

### **Eligibility for Continued Occupancy**

1. When income exceeds the allowable limits, the tenant will be allowed to continue to reside in the unit for no more than program regulations allow and will pay the higher amount of rent that is required by program regulations **without a utility allowance**.

2. Regardless of program, each tenant/participant will:

a. cooperate with obtaining needed verification of income, assets, medical expenses, etc.

b. arrange for an inspection to assure their unit passes housing quality standards and standards of cleanliness and good repair.

c. certify his/her household is still a drug-free household.

d. certify his/her **Community Service compliance**, if necessary.

3. **Maintain the unit as** the principal place of residence **and/or request written approval for an absence extending beyond 30 days.** (NOTE: If warranted, THHA will issue a voucher or consider for public housing re-admission, if the family returns for occupancy for a **valid, verifiable reason** for being absent longer than allowed (i.e. hospital or nursing home confinement).)

## Transfers

### THHA transfer policy is as follows:

- 1) Priority for transfer will **not automatically be given** to overcrowded families over families on the waiting list for admission.
- 2) Decisions on which overcrowded families to transfer will be made by **the** Property Manager considering **all relevant factors.**
- 3) Families will be reimbursed for their out-of-pocket expenses in connection with THHA mandated transfers.
- 4) Thirty **(30)** days written notice is required for THHA mandated moves.
- 5) In the case of transfers to a different project in a different school district, the transfer will be postponed until the end of the school year.
- 6) In **extreme** cases, transfers will be allowed for the convenience of the tenant.  
(i.e. for reasons of health, proximity to work, etc.)
  - a) The cost of such a move shall be borne by the tenant.
  - b) Written permission from Property Management is required.
- 7) No transfers will be allowed from one project to another based solely on the desire of the tenant to move.

## **Subpart D—Preference for Elderly Families and Disabled Families in Mixed Population Projects**

### **§ 960.401 Purpose.**

This subpart establishes a preference for elderly families and disabled families for admission to mixed population public housing projects, as defined in §960.405.

### **§ 960.403 Applicability.**

(a) This subpart applies to all dwelling units in mixed population projects (as defined in §960.405), or portions of mixed population projects, assisted under the U.S. Housing Act of 1937.

These projects formerly were known as elderly projects.

(b) This subpart does **not apply** to

section 23 and section 10(c) leased housing projects or the section 23 Housing Assistance Payments Program where the owners enter into leases directly with the tenants,

or to the Section 8 Housing Assistance Payments Program,

the Low-Rent Housing Homeownership Opportunities Program (Turnkey III),

the Mutual Help Homeownership Opportunities Program, or to Indian Housing Authorities. (For applicability to Indian Housing Authorities, see part 905 of this chapter.)

Additionally, this subpart is not applicable to projects designated for elderly families or designated for disabled families in accordance with 24 CFR Part 945.

### **§ 960.407 Selection preference for mixed population developments.**

(a) THHA will give preference to elderly families and disabled families equally in determining priority for admission to mixed population developments.

THHA will not establish a limit on the number of elderly families or disabled families who will be accepted for occupancy in a mixed population development.

(b) In selecting elderly families and disabled families to occupy units in mixed population developments, THHA will first offer units that have special accessibility features for persons with disabilities to families who include persons with disabilities who require the accessibility features of such units (see §§8.27 and 100.202 of this title).

## **Subpart E—Occupancy by Over-Income Families or Police Officers**

### **§ 960.503 Occupancy by over-income families.**

THHA will **NOT** lease a unit in a public housing development to an over-income family (a family whose annual income exceeds the limit for a low income family at the time of initial occupancy).

### **§ 960.505 Occupancy by police officers to provide security for public housing residents.**

(a) *Police officer.* For purpose of this subpart E, “police officer” means a person determined by THHA to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State or local government or by any agency of these governments.

An officer of an accredited police force of a housing agency will qualify.

(b) *Occupancy in public housing.*

For the purpose of increasing security for residents of a public housing development, THHA will allow police officers who would not otherwise be eligible for occupancy in public housing, to reside in a public housing dwelling unit.

THHA will include in THHA annual plan or supporting documents the number and location of the units to be occupied by police officers, and the terms and conditions of their tenancies; and a statement that such occupancy is needed to increase security for public housing residents.

## **Subpart F—When Resident Will Perform Community Service Activities or Self-Sufficiency Work Activities**

### **§ 960.600 Implementation.**

**THHA and residents will comply with the requirements of this subpart on October 1, 2000.**

### **§ 960.601 Definitions.**

(a) *Definitions found elsewhere.*

(1) *General definitions.* The following terms are defined in part 5, subpart A of this title: *public housing, public housing agency* (THHA).

(2) *Definitions concerning income and rent.* The following terms are defined in part 5, subpart F of this title: *economic self-sufficiency program, work activities.*

(b) *Other definitions.* In addition to the definitions in paragraph (a) of this section, the following definitions apply:

*Community service.*

This is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community.

Community service is not employment and will not include political activities.

*Exempt individual.* An adult who:

(1) Is 62 years or older;

(2) (i) Is a blind or disabled individual, as defined under 216(i)(1) or 1614 of the Social Security Act (42 U.S.C. 416(i)(1); 1382c), and who certifies that because of this disability she or he is unable to comply with the service provisions of this subpart, or

(ii) Is a primary caretaker of such individual;

(3) Is engaged in work activities;

(4) Meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*) or under any other welfare program of the State in which THHA is located, including a State-administered welfare-to-work program; or

(5) Is a member of a family receiving assistance, benefits or services under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*) or under any other welfare program of the State in which THHA is located, including a State-administered welfare-to-work program, and has not been found by the State or other administering entity to be in noncompliance with such a program.

*Service requirement.*

The obligation of each adult resident, other than an exempt individual, to perform community service or participate in an economic-self sufficiency program required in accordance with §960.603.

**§ 960.603 General requirements.**

(a) *Service requirement.* Except for any family member who is an exempt individual, each adult resident of public housing will:

- (1) Contribute 8 hours per month of community service (not including political activities); or
- (2) Participate in an economic self-sufficiency program for 8 hours per month; or
- (3) Perform 8 hours per month of combined activities as described in paragraphs (a)(1) and (a)(2) of this section.

(b) *Family violation of service requirement.*

The lease shall specify that it shall be renewed automatically for all purposes, unless the family fails to comply with the service requirement.

Violation of the service requirement is grounds for non-renewal of the lease at the end of the twelve month lease term, but not for termination of tenancy during the course of the twelve month lease term (see §966.4(1)(2)(i) of this chapter).

**§ 960.605 How THHA administers service requirements.**

**(a) THHA policy. Each public housing resident, required to perform this requirement shall certify, in writing, at re-examination how they are meeting this requirement.**

(c) *THHA responsibilities.*

(1) THHA will determine which family members are subject to or exempt from the service requirement.

(2) THHA will give the family a written description of the service requirement, and of the process for claiming status as an exempt person and for THHA verification of such status.

THHA will also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt persons.

(3) THHA will review family compliance with service requirements, and will verify such compliance annually at least thirty days before the end of the twelve month lease term.

(4) THHA will retain reasonable documentation of service requirement performance or exemption in participant files.

(5) THHA will comply with non-discrimination and equal opportunity requirements listed at §5.105(a) of this title.

## **§ 960.607 Ensuring resident compliance.**

### *(a) Third-party certification.*

If qualifying activities are administered by an organization other than THHA, a family member who is required to fulfill a service requirement will provide signed certification to THHA by such other organization that the family member has performed such qualifying activities.

### *(b) THHA notice of noncompliance.*

(1) If THHA determines that there is a family member who is required to fulfill a service requirement, but who has violated this family obligation (noncompliant resident), THHA will notify the tenant of this determination.

(2) THHA notice to the tenant will:

(i) Briefly describe the noncompliance;

(ii) State that THHA will not renew the lease at the end of the twelve month lease term unless:

(A) The tenant, and any other noncompliant resident, enter into a written agreement with THHA, in the form and manner required by THHA, to cure such noncompliance, and in fact cure such noncompliance in accordance with such agreement; or

(B) The family provides written assurance satisfactory to THHA that the tenant or other noncompliant resident no longer resides in the unit.

(iii) State that the tenant will request a grievance hearing on THHA determination, in accordance with part 966, subpart B of this chapter, and that the tenant will exercise any available judicial remedy to seek timely redress for THHA non-renewal of the lease because of such determination.

### *(c) Tenant agreement to comply with service requirement.*

If the tenant or another family member has violated the service requirement, THHA **will not renew the lease** upon expiration of the term unless:

(1) The tenant, and any other noncompliant resident, enter into a written agreement with THHA, in the form and manner required by THHA, to cure such noncompliance by completing the additional hours of community service or economic self-sufficiency activity needed to make up the total number of hours required over the twelve-month term of the new lease, and

(2) All other members of the family who are subject to the service requirement are currently complying with the service requirement or are no longer residing in the unit.

## **§ 960.609 Prohibition against replacement of THHA employees.**

In implementing the service requirement under this subpart, THHA will not substitute community service or self-sufficiency activities performed by residents for work ordinarily performed by THHA employees, or replace a job at any location where residents perform activities to satisfy the service requirement.



## **Subpart G—Pet Ownership in Public Housing**

### **§ 960.701 Purpose.**

The purpose of this subpart is, in accordance with section 31 of the United States Housing Act of 1937 (42 U.S.C. 1437z-3), to permit pet ownership by residents of THHA public housing, subject to compliance with reasonable requirements established by the public housing agency (THHA) for pet ownership.

### **§ 960.703 Applicability.**

This subpart applies to public housing as that term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)), except that such term does not include public housing developments for the elderly or persons with disabilities.

Regulations that apply to pet ownership in such developments are located in part 5, subpart C, of this title.

### **§ 960.705 Animals that assist, support, or provide service to persons with disabilities.**

(a) This subpart G does not apply to animals that assist, support or provide service to persons with disabilities. THHA will not apply or enforce any policies established under this subpart against animals that are necessary as a reasonable accommodation to assist, support or provide service to persons with disabilities.

This exclusion applies to such animals that reside in public housing, as that term is used in §960.703, and such animals that visit these developments.

(b) Nothing in this subpart G:

- (1) Limits or impairs the rights of persons with disabilities;
- (2) Authorizes THHA to limit or impair the rights of persons with disabilities; or
- (3) Affects any authority that THHA will have to regulate service animals that assist, support or provide service to persons with disabilities, under Federal, State, or local law.

### **§ 960.707 Pet Ownership.**

(a) *Ownership Conditions.*

A resident of a dwelling unit in public housing, as that term is used in §960.703, will own one or more common household pets or have one or more common household pets present in the dwelling unit of such resident, subject to the reasonable requirements of THHA, if the resident maintains each pet:

- (1) Responsibly;
- (2) In accordance with applicable State and local public health, animal control, and animal anti-cruelty laws and regulations; and
- (3) In accordance with the policies established in THHA Annual Plan for the agency as provided in part 903 of this chapter.

(b) *Reasonable requirements.*

Reasonable requirements will include but are not limited to:

(1) Requiring payment of a non-refundable nominal fee to cover the reasonable operating costs to the development relating to the presence of pets, a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered, or both;

(2) Limitations on the number of animals in a unit, based on unit size;

(3) Prohibitions on types of animals that THHA classifies as dangerous, provided that such classifications are consistent with applicable State and local law, and prohibitions on individual animals, based on certain factors, including the size and weight of animals;

(4) Restrictions or prohibitions based on size and type of building or project, or other relevant conditions;

(5) Registration of the pet with THHA; and

(6) Requiring pet owners to have their pets spayed or neutered.

(c) *Restriction.* A THHA will not require pet owners to have any pet's vocal chords removed.

(d) *Pet deposit.*

THHA requires a resident to pay a pet deposit, **the amount of which is stated in the dwelling lease.**

THHA shall comply with such applicable law as to retention of the deposit, interest, and return of the deposit or portion thereof to the resident, and any other applicable requirements.

## **Subpart A— Dwelling Lease, Procedures and Requirements**

### **§ 966.1 Purpose and applicability.**

- (a) This part is applicable to THHA public housing.
- (b) Subpart A of this part prescribes the provisions that will be incorporated in leases for public housing dwelling units.
- (c) Subpart B of this part prescribes public housing grievance hearing requirements.

### **§ 966.2 Definitions.**

The following terms are defined in part 5, subpart A of this title: *1937 Act, covered person, drug, drug-related criminal activity, federally assisted housing, guest, household, HUD, other person under the tenant's control, public housing, premises, public housing agency, Section 8, violent criminal activity.*

### **§ 966.3 Tenants' opportunity for comment.**

THHA shall provide at least **30** days notice to tenants and resident organizations setting forth proposed changes in the lease form used by THHA, and providing an opportunity to present written comments.

Subject to requirements of this rule, comments submitted shall be considered by THHA before formal adoption of any new lease form.

### **§ 966.4 Lease requirements.**

A lease shall be entered into between THHA and each tenant of a dwelling unit which shall contain the provisions described hereinafter.

#### **(a) Parties, dwelling unit and term.**

(1) The lease shall state:

- (i) The names of THHA and the tenant;
- (ii) The unit rented (address, apartment number, and any other information needed to identify the dwelling unit);
- (iii) The term of the lease (lease term and renewal in accordance with paragraph (a)(2) of this section);
- (iv) A statement of what utilities, services and equipment are to be supplied by THHA without additional cost, and what utilities and appliances are to be paid for by the tenant;
- (v) The composition of the household as approved by THHA (family members and any THHA-approved live-in-aide).

The family will promptly inform THHA of the birth, adoption or court-awarded custody of a child. The family will request THHA approval to add any other family member as an occupant of the unit.

(2) *Lease term and renewal.*

(i) The lease shall have a twelve month term. Except as provided in paragraph (a)(2)(ii) of this section, the lease term will be automatically renewed for the same period.

(ii) THHA will not renew the lease if the family has violated the requirement for resident performance of community service or participation in an economic self-sufficiency program in accordance with part 960, subpart F of this chapter.

(iii) At any time, THHA will terminate the tenancy in accordance with §966.4(l).

(3) *Execution and modification.* The lease will be executed by the tenant and THHA, except for automatic renewals of a lease. The lease will be modified at any time by written agreement of the tenant and THHA.

(b) *Payments due under the lease.*

(1) *Tenant rent.*

(i) The tenant shall pay the amount of the monthly tenant rent determined by THHA in accordance with HUD regulations and other requirements.

The amount of the tenant rent is subject to change in accordance with HUD requirements.

(ii) The lease shall specify the initial amount of the tenant rent at the beginning of the initial lease term. THHA shall give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective.

(2) *THHA charges.*

The lease shall provide for charges to the tenant for maintenance and repair beyond normal wear and tear and for consumption of excess utilities.

The lease shall state the basis for the determination of such charges (e.g., by a posted schedule of charges for repair, amounts charged for utility consumption in excess of the allowance stated in the lease, etc.).

The imposition of charges for consumption of excess utilities is permissible only if such charges are determined by an individual check meter servicing the leased unit or result from the use of major tenant-supplied appliances.

(3) *Late payment penalties*

The lease will provide for payment of penalties for late payment.

(4) *When charges are due.*

The lease shall provide that charges assessed under paragraph (b) (2) and (3) of this section shall not be due and collectible until two weeks after THHA gives written notice of the charges.

Such notice constitutes a notice of adverse action, and will meet the requirements governing a notice of adverse action (see §966.4(e)(8)).

(5) *Security deposits.*

The lease will provide for security deposits which shall not exceed one month's rent or such reasonable fixed amount as will be required by THHA.

Provision will be made for gradual accumulation of the security deposit by the tenant.

Subject to applicable laws, interest earned on security deposits will be refunded to the tenant on vacation of the dwelling unit or used for tenant services or activities.

(c) *Re-determination of rent and family composition.*

The lease shall provide for re-determination of rent and family composition which shall include:

(1) The frequency of regular rental re-determination and the basis for interim re-determination.

(2) An agreement by the tenant to furnish such information and certifications regarding family composition and income as will be necessary for THHA to make determinations with respect to rent, eligibility, and the appropriateness of dwelling size.

(3) An agreement by the tenant to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by THHA that such a dwelling unit is available.

(4) When

THHA re-determines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of THHA schedule of Utility Allowances for families in THHA Public Housing Program,

or

determines that the tenant will transfer to another unit based on family composition,

THHA shall notify the tenant that the tenant will ask for an explanation stating the specific grounds of THHA determination,

and

that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under THHA grievance procedure.

(d) *Tenant's right to use and occupancy.*

(1) The lease shall provide that the tenant shall have the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests.

**The term *guest* is defined in 24 CFR 5.100.**

(2) With the consent of THHA, members of the household will engage in legal profit-making activities in the dwelling unit, where THHA determines that such activities are incidental to primary use of the leased unit for residence by members of the household.

(3) (i) With the consent of THHA, a foster child or a live-in aide will reside in the unit. THHA will adopt reasonable policies concerning residence by a foster child or a live-in-aide, and defining the circumstances in which THHA consent will be given or denied.

Under such policies, the factors considered by THHA will include:

(A) Whether the addition of a new occupant will necessitate a transfer of the family to another unit, and whether such units are available.

(B) THHA obligation to make reasonable accommodation for handicapped persons.

(ii) *Live-in aide* means a person who resides with an elderly, disabled or handicapped person and who:

(A) Is determined to be essential to the care and well-being of the person;

(B) Is not obligated for the support of the person; and

(C) Would not be living in the unit except to provide the necessary supportive services.

(e) *THHA obligations.*

The lease shall set forth THHA obligations under the lease which shall include the following:

(1) To maintain the dwelling unit and the project in decent, safe and sanitary condition;

(2) To comply with requirements of applicable building codes, housing codes, and HUD regulations materially affecting health and safety;

(3) To make necessary repairs to the dwelling unit;

(4) To keep project buildings, facilities and common areas, not otherwise assigned to the tenant for maintenance and upkeep, in a clean and safe condition;

(5) To maintain in good and safe working order and condition electrical, plumbing, sanitary, heating, ventilating, and other facilities and appliances, including elevators, supplied or required to be supplied by THHA;

(6) To provide and maintain appropriate receptacles and facilities (except containers for the exclusive use of an individual tenant family) for the deposit of ashes, garbage, rubbish and other waste removed from the dwelling unit by the tenant in accordance with paragraph (f)(7) of this section;

(7) To supply running water and reasonable amounts of hot water and reasonable amounts of heat at appropriate times of the year (according to local custom and usage) except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or where heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct utility connection; and

(8) (i) To notify the tenant of the specific grounds for any proposed adverse action by THHA. (Such adverse action includes, but is not limited to, a proposed lease termination, transfer of the

tenant to another unit, or imposition of charges for maintenance and repair, or for excess consumption of utilities.)

(ii) When THHA is required to afford the tenant the opportunity for a hearing under THHA grievance procedure for a grievance concerning a proposed adverse action:

(A) The notice of proposed adverse action shall inform the tenant of the right to request such hearing.

In the case of a lease termination, a notice of lease termination in accordance with paragraph (1)(3) of this section, shall constitute adequate notice of proposed adverse action.

(B) In the case of a proposed adverse action other than a proposed lease termination, THHA shall not take the proposed action until the time for the tenant to request a grievance hearing has expired, and (if a hearing was timely requested by the tenant) the grievance process has been completed.

(f) *Tenant's obligations.* The lease shall provide that the tenant shall be obligated:

- (1) Not to assign the lease or to sublease the dwelling unit;
- (2) Not to provide accommodations for boarders or lodgers;
- (3) To use the dwelling unit solely as a private dwelling for the tenant and the tenant's household as identified in the lease, and not to use or permit its use for any other purpose;
- (4) To abide by necessary and reasonable regulations promulgated by THHA for the benefit and well-being of the housing project and the tenants, which shall be posted in the project office and incorporated by reference in the lease;
- (5) To comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;
- (6) To keep the dwelling unit and such other areas as will be assigned to the tenant for the tenant's exclusive use in a clean and safe condition;
- (7) To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner;
- (8) To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators;
- (9) To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or project;
- (10) To pay reasonable charges (other than for wear and tear) for the repair of damages to the dwelling unit, or to the project (including damages to project buildings, facilities or common areas) caused by the tenant, a member of the household or a guest.

(11) To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition;

(12) (i) To assure that no tenant, member of the tenant's household, or guest engages in:

(A) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents; or

(B) Any drug-related criminal activity on or off the premises;

(ii) To assure that no other person under the tenant's control engages in:

(A) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents; or

(B) Any drug-related criminal activity on the premises;

(iii) To assure that no member of the household engages in an abuse or pattern of abuse of alcohol that affects the health, safety, or right to peaceful enjoyment of the premises by other residents.

(g) *Tenant maintenance.*

The lease will provide that the tenant shall perform seasonal maintenance or other maintenance tasks, as specified in the lease, where performance of such tasks by tenants of dwellings units of a similar design and construction is customary: *provided*, that such provision is included in the lease in good faith and not for the purpose of evading the obligations of THHA.

THHA shall exempt tenants who are unable to perform such tasks because of age or disability.

(h) *Defects hazardous to life, health, or safety*

The lease shall set forth the rights and obligations of the tenant and THHA if the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants and shall provide that:

(1) The tenant shall immediately notify project management of the damage;

(2) THHA shall be responsible for repair of the unit within a reasonable time: *Provided*, That if the damage was caused by the tenant, tenant's household or guests, the reasonable cost of the repairs shall be charged to the tenant;

(3) THHA shall offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time; and

(4) Provisions shall be made for abatement of rent in proportion to the seriousness of the damage and loss in value as a dwelling if repairs are not made in accordance with paragraph (h)(2) of this section or alternative accommodations not provided in accordance with paragraph (h)(3) of this section, except that no abatement of rent shall occur if the tenant rejects the alternative accommodation or if the damage was caused by the tenant, tenant's household or guests.

(i) *Pre-occupancy and pre-termination inspections.*



The lease shall provide that THHA and the tenant or representative shall be obligated to inspect the dwelling unit prior to commencement of occupancy by the tenant.

THHA will furnish the tenant with a written statement of the condition of the dwelling unit, and the equipment provided with the unit.

The statement shall be signed by THHA and the tenant, and a copy of the statement shall be retained by THHA in the tenant's folder.

THHA shall be further obligated to inspect the unit at the time the tenant vacates the unit and to furnish the tenant a statement of any charges to be made in accordance with paragraph (b)(2) of this section.

Provision shall be made for the tenant's participation in the latter inspection, unless the tenant vacates without notice to THHA.

*(j) Entry of dwelling unit during tenancy.*

The lease shall set forth the circumstances under which THHA will enter the dwelling unit during the tenant's possession thereof, which shall include provision that:

(1) THHA shall, upon reasonable advance notification to the tenant, be permitted to enter the dwelling unit during reasonable hours for the purpose of performing routine inspections and maintenance, for making improvement or repairs, or to show the dwelling unit for re-leasing.

A written statement specifying the purpose of THHA entry delivered to the dwelling unit 12 hours before such entry shall be considered reasonable advance notification;

(2) THHA will enter the dwelling unit at any time without advance notification when there is reasonable cause to believe that an emergency exists; and

(3) If the tenant and all adult members of the household are absent from the dwelling unit at the time of entry, THHA shall leave in the dwelling unit a written statement specifying the date, time and purpose of entry prior to leaving the dwelling unit.

*(k) Notice procedures.*

(1) The lease shall provide procedures to be followed by THHA and the tenant in giving notice one to the other which shall require that:

(i) Except as provided in paragraph (j) of this section, notice to a tenant shall be in writing and delivered to the tenant or to an adult member of the tenant's household residing in the dwelling or sent by prepaid first-class mail properly addressed to the tenant; and

(ii) Notice to THHA shall be in writing, delivered to the project office or THHA central office or sent by prepaid first-class mail properly addressed.

(2) If the tenant is visually impaired, all notices will be in an accessible format.

*(l) Termination of tenancy and eviction.—*

*(1) Procedures*

The lease shall state the procedures to be followed by THHA and by the tenant to terminate the tenancy.

2) *Grounds for termination of tenancy.*

THHA will terminate the tenancy only for:

(i) Serious or repeated violation of material terms of the lease, such as the following:

(A) Failure to make payments due under the lease;

(B) Failure to fulfill household obligations, as described in paragraph (f) of this section;

(ii) Being over the income limit for the program, as provided in 24 CFR 960.261.

(iii) Other good cause.

Other good cause includes, but is not limited to, the following:

(A) Criminal activity or alcohol abuse as provided in paragraph (1)(5) of this section;

(B) Discovery after admission of facts that made the tenant ineligible;

(C) Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with reexamination of income;

(D) Failure of a family member to comply with service requirement provisions of part 960, subpart F, of this chapter—as grounds only for non-renewal of the lease and termination of tenancy at the end of the twelve-month lease term; and

(E) Failure to accept THHA offer of a lease revision to an existing lease:

that is on a form adopted by THHA in accordance with §966.3;

with written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect;

and with the offer specifying a reasonable time limit within that period for acceptance by the family.

(3) *Lease termination notice.*

(i) THHA will give written notice of lease termination of:

(A) **14 days** in the case of failure to pay rent;

(B) A reasonable period of time considering the seriousness of the situation (but not to exceed 30 days):

(1) If the health or safety of other residents, THHA employees, or persons residing in the immediate vicinity of the premises is threatened; or

(2) If any member of the household has engaged in any drug-related criminal activity or violent criminal activity; or

(3) If any member of the household has been convicted of a felony;

(C) 30 days in any other case, except that if a State or local law allows a shorter notice period, such shorter period shall apply.

(ii) The notice of lease termination to the tenant shall state specific grounds for termination, and shall inform the tenant of the tenant's right to make such reply as the tenant will wish.

The notice shall also inform the tenant of the right (pursuant to §966.4(m)) to examine THHA documents directly relevant to the termination or eviction.

When THHA is required to afford the tenant the opportunity for a grievance hearing, the notice shall also inform the tenant of the tenant's right to request a hearing in accordance with THHA grievance procedure.

(iii) A notice to vacate which is required by State or local law will be combined with, or run concurrently with, a notice of lease termination under paragraph (1)(3)(i) of this section.

(iv) When THHA is required to afford the tenant the opportunity for a hearing under THHA grievance procedure for a grievance concerning the lease termination (see §966.51(a)(1)), the tenancy shall not terminate (even if any notice to vacate under State or local law has expired) until the time for the tenant to request a grievance hearing has expired, and (if a hearing was timely requested by the tenant) the grievance process has been completed.

(v) When THHA is not required to afford the tenant the opportunity for a hearing under THHA administrative grievance procedure for a grievance concerning the lease termination (see §966.51(a)(2)), and THHA has decided to exclude such grievance from THHA grievance procedure, the notice of lease termination under paragraph (1)(3)(i) of this section shall:

(A) State that the tenant is not entitled to a grievance hearing on the termination.

(B) Specify the judicial eviction procedure to be used by THHA for eviction of the tenant, and state that HUD has determined that this eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations.

(C) State whether the eviction is for a criminal activity as described in §966.51(a)(2)(i)(A) or for a drug-related criminal activity as described in 966.51(a)(2)(i)(B).

(4) *How tenant is evicted.*

THHA will evict the tenant from the unit either:

(i) By bringing a court action or;

(ii) By bringing an administrative action if law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties.

In order to evict without bringing a court action, THHA **will** afford the tenant the opportunity for a pre-eviction hearing in accordance with THHA grievance procedure.

(5) *THHA termination of tenancy for criminal activity or alcohol abuse.*

(i) *Evicting drug criminals.*

(A) *Methamphetamine conviction.*

THHA will **immediately terminate** the tenancy if THHA determines that any member of the household has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

(B) *Drug crime on or off the premises.*

The lease will provide that drug-related criminal activity engaged in on or off the premises by any tenant, member of the tenant's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control, is grounds for THHA to terminate tenancy.

In addition, the lease will provide that a THHA will evict a family when THHA determines that a household member is illegally using a drug or when THHA determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(ii) *Evicting other criminals.*

(A) *Threat to other residents.*

The lease will provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including THHA management staff residing on the premises) or threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

(B) *Fugitive felon or parole violator.*

THHA will terminate the tenancy if a tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violating a condition of probation or parole imposed under Federal or State law.

(iii) *Eviction for criminal activity.*

(A) *Evidence*

THHA will evict the tenant by judicial action for criminal activity in accordance with this section if THHA determines that the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.

(B) *Notice to Post Office*

When a THHA evicts an individual or family for criminal activity, THHA will notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

(iv) *Use of criminal record.*

If THHA seeks to terminate the tenancy for criminal activity as shown by a criminal record, THHA will notify the household of the proposed action to be based on the information and will provide the subject of the record and the tenant with a copy of the criminal record before a THHA grievance hearing or court trial concerning the termination of tenancy or eviction.

The tenant will be given an opportunity to dispute the accuracy and relevance of that record in the grievance hearing or court trial.

(v) *Cost of obtaining criminal record.*

THHA will not pass along to the tenant the costs of a criminal records check.

(vi) *Evicting alcohol abusers*

THHA will establish standards that allow termination of tenancy if THHA determines that a household member has:

(A) Engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents; or

(B) Furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

(vii) *THHA action, generally.*

(A) *Assessment under PHAS.*

Under the Public Housing Assessment System THHA adopts policies, implements procedures and can document that they appropriately evict any public housing residents who engage in certain activity detrimental to the public housing community to receive points. (See 24 CFR 902.43(a)(5).)

(B) *Consideration of circumstances.*

In a manner consistent with such policies, procedures and practices, THHA will consider

all circumstances relevant to a particular case such as the seriousness of the offending action,

the extent of participation by the leaseholder in the offending action,

the effects that the eviction would have on family members not involved in the offending activity and

the extent to which the leaseholder has shown personal responsibility and has taken all reasonable steps to prevent or mitigate the offending action.

*(C) Exclusion of culpable household member.*

THHA will require a tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

*(D) Consideration of rehabilitation.*

In determining whether to terminate tenancy for illegal drug use or a pattern of illegal drug use by a household member who is no longer engaging in such use, or for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, THHA will 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. 13662).

For this purpose, THHA will require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

*(E) Length of period of mandatory prohibition on admission*

If a statute requires that THHA prohibit admission of persons for a prescribed period of time after some disqualifying behavior or event, THHA may apply that prohibition for a longer period of time.

*(F) Nondiscrimination limitation.*

THHA eviction actions will be consistent with fair housing and equal opportunity provisions of §5.105 of this title.

*(m) Eviction: Right to examine THHA documents before hearing or trial.*

THHA shall provide the tenant a reasonable opportunity to examine, at the tenant's request, before a THHA grievance hearing or court trial concerning a termination of tenancy or eviction, any documents, including records and regulations, which are in the possession of THHA, and which are directly relevant to the termination of tenancy or eviction.

The tenant shall be allowed to copy any such document at the tenant's expense.

A notice of lease termination pursuant to §966.4(1) (3) shall inform the tenant of the tenant's right to examine THHA documents concerning the termination of tenancy or eviction.

If THHA does not make documents available for examination upon request by the tenant (in accordance with this §966.4(m)), THHA will not proceed with the eviction.

(n) *Grievance procedures.*

The lease shall provide that all disputes concerning the obligations of the tenant or THHA shall (except as provided in §966.51(a)(2)) be resolved in accordance with THHA grievance procedures.

The grievance procedures shall comply with subpart B of this part.

(o) *Provision for modifications.*

The lease shall provide that modification of the lease will be accomplished by a written rider to the lease executed by both parties, except for paragraph (c) of this section and §966.5.

(p) *Signature clause.*

The lease shall provide a signature clause attesting that the lease has been executed by the parties.

**§ 966.5 Posting of policies, rules and regulations.**

Schedules of special charges for services, repairs and utilities and rules and regulations which are required to be incorporated in the lease by reference shall be publicly posted in a conspicuous manner in the Project Office and shall be furnished to applicants and tenants on request.

Such schedules, rules and regulations will be modified from time to time by THHA provided that THHA shall give at least 30-day written notice to each affected tenant setting forth the proposed modification, the reasons therefore, and providing the tenant an opportunity to present written comments which shall be taken into consideration by THHA prior to the proposed modification becoming effective.

A copy of such notice shall be:

(a) Delivered directly or mailed to each tenant; or

(b) Posted in conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the project office, if any, or if none, a similar central business location within the project.

**§ 966.6 Prohibited lease provisions.**

Lease clauses of the nature described below shall not be included in new leases between a THHA and a tenant and shall be deleted from existing leases either by amendment thereof or execution of a new lease:

(a) *Confession of judgment.*

Prior consent by the tenant to any lawsuit the landlord will bring against him in connection with the lease and to a judgment in favor of the landlord.

(b) *Distrain for rent or other charges*

Agreement by the tenant that landlord is authorized to take property of the tenant and hold it as a pledge until the tenant performs the obligation which the landlord has determined the tenant has failed to perform.



(c) *Exculpatory clauses.*

Agreement by the tenant not to hold the landlord or landlord's agent liable for any acts or omissions whether intentional or negligent on the part of the landlord or the landlord's authorized representatives or agents.

(d) *Waiver of legal notice by tenant prior to actions for eviction or money judgments.*

Agreements by the tenant that the landlord will institute suit without any notice to the tenant that the suit has been filed, thus preventing the tenant from defending against the lawsuit.

(e) *Waiver of legal proceedings.*

Authorization to the landlord to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or default has occurred without notice to the tenant or any determination by a court of the rights and liabilities of the parties.

(f) *Waiver of jury trial.*

Authorization of the landlord's lawyer to appear in court for the tenant and waive the right to a trial by jury.

(g) *Waiver of right to appeal judicial error in legal proceeding*

Authorization to the landlord's lawyer to waive the right to appeal for judicial error in any suit or to waive the right to file a suit in equity to prevent the execution of a judgment.

(h) *Tenant chargeable with cost of legal actions regardless of outcome.*

Provision that the tenant agrees to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though the court determines that the tenant prevails in the action.

Prohibition of this type of provision does not mean that the tenant as a party to the lawsuit will not be obligated to pay attorney's fees or other costs if he loses the suit.

**§ 966.7 Accommodation of persons with disabilities.**

(a) For all aspects of the lease and grievance procedures, a handicapped person shall be provided reasonable accommodation to the extent necessary to provide the handicapped person with an opportunity to use and occupy the dwelling unit equal to a non-handicapped person.

(b) THHA shall provide a notice to each tenant that the tenant will, at any time during the tenancy, request reasonable accommodation of a handicap of a household member, including reasonable accommodation so that the tenant can meet lease requirements or other requirements of tenancy.

# THHA DWELLING LEASE (PUBLIC HOUSING)

## RESIDENTIAL LEASE AGREEMENT

### THIS LEASE IS IN TWO PARTS:

Part I establishes the Terms and Conditions of the lease.

These apply to all TENANTS;

Part II ~ Lease Contract.

This is executed by HEAD OF HOUSEHOLD and the LANDLORD and/or MANAGEMENT AGENT and includes all of the Part I Terms and Conditions (by reference) and the following information specific to each family circumstance:

Identification of all members of TENANT household by relationship to the Head of the Household, their social security numbers, ages (at the time of lease execution) and dates of birth (DOB);

Unit address, occupancy date, project name and number;

Pro-rated and full monthly rent amount, security deposit required, pro-rated and full monthly utility allowance provided (if any), pro-rated and full monthly utility reimbursement (if any) and the amount of any other charges due under the lease;

Utilities and appliances provided by the LANDLORD and/or MANAGEMENT AGENT with the unit;

All pamphlets or informational materials provided to TENANT;

Signature line for the parties to the lease (all adult members of TENANT household will sign the lease);

Emergency telephone number for TENANT to use if maintenance problems arise with the unit outside of normal Authority working hours

Form EPA747-K-99-001 PROTECT YOUR FAMILY FROM LEAD IN YOUR HOME

NOTE: Information contained in [.....] indicates reference to federal regulation.

**PART I of the RESIDENTIAL LEASE AGREEMENT**

**TERMS AND CONDITIONS**

**THIS LEASE AGREEMENT (called the “Lease”) is between:**

**HOUSING AUTHORITY OF THE CITY OF TERRE HAUTE**

**(here-in-after called the” “LANDLORD and/or MANAGEMENT AGENT),**

and;

**(insert the name of the Head of Household).**

**signatory in Part II of this lease, (here-in-after called the “TENANT”). [966.4 (a)]**

**NOTE: All references to “Housing Assistance Administrator” shall mean  
“The Housing Authority of the City Of Terre Haute”**

**I. Description of the Parties and Premises: [966.4]**

(a) The LANDLORD and/or MANAGEMENT AGENT, leases to TENANT, the property (called Premises or Dwelling unit) described in Part II of this Lease Agreement, subject to the terms and conditions contained in this lease. [966.4 (a)]

(b) Premises will be used only as a private residence, solely for TENANT and the family members named on Part II of the Lease. The LANDLORD and/or MANAGEMENT AGENT will, by prior written approval, consent to TENANT use of the unit for legal profit-making activities subject to the LANDLORD and/or MANAGEMENT AGENT policy on such activities. [966.4 (d)(1 & 2)]

(c) Any additions to the household members named on the lease, including Live-in Aides and foster children, but excluding natural births, require the advance written approval of the LANDLORD and/or MANAGEMENT AGENT. Such approval will be granted only if the new family members pass the LANDLORD and/or MANAGEMENT AGENT screening criteria and a unit of the appropriate size is available. Permission to add Live-in Aides and foster children shall not be unreasonably refused. [966.4 (a)(2) & (d)(3)(i)]

(d) TENANT agrees to wait for the LANDLORD and/or MANAGEMENT AGENT approval before allowing additional persons to move into the Premises. Failure on the part of TENANT to comply with this provision is a serious violation of the material terms of the lease, for which the LANDLORD and/or MANAGEMENT AGENT will terminate the lease in accordance with Section XVI . [966.4 (f)(3)]

(e) Deletions (for any reason) of household members named on the lease shall be reported by HOUSING ASSISTANCE ADMINISTRATOR, in writing, within 10 days of the occurrence. [966.4 ©(1) & (2) & (f)(3)]

**II. Lease and Amount of Rent**

(a) Unless otherwise modified or terminated in accordance with Section XVI, this Lease shall automatically be renewed for successive terms of one calendar month. [966.4 (a)(1)]

The rent amount is stated in Part II of this Lease. Rent shall remain in effect unless adjusted by the HOUSING ASSISTANCE ADMINISTRATOR in accordance with Section VII herein. [966.4 ©]

The HOUSING ASSISTANCE ADMINISTRATOR in compliance with HUD regulations and requirements shall determine the amount of the Total TENANT Payment and TENANT Rent. [966.4 ©]

**(b) Rent is DUE and PAYABLE on the 1ST day of each month and shall be considered delinquent after the 5<sup>TH</sup> calendar day of the month.**

Rent will include utilities as described in Section VII below, and includes all maintenance services due to normal wear and tear. [966.4 (e)(1) & (3)]

When the HOUSING ASSISTANCE ADMINISTRATOR makes any change in the amount of Total TENANT Payment or TENANT Rent, HE/SHE shall give written notice to TENANT. The notice shall state the new amount, and the date from which the new amount is applicable.

Rent adjustments are subject to an Administrative Grievance Procedure.

The notice shall also state that TENANT will ask for an explanation of how the amount is computed. If TENANT asks for an explanation, the HOUSING ASSISTANCE ADMINISTRATOR shall respond in reasonable time. [966.4 ©(4)]

**III. Other Charges**

In addition to rent, TENANT is responsible for the payment of certain other charges specified in this lease. The type(s) and amounts of other charges are specified in Part II of this Lease Agreement.

Other charges can include: [966.4 (b)(2)]

(a) Maintenance costs—The cost for services or repairs due to intentional or negligent damage to the dwelling unit, common areas or grounds beyond normal wear and tear, caused by TENANT, household members or by guests. When the LANDLORD and/or MANAGEMENT AGENT determines that needed maintenance is not caused by normal wear and tear, TENANT shall be charged for the cost of such service based on the actual cost to the LANDLORD and/or MANAGEMENT AGENT for the labor and materials needed to complete the work. If overtime work is required, overtime rates shall be charged. [966.4 (b)(2)]

(b) Excess Utility Charges

At developments where utilities are provided by the LANDLORD and/or MANAGEMENT AGENT, a charge WILL be assessed for excess utility consumption due to the operation of UNAPPROVED TENANT-supplied appliances or equipment. This Charge does not apply to TENANT who pay their utilities directly to a utility supplier. [966.4 (b)(2)]

(d) Late Charges

Late-payment charges of \$10.00 per week will be assessed by the LANDLORD and/or MANAGEMENT AGENT for unpaid rent and/or other charges after the 15<sup>th</sup> calendar day of the month. [966.4 (b)(3)]

The LANDLORD and/or MANAGEMENT AGENT shall provide written notice of the amount of any charge in addition to TENANT Rent, and when the charge is due. Charges in addition to rent are due 30 calendar days after TENANT receives the LANDLORD and/or MANAGEMENT AGENT written notice of the charge. [966.4 (b)(4)]

**IV. Payment Location**

The LANDLORD and/or MANAGEMENT AGENT will determine how and where payments are to be made.

**V. Security Deposit**

(a) TENANT Responsibilities: TENANT agrees to pay an amount equal to maximum allowable amount chargeable by law and/or regulation. The dollar amount of the security deposit is noted on Part II of this Residential Lease. [966.4 (b)(5)]

(b) The LANDLORD and/or MANAGEMENT AGENT will use the Security Deposit at the termination of this Lease:

1. To pay the cost of any rent or any other charges owed by TENANT at the termination of this lease.
2. To reimburse the cost of repairing any intentional or negligent damages to the dwelling unit caused by TENANT, household members or guests.
3. The Security Deposit will not be used to pay rent or other charges while TENANT occupies the dwelling unit. No refund of the Security Deposit will be made until TENANT has vacated and the LANDLORD and/or MANAGEMENT AGENT have inspected the dwelling unit.
4. The return of a security deposit shall occur no earlier than 45 days after TENANT moves out.
5. The LANDLORD and/or MANAGEMENT AGENT agrees to return the Security Deposit plus accrued interest (subject to applicable laws), if any, to TENANT when he/she vacates, less any deductions for any costs indicated above, so long as TENANT furnishes the LANDLORD and/or MANAGEMENT AGENT with a forwarding address. If any deductions are made, the LANDLORD and/or MANAGEMENT AGENT will furnish TENANT with a written statement of any such costs for damages and/or other charges deducted from the Security Deposit.

**VI. Utilities and Appliances [966.4 (b)(1)]**

These are defined in Part II of this lease.

**VII. LANDLORD-Supplied Utilities:**

- a. If indicated by an (X) on Part II of the Lease Agreement, the LANDLORD and/or MANAGEMENT AGENT will supply the indicated utility: electricity, natural gas, heating fuel.
- b. The LANDLORD and/or MANAGEMENT AGENT will not be liable for the failure to supply utility service for any cause whatsoever beyond its control.
- c. If indicated by an (X) on Part II of the Lease Agreement, the LANDLORD and/or MANAGEMENT AGENT will provide a cooking range and refrigerator.
- d. Any major appliances, (air conditioners, freezers, extra refrigerators, washers, dryers, SPACE HEATERS etc.), will be installed and operated only with the written approval of the LANDLORD and/or MANAGEMENT AGENT.

- e. An excess utility charge will be payable by the TENANT for utilities used in the operation of UNAPPROVED appliances. [966.4 (b)(2)]

(b) TENANT-Paid Utilities:

If TENANT resides in a development where the LANDLORD and/or MANAGEMENT AGENT does not supply electricity, natural gas, or heating fuel, an Allowance for Utilities shall be established appropriate for the size and type of dwelling unit for utilities the TENANT pays directly to the utility supplier.

The HOUSING ASSISTANCE ADMINISTRATOR will change the Allowance at any time during the term of the lease, and shall give TENANT 30 day's written notice of the revised Allowance along with any resultant changes in TENANT Rent or Utility Reimbursement. [965.502 ©]

If TENANT actual utility bill exceeds the Allowance for Utilities, TENANT shall be responsible for paying the actual bill to the supplier.

If TENANT actual utility bill is LESS than the Allowance for Utilities, TENANT shall receive the benefit of such saving.

(c) TENANT Responsibilities:

TENANT agrees not to waste the utilities provided by the LANDLORD and/or MANAGEMENT AGENT and to comply with any applicable law, regulation, or guideline of any governmental entity regulating utilities or fuels. [966.4 (f)(8)]

### **VIII. Terms and Conditions Of Occupancy**

(a) Use and Occupancy of Dwelling

TENANT shall have the right to exclusive use and occupancy of the dwelling unit for TENANT and other household members listed on the lease.

- (b) With prior written consent of the LANDLORD and/or MANAGEMENT AGENT, members of the household will engage in legal profit-making activities in the dwelling unit. [966.4 (d) (1) & (2)]

- (c) Reasonable accommodation is permitted to a TENANT guests or visitors for a period not exceeding 2 days each week. Permission will be granted upon written request to the LANDLORD and/or MANAGEMENT AGENT, for an extension of this provision. [966.4 (d)(1)]

(d) Ability to Comply with Lease Terms -

IF, during the term of this Lease, the TENANT, by reason of physical or mental impairment, is no longer able to comply with the material provisions of this lease

AND cannot make arrangements for someone to aid him/her in complying with the lease

AND the LANDLORD and/or MANAGEMENT AGENT cannot make any reasonable accommodation that would enable TENANT to comply with the lease,

THEN, the LANDLORD and/or MANAGEMENT AGENT will assist the TENANT, or designated member(s) of TENANT family, to find more suitable housing.

IF there are no family members who can or will take responsibility for moving the TENANT, the LANDLORD and/or MANAGEMENT AGENT will work with appropriate agencies to secure suitable housing and will terminate the Lease in accordance with Section XIV of this lease. [8.3]

At the time of admission, the TENANT will identify the family member(s) to be contacted if they become unable to comply with lease terms.

(e) Re-Determination of Rent, Dwelling Size, and Eligibility:

The rent amount stated in Part II of the Lease Agreement is due each month until changed as described below.

- (1) The status of each family will be re-examined at least once a year. [960.209]

(2) TENANT promises to supply the HOUSING ASSISTANCE ADMINISTRATOR, when requested, with accurate information about: family composition, age of family members, income and

source of income of a family members, assets, and related information necessary to determine eligibility, annual income, adjusted income, and rent. [966.4 (c) (2)]

Failure to supply such information when requested is a serious violation of the terms of the lease, and the lease will terminate immediately if such failure occurs.

All information will be verified. TENANT agrees to comply with the requests for verification by signing releases for third-party sources, presenting documents for review, or providing other suitable forms of verification. [966.4©(2)].

Rent will not change during the period between regular re-examinations, UNLESS during such period [960.209 (b)]

(a) TENANT can verify a change in his/her circumstances (such as decline in or loss of income) that would justify a reduction in rent. [913.107]

(b) If it is found that TENANT has misrepresented the facts upon which the rent is based so that the rent TENANT is paying is less than the rent that he/she should have been charged, the HOUSING ASSISTANCE ADMINISTRATOR then will apply an increase in rent retroactive to the first of the month following the month in which the misrepresentation occurred.

(d) Rent formulas are subject to Federal law and regulation.

(e) All changes in family composition will be reported to the HOUSING ASSISTANCE ADMINISTRATOR within 30 days of the occurrence. Failure to report within the 30 days will result in a retroactive rent charge. [966.4 © (2)]

**This Lease will NOT be revised to permit a change of family composition resulting from a request to allow adult children to move back into the unit unless it is determined by the LANDLORD and/or MANAGEMENT AGENT that the move is essential for the mental or physical health of TENANT AND it does not disqualify the family for size unit it is currently occupying.**

(f) Rent Adjustments:

TENANT will be notified in writing of any rent adjustment due to the situations described above. All notices will state the effective date of the rent adjustment.

(1) In the case of a rent decrease, the adjustment will become effective on the first day of the month following the reported change in circumstances or change in Federal law or regulations, provided TENANT reported the change in a timely manner, as specified above (when change is based on new circumstances).

(2) In the case of a rent increase, when an increase in income occurs after a prior rent reduction and is reported within 30 days of the occurrence, the increase will become effective at annual re-certification.

(3) In the case of a rent increase due to a change in Federal law or regulations, the increase will become effective at annual re-certification.

(4) In the case of a rent increase due to misrepresentation, failure to report a change in family composition, or failure to report an increase in income (after a reduction in rent per the fixed rent policy), the HOUSING ASSISTANCE ADMINISTRATOR shall apply the increase in rent retroactive to the first of the month following the month in which the misrepresentation occurred.

(g) Transfers [966.4 ©(3)]

(1) TENANT agrees that, if the HOUSING ASSISTANCE ADMINISTRATOR determines that the size or design of the dwelling unit is no longer appropriate to TENANT needs, to accept a new lease for a different dwelling unit of the appropriate size or design.

(2) The LANDLORD and/or MANAGEMENT AGENT will move a TENANT into another unit if it is determined necessary to rehabilitate or demolish TENANT unit.

(3) If a TENANT makes a written request for special unit features in support of a documented disability or handicap, the LANDLORD and/or MANAGEMENT AGENT shall modify TENANT existing unit subject to availability of funds.

(5) In the case of involuntary transfers, if TENANT refuses to move, the LANDLORD and/or MANAGEMENT AGENT will terminate the Lease. [966.4 ©(3)]

(6) Involuntary transfers are subject to the Grievance Procedure, and no such transfers will be made until either the time to request a Grievance has expired or the procedure has been completed. [966.4 ©(4)]

(7) The LANDLORD and/or MANAGEMENT AGENT will consider any TENANT requests for transfers in accordance with established rules and regulations.

**IX. LANDLORD and/or MANAGEMENT AGENT Obligations [966.4 (e)]**

The LANDLORD and/or MANAGEMENT AGENT shall be obligated to maintain the dwelling unit and the project in decent, safe and sanitary condition; [966.4 (e)(1)], and

To comply with the requirements of applicable building codes, housing codes, and HUD regulations materially affecting health and safety, [966.4 (e)(2)]

To make necessary repairs to the dwelling unit; [966.4 (e)(3)]

To keep project building, facilities, and common areas, not otherwise assigned to TENANT for maintenance and upkeep, in a clean and safe condition; [966.4 (e)(4)]

To maintain in good and safe working order and condition electrical, plumbing, sanitary, heating, ventilating, and other facilities and appliances, including elevators supplied or required to be supplied by the LANDLORD and/or MANAGEMENT AGENT [966.4 (e)(5)]

To provide and maintain appropriate receptacles and facilities (except container for the exclusive use of an individual TENANT family) for the deposit of garbage, rubbish, and other waste removed from the premise by TENANT as required by this Lease, and to provide disposal service for garbage, rubbish and other solid waste; [966.4 (e)(6)]

To supply running water and reasonable amounts of hot water and reasonable amount of heat at appropriate times of the year according to local custom and usage; EXCEPT where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or where heat or hot water is generated by an installation within the exclusive control of TENANT and supplied by a direct utility connection; [966.4 (e)(7)].

To notify TENANT of the specific grounds for any proposed adverse action by the LANDLORD and/or MANAGEMENT AGENT. (Such adverse action includes, but is not limited to, a proposed lease termination, transfer of TENANT to another unit, or imposition of charges for maintenance and repair, or for excess consumption of utilities.)

To afford TENANT the opportunity for a hearing under the Administrative Grievance Procedure for a proposed adverse action:

To inform TENANT of the right to request such hearing.

In the case of lease termination, a notice of lease termination that complies with [966.4 (1)(3)] shall constitute adequate notice of proposed adverse action.

In the case of a proposed adverse action other than a proposed lease termination, the LANDLORD and/or MANAGEMENT AGENT shall not take the proposed action until time to request such a hearing has expired and (if hearing was timely requested) the grievance process has been completed. [966.4 (e)(8)]

**XI. TENANT Obligations:**

TENANT shall be obligated

- (a) Not to assign the Lease, or sublease the dwelling unit. [ 966.4 (f)(1)]
- (b) Not to give accommodation to boarders or lodgers; [966.4 f)(2)]
- (c) Not to give accommodation to guests in excess of TWO (2) days without the advance written consent of the LANDLORD and/or MANAGEMENT AGENT.
- (d) To use the dwelling unit solely as a private dwelling for TENANT and TENANT household as identified in PART II of the Lease, and not to use or permit its use for any other purpose. [966.4 (f)(3)]
- (e) This provision does not exclude the care of foster children or live-in care of a member of TENANT family, provided the accommodation of such persons conforms to the LANDLORD and/or



MANAGEMENT AGENT occupancy standards, and SO long as the LANDLORD and/or MANAGEMENT AGENT has granted prior written approval for the foster children, or live-in aide to reside in the unit. [966.4 (d)((3)(f))]

- (f) To abide by necessary and reasonable regulations promulgated by the LANDLORD and/or MANAGEMENT AGENT for the benefit and well being of the housing project and TENANT. These regulations shall be available for viewing in any management office, if any, of the LANDLORD and/or MANAGEMENT AGENT and are incorporated by reference in this Lease. Violation of such regulations constitutes a violation of the Lease. [966.4(f)(4)]
- (g) To comply with the requirements of applicable state and local building or housing codes, materially affecting health and/or safety of TENANT and household. [966.4(f)(5)]
- (h) To keep the dwelling unit and other such areas as will be assigned to TENANT for exclusive use in a clean and safe condition. [966.4(f)(6)] This includes keeping front and rear entrances and walkways for the exclusive use of TENANT, free from hazards and trash and keeping the yard free of debris and litter. Exceptions to this requirement will be made for TENANT who have no household members able to perform such tasks because of age or disability. [966.4 (g3)]
- (i) To dispose of all garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner only in containers approved or provided by the LANDLORD and/or MANAGEMENT AGENT. [§ 966.4(f)(7)]
- (j) To refrain from, and cause members of TENANT household or guest to refrain from, littering or leaving trash and debris in common areas.
- (k) To use only in reasonable manner all electrical, sanitary, heating, ventilating, air-conditioning, and other facilities and appurtenances including elevators. [966.4(f)(8)]
- (l) To refrain from, and to cause household and guests to refrain from destroying, defacing, damaging, or removing any part of dwelling unit or project. [966.4 (f)(9)]
- (m) To pay reasonable charges (other than for wear and tear) for the repair of damages to the dwelling unit, project buildings, facilities, or common areas caused by TENANT, household members or guests. [§ 966.4(f)(10)]
- (n) To act, and cause household members or guests to act in a manner that will:
  - a. Not disturb other residents' peaceful enjoyment of their accommodations; and
  - b. Be conducive to maintaining all properties in a decent, safe, and sanitary condition. [966.4 (f)(11)]
- (o) To assure that TENANT, any member of the household, a guest, or another person under TENANT control, shall not engage in:
  - c. **Any criminal activity** that threatens the health, safety, or right to peaceful enjoyment of the housing premises by other residents or employees of the LANDLORD and/or MANAGEMENT AGENT, or
  - d. **Any drug-related criminal activity**, in violation of the preceding sentence shall be cause for termination of tenancy, and for eviction from the unit. (For the purposes of this lease, the term drug-related criminal activity means the illegal possession, manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use, of a controlled substance as defined in Section 102 of the Controlled Substances Act.) [966.4 (f)(12)]
- (p) To make no alterations or repairs or re-decorations to the interior of the dwelling unit or to the equipment, nor to install additional equipment or major appliances without written consent of the LANDLORD and/or MANAGEMENT AGENT.
- (q) To make no changes to locks or install new locks on exterior doors without the LANDLORD and/or MANAGEMENT AGENT written approval
- (r) To use no nails, tacks, screws, brackets, or fasteners on any part of the dwelling unit (a reasonable number of picture hangers accepted) without authorization by the LANDLORD and/or MANAGEMENT AGENT.

- (s) To give prompt prior notice to the LANDLORD and/or MANAGEMENT AGENT, in accordance with Section VIII hereof, of TENANT leaving dwelling unit unoccupied for any period exceeding 5 calendar days.
- (t) To act in a cooperative manner with neighbors and the LANDLORD and/or MANAGEMENT AGENT Staff. To refrain from and cause members of TENANT household or guests to refrain from acting or speaking in an abusive or threatening manner toward neighbors and the LANDLORD and/or MANAGEMENT AGENT staff.

- (u) Not to display, use, or possess or allow members of TENANT household or guests to display, use or possess any firearms, (operable or inoperable) or other offensive weapons as defined by the laws and courts of the State of anywhere on the property of the LANDLORD and/or MANAGEMENT AGENT.
- (v) To take reasonable precautions to prevent fires and to refrain from storing or keeping flammable materials upon the premises.
- (w) To avoid obstructing sidewalks, areaways, galleries, passages, elevators, or stairs, and to avoid using these for purposes other than going in and out of the dwelling unit.
- (x) To refrain from erecting or hanging radio, television antennas or cable T.V. wire on or from any part of the dwelling unit, except that roof antennas will be installed in accordance with the written approval of the LANDLORD and/or MANAGEMENT AGENT.
- (y) To refrain from placing signs of any type in or about the dwelling except those allowed under applicable zoning ordinances and then only after having received written permission of the LANDLORD and/or MANAGEMENT AGENT.
- (z) **In accordance with the LANDLORD and/or MANAGEMENT AGENT Pet Policy**, pets will be kept in building or units. (SEE PET POLICY SECTION)
- (aa) To remove from Authority property any vehicles without valid registration and inspection stickers. To refrain from parking any vehicles in any right-of-way or fire lane designated and marked by the LANDLORD and/or MANAGEMENT AGENT.

Any inoperable or unlicensed vehicle as described above will be removed from Authority property at TENANT expense.

Major automobile repair is not permitted on project site.

- (bb) To remove any personal property left on Authority property when TENANT leaves, abandons or surrenders the dwelling unit. Property left for more than 30 days shall be considered abandoned and will be disposed of by the LANDLORD and/or MANAGEMENT AGENT. Costs for storage and disposal shall be assessed against the former TENANT.
- (cc) To use reasonable care to keep the dwelling unit in such condition as to ensure proper health and sanitation standards for TENANT, household members and neighbors. TENANT SHALL NOTIFY THE LANDLORD AND/OR MANAGEMENT AGENT UNIT PROMPTLY OF KNOWN NEED FOR REPAIRS TO THE DWELLING, and of known unsafe or unsanitary conditions in the dwelling unit or in common areas and grounds of the Project.  
  
TENANT failure to report the need for repairs in a timely manner shall be considered to contribute to any damage that occurs.
- (dd) Not to commit any fraud in connection with any Federal housing assistance program, and not to receive assistance for occupancy of any other unit assisted under any Federal housing assistance program during the term of the lease.
- (ee) To pay promptly any utility bills for utilities supplied to TENANT by a direct connection to the utility company, and to avoid disconnection of utility service for such utilities.

## **XI. Defects Hazardous to Life, Health or Safety**

In the event that the LANDLORD and/or MANAGEMENT AGENT determines the dwelling unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants: [966.4 (h)]

### **LANDLORD/MANAGEMENT AGENT Responsibilities:**

- (a) The LANDLORD and/or MANAGEMENT AGENT shall be responsible for repair of the unit within a reasonable period of time after receiving notice from TENANT, provided, if the damage was caused by TENANT, household members or guests, the reasonable cost of the repairs shall be charged to TENANT. [966.4 (h)(2)]

(b) The LANDLORD and/or MANAGEMENT AGENT shall offer TENANT a replacement dwelling unit, if available, if necessary repairs cannot be made within a reasonable time. The LANDLORD and/or MANAGEMENT AGENT is not required to offer TENANT a replacement unit if the hazardous condition was caused by TENANT, household members, or guests. [966.4 (h)(3)]

© TENANT shall accept any replacement unit offered by the LANDLORD and/or MANAGEMENT AGENT

(d) In the event repairs cannot be made by the LANDLORD and/or MANAGEMENT AGENT, as described above, and alternative accommodations are unavailable, then rent shall abate in proportion to the seriousness of the damage and loss in value as a dwelling. No abatement of rent shall occur if TENANT rejects alternative accommodations or TENANT, household members, or guests caused the damage. [966.4 (h)(4)]

(e) If the LANDLORD and/or MANAGEMENT AGENT determines that the dwelling unit is uninhabitable because of imminent danger to the life, health, and safety of TENANT, and TENANT refuses alternative accommodations, this Lease shall be terminated, and any rent paid will be refunded to TENANT.

#### **TENANT Responsibilities:**

(a) TENANT shall immediately notify the LANDLORD and/or MANAGEMENT AGENT of the damage and intent to abate rent, when the damage is or becomes sufficiently severe that TENANT believes he/she is justified in abating rent. [966.4 (h)(l)]

(b) TENANT agrees to continue to pay full rent, less the abated portion agreed upon by the LANDLORD and/or MANAGEMENT AGENT, during the time in which the defect remains uncorrected.

#### **XII. Move-in and Move-out Inspections**

##### (a) Move-in Inspection

- a. The LANDLORD and/or MANAGEMENT AGENT and TENANT or representative shall inspect the dwelling unit prior to occupancy by TENANT. The LANDLORD and/or MANAGEMENT AGENT will give TENANT a written statement of the condition of the dwelling unit, both inside and outside, and note any equipment provided with the unit.
- b. The LANDLORD and/or MANAGEMENT AGENT and TENANT shall sign the statement and a copy of the statement retained in TENANT folder. [966.4 (i)]
- c. (The LANDLORD and/or MANAGEMENT AGENT will correct any deficiencies noted on the inspection report, at no charge to TENANT.)

##### (b) Move-Out Inspection

The LANDLORD and/or MANAGEMENT AGENT will inspect the unit at the time TENANT vacates and give TENANT a written statement of the charges, if any, for which TENANT is responsible. TENANT and/or representative will join in such inspection, unless TENANT vacates without notice to the LANDLORD and/or MANAGEMENT AGENT. [966.4 (i)]

#### **XIII. Entry of Premises**

##### (a) TENANT Responsibilities

- a. TENANT agrees that the duly authorized agent, employee, or contractor of the LANDLORD and/or MANAGEMENT AGENT will be permitted to enter TENANT dwelling during reasonable hours (7:30 A.M. to 5:00P.M.) for the purpose of performing routine maintenance, making improvements or repairs, inspecting the unit, or showing the unit for releasing. [966.4 0)(1)]
- b. When TENANT calls to request maintenance on the unit, the LANDLORD and/or MANAGEMENT AGENT shall attempt to provide such maintenance at a time convenient to TENANT. If TENANT is absent from the dwelling unit when the LANDLORD and/or MANAGEMENT AGENT comes to perform maintenance, TENANT request for maintenance shall constitute permission to enter.

(b) LANDLORD and/or MANAGEMENT AGENT Responsibilities

- (1) The LANDLORD and/or MANAGEMENT AGENT shall give TENANT at least:

**12 hours notice,**  
**IF POSSIBLE,**  
**and IN WRITING.**

that the LANDLORD and/or MANAGEMENT AGENT intend to enter the unit. [966.4 (j)(1)]

- (2) The LANDLORD and/or MANAGEMENT AGENT will enter TENANT dwelling unit at any time without advance notification when the LANDLORD and/or MANAGEMENT AGENT determines there is reasonable cause to believe that an emergency exists. [966.4 (j)(2)]
- (3) If TENANT and all adult members of the household are absent from the dwelling unit at the time of entry, LANDLORD and/or MANAGEMENT AGENT shall leave in the dwelling unit a written statement specifying the date, time and purpose of entry prior to leaving the dwelling unit. [966.4 (j)(3)]

**XIV. Notification Procedures**

- (a) TENANT Responsibility—Any notice to LANDLORD and/or MANAGEMENT AGENT will be in writing, delivered directly to the LANDLORD and/or MANAGEMENT AGENT, or sent by prepaid first-class mail, properly addressed. [966.4 (k)(1)(ii)]
- (b) LANDLORD and/or MANAGEMENT AGENT Responsibility—Notice to TENANT will be in writing, delivered to TENANT or to any adult member of the household residing in the dwelling unit, or sent by prepaid first class mail addressed to TENANT. [966.4 (k)(1)(1)]
- © Unopened, cancelled, first class mail returned by the Post Office shall be sufficient evidence that notice was given, whether signed or unsigned.
- (d) If TENANT is visually impaired, all notices will be in an accessible format. [966.4 (k)(2)]

**XV. Termination of the Lease**

In terminating the Lease, the following procedures shall be adhered to the LANDLORD and/or MANAGEMENT AGENT and TENANT:

- (a) This Lease will be terminated only for serious or repeated violations of material terms of the Lease, such as failure to make payments due under the lease or to fulfill TENANT obligations set forth in section X above, or for other good cause. [966.4 0)(2)]

**Such serious or repeated violation of terms will include but not be limited to:**

- (1) The failure to pay rent or other payments when due; [966.4 (0)]
- (2) Repeated late payment, which shall be deemed as failure to pay the amount of rent or other charges due by the 5<sup>th</sup> of the month. Four (4) such late payments within a 12 month period shall constitute repeated late payment; [966.4 (0)]
- (3) Failure to pay utility bills when TENANT is responsible for paying such bills directly to the supplier of utilities; [966.4 0)(2)]
- (4) Misrepresentation of family income, assets, or composition; [966.4 ©(2)]
- (5) Failure to supply, in a timely fashion, any certification, release, information or documentation on Family income or Family composition needed to process annual reexaminations or interim re-determinations. [966.4 ©(2)]
- (6) Serious or repeated damage to the dwelling unit, creation of physical hazards in the unit, common areas, grounds, or parking areas of any project site; [966.4 n)(2)]
- (7) Any activity by TENANT, household member, guest, or other person under TENANT control including criminal activity that threatens the health, safety or right to peaceful enjoyment of the LANDLORD and/or MANAGEMENT AGENT premises by other residents or employees, or any drug-related criminal activity. [966.4 0)(2)]

- (8) Weapons or illegal drugs seized in an unit by a law enforcement officer; [966.4 0(2)]
- (9) Any fire on the premises caused by the TENANT, household members or guests' actions or neglect. [966.4 0(2)]
- (10) **Failure to comply with the Community Service Requirements of the 2003 Quality Work and Responsibility Act**

(b) The LANDLORD and/or MANAGEMENT AGENT shall give written notice of the proposed termination of the Lease after:

- (1) 14 days in the case of failure to pay rent;
- (2) A reasonable time, but not to exceed 30 days, considering the seriousness of the situation when the health or safety of other TENANT or person is threatened.
- (3) 30 days in any other case. [966.4 0(3)(i)(A), (B) & (C)]

(c) Notice of Termination

- (1) The notice of termination to TENANT shall state specific reasons for the termination, shall inform TENANT of his/her right to make such reply as he/she will wish, and of TENANT right to examine documents directly relevant to the termination or eviction. [966.4 0(3)(ii)]
- (2) When the LANDLORD and/or MANAGEMENT AGENT is required to offer TENANT the opportunity for a grievance hearing, the notice shall also inform TENANT of the right to request such a hearing in accordance with the HOUSING ASSISTANCE ADMINISTRATOR'S Administrative Grievance Procedure. [966.4 0(3)(ii)]
- (3) Any notice to vacate (or quit) which State or local law requires will be combined with, or run concurrently, with the notice of lease termination under this section. [966.4 0(3)(iii)]
- (4) The Notice to Vacate will be in writing, and specify that if TENANT fails to quit the premises within the applicable statutory period, appropriate action will be brought against TENANT, and TENANT will be required to pay the costs of court and attorney's fees.
- (5) When the LANDLORD and/or MANAGEMENT AGENT is required to offer TENANT the opportunity for a hearing under the Administrative Grievance Procedure for issues concerning the lease termination, the tenancy shall not terminate even if any Notice to Vacate under State or local law has expired) until the period to request a hearing has expired, or (if a hearing is requested) the grievance process has been completed. [966.4 0(3)(iv)]

**When the LANDLORD and/or MANAGEMENT AGENT is not required to offer TENANT the opportunity or a hearing under the grievance procedure, the notice of lease termination shall**

- a. State that TENANT is not entitled to a grievance hearing on the termination;
- b. Specify the judicial eviction procedure to be used by the LANDLORD and/or MANAGEMENT AGENT for eviction and state that this eviction procedure provides the opportunity for an additional hearing in a court of law that contains the basic elements of due process as defined in USDHUD regulations; and
- c. State whether the eviction is for a criminal activity that threatens health or safety of residents or staff or for drug-related criminal activity. [966.4 0(3)(v)]

**The LANDLORD and/or MANAGEMENT AGENT will evict the TENANT from the unit only by bringing a court action. [966.4 (1)(4)]**

In deciding to evict for criminal activity, the LANDLORD and/or MANAGEMENT AGENT shall have discretion to consider all of the circumstances of the case, including the seriousness of the offense, the extent of participation by or awareness of family members, and the effects that the eviction would have both on family members not involved in the proscribed activity and on the family's neighbors.

The LANDLORD and/or MANAGEMENT AGENT will prohibit continued occupancy and/or visiting by remaining

family members who engaged in prohibited activities on the premises.

The LANDLORD and/or MANAGEMENT AGENT will require a family member who has engaged in the illegal use of drugs to present credible evidence of successful completion of a treatment program as a condition to being allowed to reside in the unit. [966.4 0)(5)]

When the LANDLORD and/or MANAGEMENT AGENT evicts a TENANT from a dwelling unit for criminal activity the LANDLORD and/or MANAGEMENT AGENT shall notify the local post office serving that dwelling unit that such individual or family is no longer residing in the unit so the post office will stop mail delivery for such persons and they will have no reason to return to the unit. [966.4 0)(5)(ii)]

**XVI. Waiver**

No delay or failure by the LANDLORD and/or MANAGEMENT AGENT in exercising any right under this lease agreement, and no partial or single exercise of any such right shall constitute a waiver (post or prospective) of that or any other right, unless otherwise expressly provided herein.

**XVII. PET POLICY (24 CFR 960)**

Nothing in Section XVII

- a) limits or impairs the rights of persons with disabilities;
- b) authorizes the OWNER and/or MANAGEMENT AGENT to limit or impair the rights of persons with disabilities;
- c) or affects any authority that the OWNER and/or MANAGEMENT AGENT will have to regulate service animals that assist, support or provide service to persons with disabilities, under Federal, state, or local law.

1. COMMON HOUSEHOLD PET DEFINED

- a. Common household pet is a domesticated animal, such as a dog, cat, or rodent that is traditionally kept in the home for pleasure rather than for commercial purposes. A reptile is not considered a common household pet.
- b. Any pet that does not meet the above definition will not be registered.
- c. Pet's weight cannot exceed 20 pounds or stand taller than 15 inches at the shoulders.
- d. Only one pet is allowed per unit.

2. APPROVAL AND REGISTRATION

- e. Before the pet can be brought on the premises of any community, the owner will meet with Property Management and pay in full the required pet deposit as described in Section 3.
- f. All pets will then be registered with the Property Manager. Each pet registration will be renewed annually. The pet registration will include:
  - i. A certification signed **by a licensed veterinarian** that the pet:
    - B. received an annual rabies vaccine, distemper inoculation
    - C. is neutered.
    - D. (if it is a cat,) has been de-clawed
    - E. weight is \_\_\_\_\_lbs and height is \_\_\_\_\_ inches.
  - ii. A photograph to identify the pet and to demonstrate that it is a common household pet.
  - iii. Cats and dogs will wear identification tags
  - iv. The name, address and telephone number of one or more parties who will care for the pet if the owner dies, is incapacitated or is otherwise unable to care for the pet.

The OWNER/and or MANAGEMENT AGENT reserves the right to restrict pet registration to those individuals who demonstrate habits and practices of pet ownership that comply with this policy.

3. PET DEPOSIT

- g. A Pet Deposit of **\$250.00** will be required.



- h. A portion of the Pet Deposit **\$100.00** will be used to pay reasonable expenses directly attributable to the presence of the pet in the community including but not limited to the cost of repair or replacement, fumigation of the dwelling unit, ETC.
- i. The remainder of the Pet Deposit **\$150.00** will be refunded **NO LATER THAN 45 days** after the tenant moves or no longer keeps the pet in the dwelling unit and **after** a thorough inspection has been completed of the premises and any necessary deductions made from the deposit for pet damages including but not limited to eradication of odor or fleas.

4. SANITARY STANDARDS

- j. All pet waste will be picked up and removed immediately by the pet owner and deposited in a in an **outdoor** waste disposal container.
- k. Single-family scattered site residents are required to pick up all pet waste from their yards.
- l. Indoor litter boxes will be changed twice each week and used litter deposited in the appropriate outdoor disposal. Pet waste will be removed from the litter once daily and the waste placed in the appropriate outdoor disposal.
- m. Absolutely no pet waste will be deposited indoors in a trashcan, in a trash chute, in trash rooms or in a dumpster.**
- n. A **\$25.00** charge will be assessed to pet owners each time they fail to remove waste in accordance with the Pet Policy.

5. RESTRAINT

- o. Pets will be restrained with a collar and leash while outside on the grounds of the community.
- p. Under no circumstances will the pet be allowed in the community center, office, laundry or other common areas of the building (except while leaving the building).

6. RIGHTS OF NEIGHBORS

- q. The owner shall assure that the pet does not cause any damage, discomfort, annoyance, nuisance, odor or any inconvenience to any other tenant in the community. Failure to satisfactorily remedy any problem will result in permanent removal of the pet from the community.

7. CARE OF PET

- r. No pet will be left unattended for more than **ten hours** in the unit.
  - i. Violations of this rule will result in the appropriate law enforcement official being notified. In addition, this will constitute an emergency for the purpose of entering the unit and removing the pet from the premises.
  - ii. The OWNER and/or MANAGEMENT AGENT accepts no responsibility for any pet so removed.**
- s. Pets will be treated for flea infestation periodically. If required, the owner agrees to pay for the cost of treating their apartment for flea infestation by the OWNER and/or MANAGEMENT AGENT'S pest exterminator.
- t. Pet will be housebroken.

8. LIABILITY

- u. The pet owner agrees to reimburse the OWNER and/or MANAGEMENT AGENT for any cost for repair of damages or other charges attributable to the pet that are not covered by the Pet Deposit.

9. PETS OWNED BY OTHERS

- v. Pets not owned by the tenant are not covered by this policy and are prohibited from the community.

10. IN CASE OF AN EMERGENCY

- w. In the event the health and safety of said pet is threatened by the death or incapacity of the pet owner or by other factors that render the pet owner unable to care for the pet, the Property Manager will contact the responsible party or parties listed in the Pet Registration. If the responsible party or parties are unwilling or unable to care for the pet, or the Property Manager is unable to contact the responsible party or parties, the Property Manager will contact the Terre Haute Humane Shelter or the local law enforcement authorities and request the removal of the pet from the premises.

**11. PROCEDURE FOR VIOLATION OF PET RULES**

Violation of the pet policy provisions will be treated like any other Lease violation and is subject to the Administrative Grievance Procedure.

**XVIII. Housekeeping Standards**

In an effort to improve the livability and conditions of the apartments owned and managed by the LANDLORD and/or MANAGEMENT AGENT, uniform standards for resident housekeeping have been developed for all TENANT families.

(a) LANDLORD and/or MANAGEMENT AGENT Responsibilities

The standards that follow will be applied fairly and uniformly to all TENANT. The LANDLORD and/or MANAGEMENT AGENT will inspect each unit at least annually, to determine compliance with the standards.

Upon completion of an inspection, the LANDLORD and/or MANAGEMENT AGENT will notify TENANT in writing if he/she fails to comply with the standards.

The LANDLORD and/or MANAGEMENT AGENT will advise TENANT of the specific correction(s) required to establish compliance, and indicate that training is available.

Within a reasonable period of time, the LANDLORD and/or MANAGEMENT AGENT will schedule a second inspection.

Failure of a second inspection will constitute a violation of the lease terms.

(b) TENANT Responsibility

Failure to abide by the Housekeeping Standards that results in the creation or maintenance of a threat to health or safety is a violation of the lease terms and can result in eviction.

## Housekeeping Standards

## Inside the Apartment

### General

Walls: should be clean, free of dirt, grease, holes, cobwebs, and fingerprints.

Floors: should be clean, clear, dry and free of hazards.

Ceilings: should be clean and free of cobwebs.

Windows: should be clean and operable.

Shades or blinds should be intact.

Woodwork should be clean, free of dust, gouges, or scratches.

Doors: should be clean, free of grease and fingerprints.

Trash shall be disposed of properly and not left in the unit.

### Kitchen

Dishes are to be washed immediately after use.

Stoves are to be kept clean and free of grease at all times.

Cooking utensils are to be kept clean and stored properly when not in use.

Stove: should be clean and free of food and grease.

Refrigerator: should be clean.

Freezer door should close properly and the freezer shall have no more than one inch of ice.

Cabinets should be clean and neat.

Cabinet surfaces and countertop should be free of grease and spilled food. Cabinets should not be overloaded.

Storage under the sink should be limited to small or lightweight items to permit access for repairs.

Heavy pots and pans should not be stored under the sink.

### Bathroom

Toilet and tank should be clean and odor - free.

Tub and shower: should be clean and free of excessive mildew and mold. Where applicable, shower curtains should be in place, and of adequate length.

Lavatory: should be clean.

Exhaust fans: should be free of dust.

Floor: should be clean and dry.

### Storage Areas

Linen closet: should be neat and clean.

Other closets should be neat and clean. No highly flammable materials should be stored in the unit.

Other storage areas: should be clean, neat and free of hazards.

Exhaust Fan should be free of grease and dust.

Sink should be clean, free of grease and garbage. Dirty dishes should be washed and put away.

Food storage areas: should be neat and clean without spilled food.

Trash/garbage: should be stored in a covered container until removed to the disposal area.

### Common Areas

The following standards apply only when the area noted is for the exclusive use of TENANT:

Yards: should be free of debris, trash, and abandoned cars. Exterior walls should be free of graffiti.

Porches (front and rear): should be clean and free of hazards. Any items stored on the porch shall not impede access to the unit.

Steps (front and rear): should be clean, and free of hazards.

Sidewalks: should be clean and free of hazards.

Storm doors: should be clean, with glass or screens intact.

Parking lot: should be free of abandoned cars. There should be no car repairs in the lots.

Hallways: should be clean and free of hazards.

Stairwells: should be clean and uncluttered.

Laundry areas: should be clean and neat. Remove lint from dryers after use.

## PART II of the RESIDENTIAL LEASE AGREEMENT:

THIS AGREEMENT is executed between

HOUSING AUTHORITY OF THE CITY OF TERRE HAUTE (herein called the "LANDLORD AND/OR MANAGEMENT AGENT"),

and

\_\_\_\_\_ herein called the "Tenant"),

and becomes effective as of this date: \_\_\_\_\_ [966.4 (a)]

**(1) UNIT:**

That the LANDLORD AND/OR MANAGEMENT AGENT, relying upon the representations of Tenant as to Tenant income, household composition and housing need, leases to Tenant, (upon Terms and Conditions set forth in Part I of this Lease agreement)

the dwelling unit located at \_\_\_\_\_

(hereinafter called the Premises) to be occupied exclusively as a private residence by Tenant and household.

The Tenant UNIT NUMBER is: \_\_\_\_\_ [966.4 (a)]

**(2) Household Composition:**

The Tenant household is composed of the individuals listed below. (Other than the Head or Spouse) each household member should be listed by age, oldest to youngest. [966.4 (a)(2)]

ALL members of the household over age 18 shall execute the lease.

Name	Relationship	Age	Social Security #	Birth-date
------	--------------	-----	-------------------	------------

Head of

Household

2 \_\_\_\_\_

3 \_\_\_\_\_

4 \_\_\_\_\_

5 \_\_\_\_\_

**(3) Term: The term of this lease shall be for one calendar year, renewed as stipulated in Part I of the Lease.**

**(4) Rent and Security Deposit:**

The TENANT SELECTS \_\_\_\_\_ FLAT RENT  INCOME-BASED RENT computations for Lease purposes AND ACKNOWLEDGES THAT THE OPTIONS HAVE BEEN EXPLAINED TO HIM/HER AND THAT THE SELECTION REPRESENTS THE MOST FAVORABLE ALTERNATIVE TO HIM/HER.

**Initial Rent** (prorated for partial month) shall be \$ \_\_\_\_\_; and, if applicable,

the Tenant shall receive the benefit of \$ \_\_\_\_\_ from the Housing Assistance Administrator for Utility Reimbursement (for partial month) paid directly to the utility supplier for the period beginning \_\_\_\_/\_\_\_\_/\_\_\_\_ and ending at midnight on \_\_\_\_/\_\_\_\_/\_\_\_\_.



**Will be executed prior to occupancy of an apartment or house.**

EMERGENCY MAINTENANCE TELEPHONE NUMBER Monday through Friday after 5:00 p.m., and weekends and holidays. 208-4669 (Leave detailed message)

**EMERGENCY CONTACT DATA SHEET**

IN CASE OF EMERGENCY

Listed below are (2) two persons who I would like the Housing Authority to contact in case of emergency. (At least one of these two persons should be a local resident.)

.....  
**Name** \_\_\_\_\_  
Address \_\_\_\_\_  
Phone: \_\_\_\_\_  
Weekdays: \_\_\_\_\_  
Evenings: \_\_\_\_\_  
Weekends: \_\_\_\_\_

.....  
**Name** \_\_\_\_\_  
Address \_\_\_\_\_  
Phone: \_\_\_\_\_  
Weekdays: \_\_\_\_\_  
Evenings: \_\_\_\_\_  
Weekends: \_\_\_\_\_

## Subpart B—Grievance Procedures and Requirements

### § 966.50 Purpose and scope.

The purpose of this subpart is to set forth the requirements, standards and criteria for a grievance procedure.

It is established and implemented by THHA to assure that a THHA tenant is afforded an opportunity for a hearing, if the tenant disputes, within a reasonable time, any THHA action or failure to act involving the tenant's lease with THHA or THHA regulations which adversely affect the individual tenant's rights, duties, welfare or status.

### § 966.51 Applicability.

(a) (1) THHA grievance procedure shall be applicable (except as provided in paragraph (a)(2) of this section) to all individual grievances as defined in §966.53 of this subpart between the tenant and THHA.

(2) (i) The term *due process determination* means a determination by HUD that law of the jurisdiction requires that the tenant will be given the opportunity for a hearing in court which provides the basic elements of due process (as defined in §966.53(c)) before eviction from the dwelling unit.

(ii) If HUD has issued a due process determination, THHA will exclude from THHA administrative grievance procedure under this subpart any grievance concerning a termination of tenancy or eviction that involves:

(A) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of THHA;

(B) Any violent or drug-related criminal activity on or off such premises; or

(C) Any criminal activity that resulted in felony conviction of a household member.

(iii) For guidance of the public, HUD will publish in the Federal Register a notice listing the judicial eviction procedures for which HUD has issued a due process determination. HUD will make available for public inspection and copying a copy of the legal analysis on which the determinations are based.

(iv) If HUD has issued a due process determination, THHA will evict the occupants of the dwelling unit through the judicial eviction procedures which are the subject of the determination.

In this case, THHA **is not** required to provide the opportunity for a hearing under THHA administrative grievance procedure.

(b) THHA grievance procedure **shall not** be applicable to disputes between tenants not involving THHA or to class grievances.

The grievance procedure **is not** intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and THHA Board of Commissioners.

### **§ 966.52 Requirements.**

(a) Each THHA shall adopt a grievance procedure affording each tenant an opportunity for a hearing on a grievance as defined in §966.53 in accordance with the requirements, standards, and criteria contained in this subpart.

(b) THHA grievance procedure shall be included in, or incorporated by reference in all tenant dwelling leases pursuant to subpart A of this part.

(c) THHA shall provide at least 30 days notice to tenants and resident organizations setting forth proposed changes in THHA grievance procedure, and providing an opportunity to present written comments.

Subject to requirements of this subpart, comments submitted shall be considered by THHA before adoption of any grievance procedure changes by THHA.

(d) THHA shall furnish a copy of the grievance procedure to each tenant and to resident organizations.

### **§ 966.53 Definitions.**

For the purpose of this subpart, the following definitions are applicable:

(a) *Grievance* shall mean any dispute which a tenant will have with respect to THHA action or failure to act in accordance with the individual tenant's lease or THHA regulations which adversely affect the individual tenant's rights, duties, welfare or status.

(b) *Complainant* shall mean any tenant whose grievance is presented to THHA or at the project management office in accordance with §§966.54 and 966.55(a).

(c) *Elements of due process* shall mean an eviction action or a termination of tenancy in a State or local court in which the following procedural safeguards are required:

(1) Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction;

(2) Right of the tenant to be represented by counsel;

(3) Opportunity for the tenant to refute the evidence presented by THHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant will have;

(4) A decision on the merits.

(d) *Hearing officer* shall mean a person selected in accordance with §966.55 of this subpart to hear grievances and render a decision with respect thereto.

(e) *Hearing panel* shall mean a panel selected in accordance with §966.55 of this subpart to hear grievances and render a decision with respect thereto.

(f) *Tenant* shall mean the adult person (or persons) (other than a live-in aide):

(1) Who resides in the unit, and who executed the lease with THHA as lessee of the dwelling unit, or, if no such person now resides in the unit,



(2) Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit.

(g) *Resident organization* includes a resident management corporation.

§ 966.54 Informal settlement of grievance.

§ 966.55 Procedures to obtain a formal hearing.

§ 966.56 Procedures governing the hearing.

§ 966.57 Decision of the hearing officer or hearing panel.

**(For dissemination to the general public)**  
**THHA**  
**ADMINISTRATIVE GRIEVANCE PROCEDURE**

The following “Grievance Procedure” shall be applicable to all individual grievances involving THHA, the tenant, or the owner/landlord.

The grievance procedure shall **NOT** be applicable to disputes between people who are not residents of the Housing Authority or participants in THHA programs.

The Grievance Hearing is **NOT** intended to be a forum for initiating or negotiating policy changes between a group or groups of tenants and THHA Board of Commissioners.

**FURTHER, THE GRIEVANCE PROCEDURE WILL NOT BE APPLICABLE TO LEASE VIOLATIONS INVOLVING THE FAILURE TO PAY RENT.**

## **Requirements**

All participants shall be afforded the opportunity for a hearing or grievance.

A “Grievance” shall mean any dispute which a tenant or landlord will have with respect to action or failure to act in accordance with their lease, Housing Assistance Payment Contract or THHA regulations which adversely affects their rights, duties, welfare, or status.

## **Procedures**

### **1. INFORMAL SETTLEMENT**

Any grievance will be personally presented either orally or in writing, to the management office of the project in which the complainant resides or to THHA so that the grievance will be discussed informally and settled without a hearing.

A summary of such discussion shall be prepared by the HA Representative within a reasonable time and one copy shall be given to the complainant and one retained in THHA tenant file.

The summary shall specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and shall specify the procedures by which a hearing will be obtained if the complainant is not satisfied.

### **2. FORMAL SETTLEMENT**

**The complainant will submit a written request for a hearing to THHA within ten (10) calendar days of the adverse action stating:**

- a. The reason for the grievance;
- b. The action or relief sought.

Failure to request a hearing in accordance with the policy shall make THHA determination in regard to the complainant final.

Terminations cannot be in effect until this notice has expired.

All grievances WILL be personally presented either orally or in writing as an informal grievance prior to requesting a formal grievance hearing.

Upon compliance of Paragraphs 1 and 2 of this section, a hearing shall be scheduled by the Hearing Officer on the next regularly scheduled hearing date at a time and place reasonably convenient to both the complainant and THHA.

A written notification specifying the time, place and the procedures governing the hearing shall be delivered to the complainant and the appropriate THHA official.

### **Hearing Format**

The hearing will be conducted by the Hearing Officer.

The complainant shall be afforded a fair hearing providing the basic safeguards of due process which shall include:

- a. The opportunity to examine before the hearing and, at the expense of the complainant, to copy all documents (at ten cents per copy), records and regulations of THHA that are relevant to the hearing.

Likewise, THHA is to have the same opportunity to copy documentation and records to be used by the complainant.

(Any document not made available after request will not be relied on at the hearing.)

- b. The right to be represented by counsel or one other person chosen as his or her representative;
- c. The hearing will be private;
- d. The right to present evidence and arguments in support of his or her complaint, to controvert evidence relied on by property management and to confront and cross-examine all witnesses on whose testimony or information property management relies; and
- e. The decision based solely and exclusively upon the facts presented at the hearing.

The Hearing Officer will render a decision without proceeding with the hearing if the Hearing Officer determines that the issue has been previously decided in another proceeding.

This includes cases where a hearing has already been held and staff decision upheld.

If the complainant or the appropriate THHA official fails to appear at a scheduled hearing, the Hearing Officer will make a determination to postpone the hearing or will make a determination that the party has waived his right to a hearing.

Both complainant and THHA official shall be notified of the determination hearing shall not constitute a waiver of any right the complainant will have to due process in a court of law.

At the hearing, the complainant will first make a showing of an entitlement to the relief sought and thereafter THHA official will sustain the burden of justifying the action or failure to act against which the complaint is directed.

The hearing shall be conducted informally by the Hearing Officer and oral or documentary evidence pertinent to the facts and issues raised by the complainant will be received without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The Hearing Officer shall require all participants to conduct themselves in an orderly fashion.

Failure to comply with the directions of the Hearing Officer to obtain order will result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate.

The complainant or THHA official will arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing.

### **Decision of the Hearing Officer**

1. A written decision shall be prepared stating the reasons for the decision within 72 hours after the hearing.

The complainant and THHA official shall receive a copy of the decision.

A copy shall be retained in the tenant file.

2. The decision of the Hearing Officer SHALL BE BINDING on all parties but will not waive any rights of due process.

### **Review by Board of Commissioners**

Review by the Board of Commissioners is **NOT** a formal part of the tenant/landlord grievance procedure.

### **THHA Evictions**

If a tenant has requested a hearing on a complaint involving a THHA notice of termination of the tenancy and the Hearing Officer upholds THHA action to terminate the tenancy,

THHA shall not commence an eviction action in a State or local court **until** it has served a Notice to Vacate on the tenant,

and, in no event,

shall the Notice to Vacate be issued **prior** to the decision of the Hearing Officer having been mailed or delivered to the complainant.

This Notice to Vacate **will be** in writing and specify

that if the tenant fails to quit the premises within applicable statutory period, or on the termination date stated in the notice of termination, whichever is later, appropriate action will be brought against him and he will be required to pay court costs and attorney fees.

## **MOVE OUT CHARGE POLICY**

It shall be the responsibility of THHA Inspector's to perform the vacancy move-out inspection. The inspection will be performed within 48 hours from the date of notification by the Property Manager.

The completed inspection will be forwarded to the Director of Maintenance.

A work ticket will be prepared by the Director of Maintenance, which includes all necessary rehabilitation information required to put the vacancy back into occupancy – **WHETHER OR NOT IT IS DUE TO TENANT NEGLIGENCE.**

The work ticket will be issued to the appropriate maintenance sector chief.

Upon completion, the sector chief will submit the completed “move out charge” work ticket directly to the designated Support Service Officer.

All pertinent information (quantity, description, location, part numbers, et.) **WILL** be included.

The Support Service Officer will immediately determine all charges (labor & materials) and submit to the appropriate Property Manager.

The time frame **WILL NOT** exceed 30 calendar days from the date received by the Maintenance Department to the date submitted to the Property Manager.

Special circumstances requiring **MORE** than 30 days **WILL** be submitted to the Director of Maintenance.

All grievances by the previous tenant shall be forwarded to the Director of Maintenance.

## VACANCY PROCEDURES

Sector chiefs are requested to do the following:

- 1). Plan ahead.
- 2). Always be prepared for the unexpected.
- 3). Know what in the HELL is going on.
- 4). When you see a problem - FIX IT.
- 5). Stay motivated at all times.

Target dates will be established and enforced, by the sector chief, for each vacant unit.

More than one vacancy crew will be used per sector, whenever possible.

Every member of the sector, including sector chiefs, will participate in vacancy rehab.

Vacancies will be the number one priority.

Employees will be transferred whenever necessary.

They will be moved for whatever length of time is needed to rehab a unit(s).

The Director of Maintenance will assume total responsibility for staff movement.

Rehab crews will paint vacancies that require a minimal amount of painting.

In certain situations, vacancies can be painted and rehabilitated at the same time.

Sector chiefs will review each vacancy and determine a target date for completion.

Units can be submitted to the painting contractor with a PROJECTED painting date.

Sector chiefs WILL plan ahead.

As soon as the vacancy work order has been received, a thorough inspection WILL be performed to determine what materials and supplies will be required.

Employees will not spend wasted time going after materials or waiting for them.

If rehabilitation has started PRIOR to the vacancy inspection, prepare a list of CHARGEABLE expenses and submit directly to the Director of Maintenance.

## VACANCY TIME-LINE POLICY

1). The Property Manager will forward a VACANT UNIT NOTIFICATION to the Director of Maintenance.

2). The Director of Maintenance will prepare a VACANCY WORK TICKET.

The vacancy work ticket will be issued to the Maintenance Sector Chief.

3). Whenever AIR-CONDITIONING is being installed, the maintenance sector chief WILL notify the Director of Maintenance, who in turn WILL contact the Director of Property Management.

- 4). The vacant unit will be placed on the PEST CONTROL spray schedule.
- 5). The Director of Maintenance will determine if a vacant unit will be approved for MODERNIZATION. A work ticket will be prepared and issued to the maintenance sector chief.
- 6). The Terre Haute Housing Authority Inspectors will be notified IMMEDIATELY.  
The Inspectors will perform a move-out inspection within a 48-hour period.  
The completed inspection form will be forwarded to the Director of Maintenance.
- 7). All CHARGEABLE items will be entered on a VACANCY MOVE-OUT CHARGE ticket and submitted to the maintenance sector chief.  
A copy of the completed vacancy move-out charge ticket will be submitted to the Property Manager. The Director of Maintenance will review all VACANCY MOVE-OUT CHARGE tickets before they are submitted to the Property Manager.
- 8). When a unit has been completed, the Director of Maintenance will notify the Department of Property Management and the Director of Admissions.



## **TRASH PICK UP POLICY**

Trash and large items will be placed out on the curbside, or designated locations, AFTER 6:00 p.m., on the day before trash pick up.

Do not put trash out before then.

Household trash will be bagged, tied and place in the proper trash container.

Tenants will be charged whenever they have not returned their trash containers to their required locations, by 8:30 a.m. on the day AFTER trash pick up, and the maintenance department returns the trash containers.

**Maintenance charges will be a minimum of Twenty Dollars (\$20.00) per employee.**

## **FIRE EXTINGUISHER POLICY**

The maintenance, servicing, and recharging of fire extinguishers shall be performed by TRAINED PERSONS having available the appropriate servicing manuals, the proper tools, recharging materials, and factory recommended replacement parts.

The Terre Haute Housing Authority Maintenance Department is responsible for the non-rechargeable fire extinguishers.

They will be inspected and replaced, if necessary, during the vacancy rehab, preventative maintenance inspection and when performing routine work orders.

The Terre Haute Housing Authority Maintenance Department will inspect the rechargeable and non-chargeable fire extinguishers no less than every 30 days.

THHA will make arrangements to have a licensed dealer perform the necessary recharging and repairs for all chargeable units.

Admiral Fire protection Service will conduct a yearly re-test and recharge of all rechargeable fire extinguishers.

## **LAWN CARE POLICY**

A list of vacant scattered sites will be provided every Monday.

Sector chiefs are responsible for checking and maintaining these yards.

Safety equipment (shoes, long pants, goggles, gloves, et...) WILL be worn at all times.

Employees are responsible for servicing and cleaning the lawn care equipment. Broken equipment will be reported to the sector chief immediately for repair.

Do not provide lawn care to an occupied unit. At times, units will be occupied before they are removed from the lawn care list.

Whenever a unit appears to be occupied, call the maintenance office for verification.

If the unit has been recently occupied and it requires cutting – cut the yard and DO NOT charge the tenant.

Occupied units, NOT on the lawn care list, can be cut by the Maintenance Department at a charge (\$20.00 per hour/per employee).

Report all cases IMMEDIATELY to the Director of Maintenance BEFORE you cut the yard.

I will contact the appropriate Property Manager.

They will give the tenant a written notice.

In addition, leave an “Action Notice” card telling them to cut their yard within a 48-hour period or we will cut it at a charge.

I will inform you when the time has expired.

Perform a follow-up inspection – cut and charge or inform me if the tenant has cut their yard.

In addition to cutting the grass, you are required to pick up the trash and debris, trim the bushes and sweep the sidewalks/driveways.

Sector chiefs are responsible for the continual upkeep of all assigned scattered sites.

If you have questions concerning this matter, contact me at the maintenance office or at extension 338.

## PREVENTATIVE MAINTENANCE PROCEDURE

Beginning June, 1997,

the inspector's will begin the yearly recertifications and Preventative Maintenance Inspections.

You will **NOT** receive a P.M. work ticket.

Instead, you will receive a work ticket for infractions discovered during the Recertification Inspection.

Attached to the work ticket will be a copy of the Inspector's letter and sometimes a pink copy of the inspection form.

Return these forms with the completed work ticket.

This is a HUD requirement.

When completing the work order, it is **REQUIRED** that **EACH** ticket have a signature, date, time period and what action was taken.

When we receive the recertification letter, we will schedule a P.M. inspection six months from the recertification inspection date. This inspection will be conducted by the maintenance staff.

In summary, the maintenance department will have two (2) P.M. Inspections every year.

One will be performed by the maintenance inspector's during recertification and another will be performed six months later by the maintenance staff.

If you have any questions or need clarification concerning the matter, please let me know.

## PREVENTATIVE MAINTENANCE CHECKLIST

- ~~☒~~ Roofs
- ~~☒~~ Furnaces & air-conditioning
- ~~☒~~ Water lines
- ~~☒~~ Water drains
- ~~☒~~ Landscaping
- ~~☒~~ Faucets
- ~~☒~~ Vehicles
- ~~☒~~ Water heaters
- ~~☒~~ Fire extinguishers
- ~~☒~~ G.F.I. breakers

- ~~///~~ Playground equipment
- ~~///~~ Alarm systems
- ~~///~~ Screen doors & storm windows
- ~~///~~ Mixing valves
- ~~///~~ Relief valves
- ~~///~~ Boilers
- ~~///~~ Filter changes (every three months)
- ~~///~~ Dryer vents
- ~~///~~ Motors (oil, belts, et..)
- ~~///~~ Refrigerator condensers
- ~~///~~ Gutters & downspouts
- ~~///~~ Sidewalks
- ~~///~~ Electrical breakers (label breakers), wiring diagrams, grounding wire
- ~~///~~ Crawl spaces & basements (leaks, damaged floors)
- ~~///~~ Equipment (tractors, snowblowers, weed eaters, hand tools)
- ~~///~~ Building foundation
- ~~///~~ Emergency lighting
- ~~///~~ Circulating pumps

Training courses, troubleshooting, system shut down, create list, determine who is going to do the work, system operation manuals, use universal parts, time frame to complete, qualified staff.

## **PEST CONTROL POLICY**

The following procedures have been implemented in order to assist in the prevention and removal of roaches:

1). PCA will perform a semi-monthly pest control spray (1<sup>st</sup> and 3<sup>rd</sup> Thursdays of each month) for OCCUPIED and VACANT UNITS.

Tenants can request to have their unit sprayed by calling their respective Property Manager.

2). The Director of Maintenance will place ALL VACATED UNITS on the pest control schedule.

3). OCCUPIED UNITS can be placed on the pest control schedule at any time.

Employees are encouraged to report ALL infested units to the Property Manager whenever performing works orders or preventative maintenance.

Tenants will be notified and sprayed at the next scheduled date.

4). Request that the ENTIRE BUILDING be sprayed.

We have discovered that if a particular unit is EXTREMELY infested, the adjoining units will experience roach problems. Contact the Director of Maintenance or the Property Manager.

PCA will spray, at any time, the HEAVILY infested units.

Contact the Director of Maintenance or the Property Manager.

Property Management WILL NOT accept completed vacancies that are infested with roaches.

Consequently, we need to treat for roaches immediately and as often as necessary.

Each and every employee has a responsibility in reporting units that are infested with roaches

## **TOOL POLICY**

Every employee is accountable for the tools assigned to them.

However, sector chiefs are responsible for the overall accountability of tools within their crew.

The following procedures, regarding tools, will be **strictly** enforced at all times:

- ✍✍ Employees **WILL** contact their immediate supervisor whenever a tool is **MISSING**.
- ✍✍ The supervisor **WILL** complete a “Tool Incident Report” and submit it immediately to the maintenance office.
- ✍✍ If a tool is **BROKEN**, the employee **WILL** immediately contact their supervisor.
- ✍✍ The supervisor **WILL** complete a “Tool Incident report” and submit it to the maintenance office.
- ✍✍ The tool will be removed from the inventory or replaced if the warranty is still active.
- ✍✍ The immediate supervisor will make the decision to **REPLACE** broken or missing tools.
- ✍✍ The Support Service Officer in charge of inventory **WILL** order all tools.
- ✍✍ The tool will be assigned a stock number and description.
- ✍✍ Employees will be financially responsible for replacing all **UNREPORTED** tools that are missing or broken.
- ✍✍ Equipment and tools that are assigned to the maintenance building (1112 Locust Street) **WILL** be signed in and signed out.

## **SNOW REMOVAL POLICY**

■  
The Snow Removal Policy for THHA Maintenance Department is very simple

### **BE PREPARED & REMOVE IT.**

Sector Chiefs are responsible for having a “Plan of Action”.

- 1). Snow removal equipment will be serviced and ready for use (snow throwers, tractors, snow shovels, et.).
- 2). Every maintenance employee will have the proper clothing (gloves, coats, hats, et.).
- 3). Snow removal products, such as Ice Melt, will be stocked and ready for use.

Sector Chiefs will inspect the sidewalks and driveways, at their respective sites, to confirm they have been properly cleared of snow and ice.

All maintenance employees are required to report, after hours and weekends, in the event inclement weather occurs. The Sector Chief will establish a reporting procedure, in advance.



## PROCUREMENT POLICY

Whereas and pursuant to 24 CFR 85.36, Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments: Procurement, the Board of Commissioners of the Housing Authority of the City of Terre Haute adopt the following methods and procedures concerning procurement for the Authority:

- I. Any procurement action or event not specifically detailed herein shall automatically comply with the standards set forth in 24 CFR 85.36 (a copy of which is attached to and a part of this policy)
  
- II. It is understood and accepted that 24 CFR 85.36 is applicable to any procurement funded under:
  - A) 24 CFR 941 - Public Housing Development Program
  - B) 24 CFR 968 - Comprehensive Improvement Assistance Program
  - C) 24 CFR 990 - Annual Contributions for Operating Subsidies for Public Housing Projects
  
- III. It is understood and accepted that 24 CFR 85.36 supercedes any procurement regulation in effect, unless specifically so excepted and referenced by statute or reference:

Whereas, the Board of Commissioners of the Housing Authority of the City of Terre Haute specifically adopt the following methods and procedures concerning procurement for the Housing Authority:

- I. Purchases and contracts, not to exceed \$25,000, shall be made by Contracting Officer or his designee, in the open market, after such inquiry as he deems necessary to insure that the price obtained is the most advantageous to the Housing Authority;
- II. Bids shall be solicited orally, by telephone, or in writing from, if possible, at least three suppliers;
- III. Bids shall be tabulated and kept on file for the purposes of reference, monitoring, and compliance;
- IV. Purchases and contracts, in excess of \$25,000, shall be:
  - A. Advertised for bid in at least one newspaper of general circulation OR Advertised for bid in circular letters to all available dealers; OR Advertised for bid by a combination of such methods in A) and B) AND

Awarded solely by formal resolution of the Board of Commissioners.

## **Minority Business Enterprises**

WHEREAS and pursuant to the provisions of its Procurement Policy, as approved now and amended hereinafter, and in compliance with the dictates of Executive Order 12423, the Board of Commissioners of the Housing Authority of the City of Terre Haute hereby amends its Procurement Policy to incorporate the following:

It shall be the practice of the Housing Authority of the City of Terre Haute to promote, encourage, and actively do business with entities that are properly categorized as “Minority Business Enterprises” according to applicable statute.

This practice shall not be subject to specific numerical goal but shall be subject to review and specific written approval by the Contracting Officer on;

- 1) All contracts and purchases in excess of \$25,000.00 and
- 2) By exception, all contracts and purchases less than \$25,000

This practice shall be effective immediately and responsibility for its implementation and compliance is hereby vested in the Executive Director.

Non-competitive procurement (i.e. solicitation of a bid from only one source) shall be allowed when the award of a contract is infeasible under the aforementioned procedures AND one of the following circumstances applies:

- A) The item is available from only one source;
- B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- C) The awarding agency authorizes non-competitive proposals;
- D) After solicitation of a number of sources, competition is determined inadequate (a cost analysis will be required).

The Contracting Officer for the Housing Authority of the City of Terre Haute shall be the Executive Director or his designee.

## **RESIDENT INITIATIVES POLICY**

WHEREAS and pursuant to any and all previous resolutions passed by the Board of Commissioners of the Housing Authority of the City of Terre Haute the following shall constitute the official position and policy concerning participation and involvement of residents in the day-to-day affairs of the Authority:

- 1) Resident input on any issue, if constructive and provided in the proper forum and manner, shall actively be encouraged and solicited.
- 2) Resident business opportunities, if constructive, shall be actively supported and nurtured.
- 3) Resident employment shall be actively encouraged to the maximum extent feasible within the resources of the Authority and to the maximum extent possible from resources outside the Authority.

NOWHEREFORE the aforementioned is established as formal policy from this day forward and management personnel are advised to incorporate such into their daily business activities.

## **CAPITALIZATION POLICY**

WHEREAS and pursuant to the requirements of Part II, Sections 309 thru 312 of the Authority's Annual Contributions Contract, it is necessary to capitalize property for financial control purposes, the following criteria are adopted by the Board of Commissioners of the Terre Haute Housing Authority:

### Definitions and Classes of Real and Personal Property

A. Real Property comprises all land and buildings and all fixtures permanently attached thereto or installed in a fixed position, such as water heaters; all heating equipment, except space heaters not connected to ducts or pipes for the distribution of heat; water, gas, and electric meters; fixed cabinets, shelving, and other built-in facilities; such as spray pools; fences and garbage stations; and other similar appurtenances.

(All real property shall be capitalized)

B. Personal Property comprises all materials and supplies, equipment, and fixtures which are not attached to the land or buildings and are not installed in a fixed position, such as ranges, refrigerators, screens, window shades, moveable kitchen cabinets and tables, office equipment, maintenance equipment, individual space heaters not connected to ducts or pipes for the distribution of heat, and playground equipment, benches, clothes poles, and flag poles not permanently installed in a fixed position.

NOTE: For capitalization purposes, personal property is treated in three general classes of items as follows:

- 1) Materials and Supplies are defined as items of property which can be used only once, (fuel, cleaning supplies etc) and
  - a) are spent in use, such as brooms, brushes etc.;
  - b) lose their identity or become an integral part of other property when put to use, such as nails, lumber, cement, repair parts, etc..
  - c) include tools and equipment having a useful life of one year or less.

All materials and supplies having a value of less than **\$300.00** per unit of measure shall not be capitalized

## **DISPOSITION POLICY**

WHEREAS and pursuant to the requirement of Part II, Sections 308 thru 312 of the Authority's Annual Contribution Contract, it shall become necessary to dispose of any real property theretofore acquired in connection with the development and/or operation of any project the following shall constitute the official disposition criteria and procedure of the Terre Haute Housing Authority and is so adopted by the Board of Commissioners:

- a. Real and personal property definitions shall remain the same as defined in the capitalization policy;
- b. Real and personal property deemed necessary to be disposed of, with an original value to or greater than **\$300.00**, shall be identified and described before the Board of Commissioners, in writing at their regular monthly meeting. Said identification and description shall be as complete and accurate as possible and at a minimum shall contain the following information:
  - i. Description of item and location
  - ii. Year or Date of Purchase
  - iii. Serial / Product ID number
  - iv. Original purchase price (except for Land, in which case, the Fair Market Value will be stated)
  - v. Reason for the disposition
- c. Subsequent to formal Board Resolution approving disposition, the Executive Director shall ensure that the Authority obtains the most advantageous remuneration possible from the disposition property and so record said remuneration, if any, on the Authority's Books of Account and Record pursuant to applicable procedures.
- d. The Executive Director will establish any and all internal procedures necessary to comply with the intent of the previous paragraphs of this policy, but in no event will any Real or Personal property be disposed of without formal Board approval.

# **ADMINISTRATION OF SECTION 8 TENANT BASED ASSISTANCE: HOUSING CHOICE VOUCHER PROGRAM**

## **Subpart A—General Information**

[§ 982.1 Programs: purpose and structure.](#)

[§ 982.2 Applicability.](#)

[§ 982.3 HUD.](#)

[§ 982.4 Definitions.](#)

[§ 982.5 Notices required by this part.](#)

## **Subpart B—HUD Requirements and THHA Plan for Administration of Program**

[§ 982.51 THHA authority to administer program.](#)

[§ 982.52 HUD requirements.](#)

[§ 982.53 Equal opportunity requirements.](#)

[§ 982.54 Administrative plan.](#)

## **Subpart C—Funding and THHA Application for Funding**

[§ 982.101 Allocation of funding.](#)

[§ 982.102 Allocation of budget authority for renewal of expiring consolidated ACC funding increments.](#)

[§ 982.103 THHA application for funding.](#)

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## **Subpart D—Annual Contributions Contract and THHA Administration of Program**

[§ 982.151 Annual contributions contract.](#)

[§ 982.152 Administrative fee.](#)

[§ 982.153 THHA responsibilities.](#)

[§ 982.154 ACC reserve account.](#)

[§ 982.155 Administrative fee reserve.](#)

[§ 982.156 Depository for program funds.](#)

[§ 982.157 Budget and expenditure.](#)

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[§ 982.160 HUD determination to administer a local program.](#)

[§ 982.161 Conflict of interest.](#)

[§ 982.162 Use of HUD-required contracts and other forms.](#)

[§ 982.163 Fraud recoveries.](#)

## **Subpart E—Admission to Tenant-Based Program**

[§ 982.201 Eligibility and targeting.](#)

[§ 982.202 How applicants are selected: General requirements.](#)

[§ 982.203 Special admission \(non-waiting list\): Assistance targeted by HUD.](#)

[§ 982.204 Waiting list: Administration of waiting list.](#)

[§ 982.205 Waiting list: Different programs.](#)

[§ 982.206 Waiting list: Opening and closing: public notice.](#)

[§ 982.207 Waiting list: Local preferences in admission to program.](#)

## **Subpart F [Reserved]**

## **Subpart G—Leasing a Unit**

- [§ 982.301 Information when family is selected.](#)
- [§ 982.302 Issuance of voucher; Requesting THHA approval of assisted tenancy.](#)
- [§ 982.303 Term of voucher.](#)
- [§ 982.304 Illegal discrimination: THHA assistance to family.](#)
- [§ 982.305 THHA approval of assisted tenancy.](#)
- [§ 982.306 THHA disapproval of owner.](#)
- [§ 982.307 Tenant screening.](#)
- [§ 982.308 Lease and tenancy.](#)
- [§ 982.309 Term of assisted tenancy.](#)
- [§ 982.310 Owner termination of tenancy.](#)
- [§ 982.311 When assistance is paid.](#)
- [§ 982.312 Absence from unit.](#)
- [§ 982.313 Security deposit: Amounts owed by tenant.](#)
- [§ 982.314 Move with continued tenant-based assistance.](#)
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- [§ 982.316 Live-in aide.](#)
- [§ 982.317 Lease-purchase agreements.](#)

#### **Subpart H—Where Family Can Live and Move**

- [§ 982.351 Overview.](#)
- [§ 982.352 Eligible housing.](#)
- [§ 982.353 Where family can lease a unit with tenant-based assistance.](#)
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#### **Subpart I—Dwelling Unit: Housing Quality Standards, Subsidy Standards, Inspection and Maintenance**

- [§ 982.401 Housing quality standards \(HQS\).](#)
- [§ 982.402 Subsidy standards.](#)
- [§ 982.403 Terminating HAP contract when unit is too small.](#)
- [§ 982.404 Maintenance: Owner and family responsibility; THHA remedies.](#)
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#### **Subpart J—Housing Assistance Payments Contract and Owner Responsibility**

- [§ 982.451 Housing assistance payments contract.](#)
- [§ 982.452 Owner responsibilities.](#)
- [§ 982.453 Owner breach of contract.](#)
- [§ 982.454 Termination of HAP contract: Insufficient funding.](#)
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#### **Subpart K—Rent and Housing Assistance Payment**

- [§ 982.501 Overview.](#)
- [§ 982.502 Conversion to voucher program.](#)
- [§ 982.503 Voucher tenancy: Payment standard amount and schedule.](#)
- [§ 982.504 Voucher tenancy: Payment standard for family in restructured subsidized multifamily project.](#)
- [§ 982.505 Voucher tenancy: How to calculate housing assistance payment.](#)
- [§ 982.506 Negotiating rent to owner.](#)
- [§ 982.507 Rent to owner: Reasonable rent.](#)
- [§ 982.508 Maximum family share at initial occupancy.](#)
- [§ 982.509 Rent to owner: Effect of rent control.](#)
- [§ 982.510 Other fees and charges.](#)
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- [§ 982.516 Family income and composition: Regular and interim examinations.](#)
- [§ 982.517 Utility allowance schedule.](#)
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[§ 982.519 Regular tenancy: Annual adjustment of rent to owner.](#)

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### **Subpart L—Family Obligations; Denial and Termination of Assistance**

[§ 982.551 Obligations of participant.](#)

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[§ 982.602 SRO: Who will reside in an SRO?](#)

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#### **Congregate Housing**

[§ 982.606 Congregate housing: Who will reside in congregate housing.](#)

[§ 982.607 Congregate housing: Lease and HAP contract.](#)

[§ 982.608 Congregate housing: Voucher housing assistance payment.](#)

[§ 982.609 Congregate housing: Housing quality standards.](#)

#### **Group Home**

[§ 982.610 Group home: Who will reside in a group home.](#)

[§ 982.611 Group home: Lease and HAP contract.](#)

[§ 982.612 Group home: State approval of group home.](#)

[§ 982.613 Group home: Rent and voucher housing assistance payment.](#)

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#### **Shared Housing**

[§ 982.615 Shared housing: Occupancy.](#)

[§ 982.616 Shared housing: Lease and HAP contract.](#)

[§ 982.617 Shared housing: Rent and voucher housing assistance payment.](#)

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#### **Cooperative**

[§ 982.619 Cooperative housing.](#)

#### **Manufactured Home**

[§ 982.620 Manufactured home: Applicability of requirements.](#)

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#### **Manufactured Home Space Rental**

[§ 982.622 Manufactured home space rental: Rent to owner.](#)

[§ 982.623 Manufactured home space rental: Housing assistance payment.](#)

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## Homeownership Option

- [§ 982.625 Homeownership option: General.](#)
- [§ 982.626 Homeownership option: Initial requirements.](#)
- [§ 982.627 Homeownership option: Eligibility requirements for families.](#)
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- [§ 982.630 Homeownership option: Homeownership counseling.](#)
- [§ 982.631 Homeownership option: Home inspections, contract of sale, and THHA disapproval of seller.](#)
- [§ 982.632 Homeownership option: Financing purchase of home; affordability of purchase.](#)
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- [§ 982.642 Homeownership option: Pilot program for homeownership assistance for disabled families.](#)
- [§ 982.643 Homeownership option: Down-payment assistance grants.](#)

## **Subpart A—General Information**

### **§ 982.1 Programs: purpose and structure.**

#### *(a) General description.*

(1) In the HUD Housing Choice Voucher Program (Voucher Program), HUD pays rental subsidies so eligible families can afford decent, safe and sanitary housing.

HUD provides housing assistance funds to THHA.

HUD also provides funds for THHA administration of the programs.

(2) Families select and rent units that meet program housing quality standards.

If THHA approves a family's unit and tenancy, THHA contracts with the owner to make rent subsidy payments on behalf of the family.

THHA will not approve a tenancy unless the rent is reasonable.

(ii) In the voucher program, the subsidy is based on a local “payment standard” that reflects the cost to lease a unit in the local housing market.

If the rent is less than the payment standard, the family generally pays 30 percent of adjusted monthly income for rent.

If the rent is more than the payment standard, the family pays a larger share of the rent.

#### *(b) Tenant-based and project-based assistance.*

(1) Section 8 assistance will be “tenant-based” or “project-based”.

In project-based programs, rental assistance is paid for families who live in specific housing developments or units.

With tenant-based assistance, the assisted unit is selected by the family.

The family can, subject to limitations, rent a unit anywhere in the United States in the jurisdiction of a public housing agency that runs a voucher program.

(2) To receive tenant-based assistance, the family selects a suitable unit.

After approving the tenancy, THHA enters into a contract to make rental subsidy payments to the owner to subsidize occupancy by the family.

THHA contract with the owner only covers a single unit and a specific assisted family.

If the family moves out of the leased unit, the contract with the owner terminates.

The family will move to another unit with continued assistance so long as the family is complying with program requirements.

### **§ 982.2 Applicability.**

### **§ 982.3 HUD.**

## **§ 982.4 Definitions.**

(a) *Definitions found elsewhere:*

(1) *General definitions.* The terms *1937 Act*, *HUD*, and *MSA*, are defined in 24 CFR part 5, subpart A.

(2) *Terms found elsewhere.*

The following terms are defined in part 5, subpart A of this title: *1937 Act*, *covered person*, *drug*, *drug-related criminal activity*, *federally assisted housing*, *guest*, *household*, *HUD*, *MSA*, *other person under the tenant's control*, *public housing*, *Section 8*, and *violent criminal activity*.

(3) *Definitions concerning family income and rent.*

The terms “adjusted income,” “annual income,” “extremely low income family,” “tenant rent,” “total tenant payment,” “utility allowance,” “utility reimbursement,” and “welfare assistance” are defined in part 5, subpart F of this title.

The definitions of “tenant rent” and “utility reimbursement” in part 5, subpart F of this title, apply to the certificate program, but do not apply to the tenant-based voucher program under part 982.

(b) In addition to the terms listed in paragraph (a) of this section, the following definitions apply:

*Absorption.* In portability (under subpart H of this part 982): the point at which a receiving THHA stops billing the initial THHA for assistance on behalf of a portability family. The receiving PTHHA uses funds available under the receiving THHA consolidated ACC.

*Administrative fee.* Fee paid by HUD to THHA for administration of the program. See §982.152.

*Administrative fee reserve* (formerly “operating reserve”).

Account established by THHA from excess administrative fee income.

The administrative fee reserve will be used for housing purposes. See §982.155.

*Administrative plan.*

The plan that describes THHA policies for administration of the tenant-based programs. See §982.54.

*Admission.*

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

*Applicant* (applicant family).

A family that has applied for admission to a program but is not yet a participant in the program.

*Budget authority.*

An amount authorized and appropriated by the Congress for payment to THHA under the program.

For each funding increment in a THHA program, budget authority is the maximum amount that will be paid by HUD to THHA over the ACC term of the funding increment.

*Common space.*

In shared housing: Space available for use by the assisted family and other occupants of the unit.

*Congregate housing.*

Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see §982.606 to §982.609.

*Continuously assisted.*

An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Act program when the family is admitted to the certificate or voucher program.

*Cooperative*

Housing owned by a corporation or association, and where a member of the corporation or association has the right to reside in a particular unit, and to participate in management of the housing.

*Cooperative member.*

A family of which one or more members owns membership shares in a cooperative.

*Domicile.*

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

*Down-payment assistance grant.*

A form of homeownership assistance in the homeownership option:

If a family receives a down-payment assistance grant, THHA will not make monthly homeownership assistance payments for the family.

A down-payment assistance grant is applied to the down-payment for purchase of the home or reasonable and customary closing costs required in connection with purchase of the home.

*Fair market rent (FMR).*

The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that will be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities.

See periodic publications in the Federal Register in accordance with 24 CFR part 888.

*Family.*

A person or group of persons, as determined by THHA, approved to reside in a unit with assistance under the program.

*Family rent to owner.*

In the voucher program, the portion of rent to owner paid by the family. For calculation of family rent to owner, see §982.515(b).

*Family self-sufficiency program (FSS program).*

The program established by a THHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

*Family share.*

The portion of rent and utilities paid by the family. For calculation of family share, see §982.515(a).

*Family unit size.*

The appropriate number of bedrooms for a family, as determined by THHA under THHA subsidy standards.

*First-time homeowner.*

In the homeownership option: A family of which no member owned any present ownership interest in a residence of any family member during the three years before commencement of homeownership assistance for the family.

The term “first-time homeowner” includes a single parent or displaced homemaker (as those terms are defined in 12 U.S.C. 12713) who, while married, owned a home with his or her spouse, or resided in a home owned by his or her spouse.

*Funding increment*

Each commitment of budget authority by HUD to a THHA under the consolidated annual contributions contract for THHA program.

*Gross rent.*

The sum of the rent to owner plus any utility allowance.

*Group home.*

A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). A special housing type: see §982.610 to §982.614.

*HAP contract.*

Housing assistance payments contract.

*Home.*

In the homeownership option: A dwelling unit for which THHA pays homeownership assistance.

*Homeowner.*

In the homeownership option: A family of which one or more members owns title to the home.

*Homeownership assistance.*

Assistance for a family under the homeownership option.

There are two alternative and mutually exclusive forms of homeownership assistance by a THHA for a family: monthly homeownership assistance payments, or a single down-payment assistance grant.

Either form of homeownership assistance will be paid to the family, or to a mortgage lender on behalf of the family.

*Homeownership expenses.*

In the homeownership option: A family's allowable monthly expenses for the home, as determined by THHA in accordance with HUD requirements (see §982.635).

*Homeownership option.*

Assistance for a homeowner or cooperative member under §982.625 to §982.641. A special housing type.

*Housing assistance payment.*

The monthly assistance payment by a THHA, which includes:

- (1) A payment to the owner for rent to the owner under the family's lease; and
- (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

*Housing quality standards (HQS).*

The HUD minimum quality standards for housing assisted under the tenant-based programs. See §982.401.

*Initial THHA.*

In portability, the term refers to both:

- (1) a THHA that originally selected a family that later decides to move out of the jurisdiction of the selecting THHA; and
- (2) a THHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing THHA.

*Initial payment standard.*

The payment standard at the beginning of the HAP contract term.

*Initial rent to owner.*

The rent to owner at the beginning of the HAP contract term.

*Interest in the home.*

In the homeownership option:

(1) In the case of assistance for a homeowner, “interest in the home” includes title to the home, any lease or other right to occupy the home, or any other present interest in the home.

(2) In the case of assistance for a cooperative member, “interest in the home” includes ownership of membership shares in the cooperative, any lease or other right to occupy the home, or any other present interest in the home.

*Jurisdiction.*

The area in which THHA has authority under State and local law to administer the program (i.e. VIGO COUNTY).

*Lease.*

(1) A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant.

The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and THHA.

(2) In cooperative housing, a written agreement between a cooperative and a member of the cooperative.

The agreement establishes 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 THHA.

For purposes of this part 982, the cooperative is the Section 8 “owner” of the unit, and the cooperative member is the Section 8 “tenant.”

*Manufactured home.*

A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type: see §982.620 and §982.621.

*Manufactured home space.*

In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See §982.622 to §982.624.

*Membership shares.*

In the homeownership option: shares in a cooperative. By owning such cooperative shares, the share-owner has the right to reside in a particular unit in the cooperative, and the right to participate in management of the housing.

*Merger date.*                    October 1, 1999.



*Notice of Funding Availability (NOFA).*

For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding.

This document explains how to apply for assistance and the criteria for awarding the funding.

*Owner.*

Any person or entity with the legal right to lease or sublease a unit to a participant.

*Participant (participant family).*

A family that has been admitted to THHA program and is currently assisted in the program.

The family becomes a participant on the effective date of the first HAP contract executed by THHA for the family (first day of initial lease term).

*Payment standard.*

The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

*THHA plan.*

The annual plan and the 5-year plan as adopted by THHA and approved by HUD in accordance with part 903 of this chapter.

*Portability.*

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

*Premises.*

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

*Present homeownership interest.*

In the homeownership option: "Present ownership interest" in a residence includes title, in whole or in part, to a residence, or ownership, in whole or in part, of membership shares in a cooperative.

"Present ownership interest" in a residence does not include the right to purchase title to the residence under a lease-purchase agreement.

*Private space.*

In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

*Program.*

The Section 8 tenant-based assistance program under this part.

*Program receipts.*

HUD payments to THHA under the consolidated ACC, and any other amounts received by THHA in connection with the program.

*Reasonable rent.*

A rent to owner that is not more than rent charged:

- (1) For comparable units in the private unassisted market; and
- (2) For comparable unassisted units in the premises.

*Renewal units.*

The number of units, as determined by HUD, for which funding is reserved on HUD books for a THHA's program.

This number is used in calculating renewal budget authority in accordance with §982.102.

*Rent to owner.*

The total monthly rent payable to the owner under the lease for the unit.

Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

*Residency preference.*

A THHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (“residency preference area”).

*Residency preference area.*

The specified area where families will reside to qualify for a residency preference.

*Shared housing.*

A unit occupied by two or more families.

The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type: see §982.615 to §982.618.

*Single room occupancy housing (SRO).*

A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. A special housing type: see §982.602 to §982.605.

*Special admission.*

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

*Special housing types.* See subpart M of this part 982.

Subpart M of this part states the special regulatory requirements for: SRO housing, congregate housing, group home, shared housing, manufactured home (including manufactured home space rental), cooperative housing (rental assistance for cooperative member) and homeownership option (homeownership assistance for cooperative member or first-time homeowner).

*Statement of homeowner obligations. In the homeownership option:*

The family's agreement to comply with program obligations.

*Subsidy standards.*

Standards established by a THHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

*Suspension.*

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

*Tenant.*

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

*Tenant rent.*

The total tenant payment minus any utility allowance.

*Utility reimbursement.*

In the voucher program, this is the portion of the housing assistance payment which exceeds the amount of the rent to owner.

*Voucher holder.*

A family holding a voucher with an unexpired term (search time).

*Voucher (rental voucher)*

A document issued by a THHA to a family selected for admission to the voucher program.

This document describes the program and the procedures for THHA approval of a unit selected by the family.

The voucher also states obligations of the family under the program.

*Welfare-to-work (WTW) families.*

Families assisted by a THHA with voucher funding awarded to THHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).

**§ 982.5 Notices required by this part.**

Where part 982 requires any notice to be given by THHA, the family or the owner, the notice will be in writing.

# THHA Plan for Administration of Housing Choice Voucher Program

**Source:** 60 FR 34695, July 3, 1995, unless otherwise noted.

§ 982.51 THHA authority to administer program.

§ 982.52 HUD requirements.

§ 982.53 Equal opportunity requirements.

§ 982.54 Administrative plan.

**(a) THHA adopts the provisions of CFR 982 and has modified said regulatory language as its written administrative plan that establishes local policies for administration of the program in accordance with HUD requirements.**

The administrative plan and any revisions of the plan are formally adopted by THHA Board of Commissioners or other authorized THHA officials.

The administrative plan states THHA policy on matters for which THHA has discretion to establish local policies.

(b) The administrative plan will be in accordance with HUD regulations and requirements.

The administrative plan is a supporting document to THHA plan (part 903 of this title) and will be available for public review.

THHA will revise the administrative plan if needed to comply with HUD requirements.

(c) THHA will administer the program in accordance with THHA administrative plan.

(d) THHA administrative plan covers THHA policies on these subjects:

(1) Selection and admission of applicants from THHA waiting list, including any THHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening THHA waiting list;

(2) Issuing or denying vouchers, including THHA policy governing the voucher term and any extensions or suspensions of the voucher term.

“Suspension” means stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy.

If THHA decides to allow extensions or suspensions of the voucher term, THHA administrative plan will describe how THHA determines whether to grant extensions or suspensions, and how THHA determines the length of any extension or suspension;

(3) Any special rules for use of available funds when HUD provides funding to THHA for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families;

(4) Occupancy policies, including:

(i) Definition of what group of persons will qualify as a “family”;

(ii) Definition of when a family is considered to be “continuously assisted”;

- (iii) Standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with §982.553;
- (5) Encouraging participation by owners of suitable units located outside areas of low income or minority concentration;
- (6) Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit;
- (7) Providing information about a family to prospective owners;
- (8) Disapproval of owners;
- (9) Subsidy standards;
- (10) Family absence from the dwelling unit;
- (11) How to determine who remains in the program if a family breaks up;
- (12) Informal review procedures for applicants;
- (13) Informal hearing procedures for participants;
- (14) The process for establishing and revising voucher payment standards;
- (15) The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract);
- (16) Special policies concerning special housing types in the program (e.g., use of shared housing);
- (17) Policies concerning payment by a family to THHA of amounts the family owes THHA;
- (18) Interim re-determinations of family income and composition;
- (19) Restrictions, if any, on the number of moves by a participant family (see §982.314(c)); and
- (20) Restrictions, if any, on the number of moves by a participant family (see §982.314(c));
- (21) Approval by the Board of Commissioners or other authorized officials to charge the administrative fee reserve;
- (22) Procedural guidelines and performance standards for conducting required HQS inspections; and
- (23) THHA screening of applicants for family behavior or suitability for tenancy.

## **Subpart C—Funding and THHA Application for Funding**

**§ 982.101 Allocation of funding.**

**§ 982.102 Allocation of budget authority for renewal of expiring consolidated ACC funding increments.**

**§ 982.103 THHA application for funding.**

**§ 982.104 HUD review of application.**

## **Subpart D—Annual Contributions Contract and THHA Administration of Program**

**§ 982.151 Annual contributions contract.**

**§ 982.152 Administrative fee.**

**§ 982.153 THHA responsibilities.**

**§ 982.154 ACC reserve account.**

**§ 982.155 Administrative fee reserve.**

**§ 982.156 Depository for program funds.**

**§ 982.157 Budget and expenditure.**

**§ 982.158 Program accounts and records.**

(a) THHA will maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit.

The records will be in the form required by HUD, including requirements governing computerized or electronic forms of record-keeping.

THHA will comply with the financial reporting requirements in 24 CFR part 5, subpart H.

(b) THHA will furnish to HUD accounts and other records, reports, documents and information, as required by HUD. For provisions on electronic transmission of required family data, see 24 CFR part 908.

(c) HUD and the Comptroller General of the United States shall have full and free access to all THHA offices and facilities, and to all accounts and other records of THHA that are pertinent to administration of the program, including the right to examine or audit the records, and to make copies.

THHA will grant such access to computerized or other electronic records, and to any computers, equipment or facilities containing such records, and shall provide any information or assistance needed to access the records.

(d) THHA will prepare a unit inspection report.

(e) During the term of each assisted lease, and for at least three years thereafter, THHA will keep:

(1) A copy of the executed lease;

(2) The HAP contract; and

(3) The application from the family.

(f) THHA will keep the following records for **at least three years**:



(1) Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;

(2) An application from each ineligible family and notice that the applicant is not eligible;

(3) HUD-required reports;

(4) Unit inspection reports;

(5) Lead-based paint records as required by part 35, subpart B of this title.

(6) Accounts and other records supporting THHA budget and financial statements for the program;

(7) Records to document the basis for THHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and

(8) Other records specified by HUD.

#### **§ 982.159 Audit requirements.**

(a) THHA will engage and pay an independent public accountant to conduct audits in accordance with HUD requirements.

(b) THHA is subject to the audit requirements in 24 CFR part 44.

#### **§ 982.160 HUD determination to administer a local program.**

#### **§ 982.161 Conflict of interest.**

(a) Neither THHA nor any of its contractors or subcontractors will enter into any contract or arrangement in connection with the tenant-based programs in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

(1) Any present or former member or officer of THHA (except a participant commissioner);

(2) Any employee of THHA, or any contractor, subcontractor or agent of THHA, who formulates policy or who influences decisions with respect to the programs;

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

(4) Any member of the Congress of the United States.

(b) Any member of the classes described in paragraph (a) of this section will disclose their interest or prospective interest to THHA and HUD.

(c) The conflict of interest prohibition under this section will be waived by the HUD field office for good cause.

#### **§ 982.162 Use of HUD-required contracts and other forms.**

(a) THHA will use program contracts and other forms required by HUD headquarters, including:

(1) The consolidated ACC between HUD and THHA;

(2) The HAP contract between THHA and the owner; and

(3) The tenancy addendum required by HUD (which is included both in the HAP contract and in the lease between the owner and the tenant).

(b) Required program contracts and other forms will be word-for-word in the form required by HUD headquarters. Any additions to or modifications of required program contracts or other forms will be approved by HUD headquarters.

**§ 982.163 Fraud recoveries.**

Under 24 CFR part 792, THHA will retain a portion of program fraud losses that THHA recovers from a family or owner by litigation, court-order or a repayment agreement.

## Subpart E—Admission to Tenant-Based Program

### § 982.201 Eligibility and targeting.

(a) *When applicant is eligible: general.* THHA will only admit an eligible family to the program.

To be eligible, the applicant will be a “family”, will be income-eligible, and will be a citizen or a noncitizen who has eligible immigration status as determined in accordance with 24 CFR part 5.

(b) *Income.*

(1) *Income-eligibility.* To be income-eligible, the applicant will be a family in any of the following categories:

(i) A “very low income” family;

(ii) A low-income family that is “continuously assisted” under the 1937 Housing Act;

(iii) A low-income family that meets additional eligibility criteria specified in THHA administrative plan. Such additional THHA criteria will be consistent with THHA plan and with the consolidated plans for local governments in THHA jurisdiction;

(iv) A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a HOPE 1 (HOPE for public housing homeownership) or HOPE 2 (HOPE for homeownership of multifamily units) project. (Section 8(o)(4)(D) of the 1937 Act (42 U.S.C. 1437f(o)(4)(D));

(v) A low-income or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing as defined in §248.101 of this title;

(vi) A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a project subject to a resident homeownership program under §248.173 of this title.

(2) *Income-targeting.*

(i) Not less than 75 percent of the families admitted to a THHA's tenant-based voucher program during THHA fiscal year from THHA waiting list shall be extremely low income families.

Annual income of such families shall be verified within the period described in paragraph (e) of this section.

(ii) THHA will admit a lower percent of extremely low income families during a THHA fiscal year (than otherwise required under paragraph (b)(2)(i) of this section) if HUD approves the use of such lower percent by THHA, in accordance with THHA plan, based on HUD's determination that the following circumstances necessitate use of such lower percent by THHA:

(A) THHA has opened its waiting list for a reasonable time for admission of extremely low income families residing in the same metropolitan statistical area (MSA) or non-metropolitan county, both inside and outside THHA jurisdiction;

(B) THHA has provided full public notice of such opening to such families, and has conducted outreach and marketing to such families, including outreach and marketing to

extremely low income families on the Section 8 and public housing waiting lists of other HAs with jurisdiction in the same MSA or non-metropolitan county;

(C) Notwithstanding such actions by THHA (in accordance with paragraphs (b)(2)(ii)(A) and (B) of this section), there are not enough extremely low income families on THHA's waiting list to fill available slots in the program during any fiscal year for which use of a lower percent is approved by HUD; and

(D) Admission of the additional very low income families other than extremely low income families to THHA's tenant-based voucher program will substantially address worst case housing needs as determined by HUD.

(iii) If approved by HUD, the admission of a portion of very low income welfare-to-work (WTW) families that are not extremely low income families will be disregarded in determining compliance with THHA's income-targeting obligations under paragraph (b)(2)(i) of this section. HUD will grant such approval only if and to the extent that THHA has demonstrated to HUD's satisfaction that compliance with such targeting obligations with respect to such portion of WTW families would interfere with the objectives of the welfare-to-work voucher program.

If HUD grants such approval, admission of that portion of WTW families is not counted in the base number of families admitted to a THHA's tenant-based voucher program during the fiscal year for purposes of income targeting.

(iv) Conversion of assistance for a participant in THHA certificate program to assistance in THHA voucher program does not count as an "admission," and is not subject to targeting under paragraph (b)(2)(i) of this section.

(v) Admission of families as described in paragraphs (b)(1)(ii) or (b)(1)(v) of this section is not subject to targeting under paragraph (b)(2)(i) of this section.

(vi) If the jurisdictions of two or more THHAs that administer the tenant-based voucher program cover an identical geographic area, such THHAs will elect to be treated as a single THHA for purposes of targeting under paragraph (b)(2)(i) of this section.

In such a case, THHAs shall cooperate to assure that aggregate admissions by such THHAs comply with the targeting requirement.

If such THHAs do not have a single fiscal year, HUD will determine which THHA's fiscal year is used for this purpose.

(vii) If a family initially leases a unit outside THHA jurisdiction under portability procedures at admission to the voucher program on or after the merger date, such admission shall be counted against the targeting obligation of the initial THHA (unless the receiving THHA absorbs the portable family into the receiving THHA voucher program from the point of admission).

(3) The annual income (gross income) of a participant family is used both for determination of income-eligibility under paragraph (b)(1) of this section and for targeting under paragraph (b)(2)(i) of this section. In determining annual income of a participant family which includes persons with disabilities, the determination will include the disallowance of increase in annual income as provided in 24 CFR 5.617, if applicable.

(4) The applicable income limit for issuance of a voucher when a family is selected for the program is the highest income limit (for the family size) for areas in THHA jurisdiction. The applicable income limit for admission to the program is the income limit for the area where the family is initially assisted in the program. At admission, the family will only use the voucher to rent a unit in an area where the family is income eligible.

(c) *Family composition.*

(1) A “family” will be a single person or a group of persons.

(2) A “family” includes a family with a child or children.

(3) A group of persons consisting of two or more elderly persons or disabled persons living together, or one or more elderly or disabled persons living with one or more live-in aides is a family.

THHA determines if any other group of persons qualifies as a “family”.

(4) A single person family will be:

(i) An elderly person.

(ii) A displaced person.

(iii) A disabled person.

(iv) Any other single person.

(5) A child who is temporarily away from the home because of placement in foster care is considered a member of the family.

(d) *Continuously assisted.*

(1) 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.

(2) THHA will establish policies concerning whether and to what extent a brief interruption between assistance under one of these programs and admission to the voucher program will be considered to break continuity of assistance under the 1937 Housing Act.

(e) *When THHA verifies that applicant is eligible.* THHA will receive information verifying that an applicant is eligible within the period of 60 days before THHA issues a voucher to the applicant.

(f) *Decision to deny assistance—*

(1) *Notice to applicant.* THHA will give an applicant prompt written notice of a decision denying admission to the program (including a decision that the applicant is not eligible, or denying assistance for other reasons).

The notice will give a brief statement of the reasons for the decision.

The notice will also state that the applicant will request an informal review of the decision, and state how to arrange for the informal review.

(2) For description of the grounds for denying assistance because of action or inaction by the applicant, see §982.552(b) and (c) (requirement and authority to deny admission) and §982.553(a) (crime by family members).

### **§ 982.202 How applicants are selected: General requirements.**

(a) *Waiting list admissions and special admissions.* THHA will admit an applicant for participation in the program either:

- (1) As a special admission (see §982.203).
- (2) As a waiting list admission (see §982.204 through §982.210).

(b) *Prohibited admission criteria—*

(1) *Where family lives.* Admission to the program will not be based on where the family lives before admission to the program.

(2) *Where family will live.* Admission to the program will not be based on where the family will live with assistance under the program.

(3) *Family characteristics.* THHA preference system will provide a preference for admission of families with certain characteristics from THHA waiting list.

However, admission to the program will **not** be based on:

- (i) Discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock;
- (ii) Discrimination because a family includes children (familial status discrimination);
- (iii) Discrimination because of age, race, color, religion, sex, or national origin;
- (iv) Discrimination because of disability; or
- (v) Whether a family decides to participate in a family self-sufficiency program.

(c) *Applicant status.* An applicant does **not** have any right or entitlement to be listed on THHA waiting list, to any particular position on the waiting list, or to admission to the programs.

The preceding sentence does not affect or prejudice any right, independent of this rule, to bring a judicial action challenging an THHA violation of a constitutional or statutory requirement.

(c) *Admission policy.*

THHA admission policy will state the system of admission preferences that THHA uses to select applicants from the waiting list, including any residency preference or other local preference.

### **§ 982.203 Special admission (non-waiting list): Assistance targeted by HUD.**

(a) If HUD awards a THHA program funding that is targeted for families living in specified units:

- (1) THHA will use the assistance for the families living in these units.

(2) THHA will admit a family that is not on THHA waiting list, or without considering the family's waiting list position. THHA will maintain records showing that the family was admitted with HUD-targeted assistance.

(b) The following are examples of types of program funding that will be targeted for a family living in a specified unit:

(1) A family displaced because of demolition or disposition of a public housing project;

(2) A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;

(3) For housing covered by the Low Income Housing Preservation and Resident Homeownership Act of 1990 (41 U.S.C. 4101 et seq.):

(i) A non-purchasing family residing in a project subject to a homeownership program (under 24 CFR 248.173); or

(ii) A family displaced because of mortgage prepayment or voluntary termination of a mortgage insurance contract (as provided in 24 CFR 248.165);

(4) A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and

(5) A non-purchasing family residing in a HOPE 1 or HOPE 2 project.

#### **§ 982.204 Waiting list: Administration of waiting list.**

(a) *Admission from waiting list.*

Except for special admissions, participants will be selected from THHA waiting list.

(b) *Organization of waiting list.*

The waiting list will contain the following information for each applicant listed:

(1) Applicant name;

(2) Family unit size (number of bedrooms for which family qualifies under THHA occupancy standards);

(3) Date and time of application;

(4) Qualification for any local preference;

(5) Racial or ethnic designation of the head of household.

(c) *Removing applicant names from the waiting list.*

1) The policy provides that THHA will remove names of applicants who do not respond to THHA requests for information or updates.

(2) An THHA decision to withdraw from the waiting list the name of an applicant family that includes a person with disabilities is subject to reasonable accommodation in accordance with 24 CFR part 8.

If the applicant did not respond to THHA request for information or updates because of the family member's disability, THHA will reinstate the applicant in the family's former position on the waiting list.

(d) *Family size.*

(1) The order of admission from the waiting list will not be based on family size, or on the family unit size for which the family qualifies under THHA occupancy policy.

(2) If THHA does not have sufficient funds to subsidize the family unit size of the family at the top of the waiting list, THHA will not skip the top family to admit an applicant with a smaller family unit size. Instead, the family at the top of the waiting list will be admitted when sufficient funds are available.

(e) *Funding for specified category of waiting list families.*

When HUD awards an THHA program funding for a specified category of families on the waiting list, THHA will select applicant families in the specified category.

(f) *Number of waiting lists.*

THHA will use a single waiting list for admission to its Section 8 tenant-based assistance program.

**§ 982.205 Waiting list: Different programs.**

(a) *Merger and cross-listing—*

(1) *Merged waiting list.* THHA will **NOT** merge the waiting list for tenant-based assistance with THHA waiting list for admission to another assisted housing program, including a federal or local program.

(2) *Non-merged waiting list: Cross-listing.* If THHA decides not to merge the waiting list for tenant-based assistance with the waiting list for THHA's public housing program, project-based voucher program or moderate rehabilitation program:

(i) If THHA's waiting list for tenant-based assistance is open when an applicant is placed on the waiting list for THHA's public housing program, project-based voucher program or moderate rehabilitation program, THHA will offer to place the applicant on its waiting list for tenant-based assistance.

(ii) If THHA's waiting list for its public housing program, project-based voucher program or moderate rehabilitation program is open when an applicant is placed on the waiting list for its tenant-based program, and if the other program includes units suitable for the applicant, THHA will offer to place the applicant on its waiting list for the other program.



(b) *Other housing assistance: Effect of application for, receipt or refusal.*

(1) For purposes of this section, “other housing subsidy” means a housing subsidy other than assistance under the voucher program. Housing subsidy includes subsidy assistance under a federal housing program (including public housing), a State housing program, or a local housing program.

(2) THHA will not take any of the following actions because an applicant has applied for, received, or refused other housing assistance:

(i) Refuse to list the applicant on THHA waiting list for tenant-based assistance;

(ii) Deny any admission preference for which the applicant is currently qualified;

(iii) Change the applicant's place on the waiting list based on preference, date and time of application, or other factors affecting selection under THHA selection policy; or

(iv) Remove the applicant from the waiting list.

### **§ 982.206 Waiting list: Opening and closing; public notice.**

(a) *Public notice.*

(1) When THHA opens a waiting list, THHA will give public notice that families will apply for tenant-based assistance.

The public notice will state where and when to apply.

(2) THHA will give the public notice by suitable means.

The notice will comply with HUD fair housing requirements.

(c) *Closing waiting list.* If THHA determines that the existing waiting list contains an adequate pool for use of available program funding, THHA will stop accepting new applications, or will accept only applications meeting criteria adopted by THHA.

### **§ 982.207 Waiting list: Local preferences in admission to program.**

(a) *Establishment of THHA local preferences.*

(1) THHA will establish a system of local preferences for selection of families admitted to the program. THHA selection preferences will be described in THHA administrative plan.

(2) THHA system of local preferences is based on local housing needs and priorities, as determined by THHA.

In determining such needs and priorities, THHA uses generally accepted data sources.

THHA shall consider public comment on the proposed public housing agency plan (as received pursuant to §903.17 of this chapter) and on the consolidated plan for the relevant jurisdiction (as received pursuant to part 91 of this title).

(3) THHA will **NOT** limit the number of applicants that will qualify for any local preference.

(4) THHA shall not deny a local preference, nor otherwise exclude or penalize a family in admission to the program, solely because the family resides in a public housing project.

THHA will establish a preference for families residing in public housing who are victims of a crime of violence (as defined in 18 U.S.C. 16).

(b) *Particular local preferences.*

(1) *Residency requirements or preferences.*

Although a THHA is not prohibited from adopting a residency preference, THHA will adopt or implement residency preferences in accordance with non-discrimination and equal opportunity requirements listed at §5.105(a) of this title.

A residency preference is a preference for admission of persons who reside in a specified geographic area (“residency preference area”).

VIGO county or municipality will be used as a residency preference area.

Any THHA residency preferences will be included in the statement of THHA policies that govern eligibility, selection and admission to the program, which is included in THHA annual plan (or supporting documents) pursuant to part 903 of this title.

Such policies does not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant family.

(iv) Residency preference will not be based on how long an applicant has resided or worked in a residency preference area.

(v) Applicants who are working or who have been notified that they are hired to work in a residency preference area will be treated as residents of the residency preference area.

THHA will treat graduates of, or active participants in, education and training programs in a residency preference area as residents of the residency preference area if the education or training program is designed to prepare individuals for the job market.

(2) *Preference for working families.* THHA will adopt a preference for admission of working families (families where the head, spouse or sole member is employed).

However, an applicant shall be given the benefit of the working family preference if the head and spouse, or sole member is age 62 or older, or is a person with disabilities.

(3) *Preference for person with disabilities.* THHA will adopt a preference for admission of families that include a person with disabilities.

However, THHA will not adopt a preference for admission of persons with a specific disability.

(4) *Preference for victims of domestic violence.* THHA adopts a local preference for admission of families that include victims of domestic violence.

(5) *Preference for single persons who are elderly, displaced, homeless, or persons with disabilities.*

THHA will **NOT** adopt a preference for admission of single persons who are age 62 or older, displaced, homeless, or persons with disabilities over other single persons.

(c) *Selection among families with preference.*

THHA system of preferences will use the following to select among applicants on the waiting list with the same preference status:

**(1) Date and time of application; or**

(d) *Preference for higher-income families.*

THHA will not select families for admission to the program in an order different from the order on the waiting list for the purpose of selecting higher income families for admission to the program.

(d) *Verification of selection method.*

The method for selecting applicants from a preference category will leave a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in the administrative plan.

**Subpart F [Reserved]**  
**Subpart G—Leasing a Unit**

**§ 982.301 Information when family is selected.**

(a) *THHA briefing of family.*

(1) When THHA selects a family to participate in a tenant-based program, THHA will give the family an oral briefing. The briefing will include information on the following subjects:

(i) A description of how the program works;

(ii) Family and owner responsibilities; and

(iii) Where the family will lease a unit, including renting a dwelling unit inside or outside THHA jurisdiction.

(2) For a family that qualifies to lease a unit outside THHA jurisdiction under portability procedures, the briefing will include an explanation of how portability works.

THHA will not discourage the family from choosing to live anywhere in THHA jurisdiction, or outside THHA jurisdiction under portability procedures.

(3) If the family is currently living in a high poverty census tract in THHA's jurisdiction, the briefing will also explain the advantages of moving to an area that does not have a high concentration of poor families.

(4) In briefing a family that includes any disabled person, THHA will take appropriate steps to ensure effective communication in accordance with 24 CFR 8.6.

(5) In briefing a welfare-to-work family, THHA will include specification of any local obligations of a welfare-to-work family and an explanation that failure to meet these obligations is grounds for THHA denial of admission or termination of assistance.

(b) *Information packet.*

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

(1) The term of the voucher, and THHA policy on any extensions or suspensions of the term. If THHA allows extensions, the packet will explain how the family can request an extension;

(2) How THHA determines the amount of the housing assistance payment for a family, including:

(i) How THHA determines the payment standard for a family; and

(ii) How THHA determines the total tenant payment for a family.

(3) How THHA determines the maximum rent for an assisted unit;

(4) Where the family will lease a unit. For a family that qualifies to lease a unit outside THHA jurisdiction under portability procedures, the information packet will include an explanation of how portability works;

(5) The HUD-required "tenancy addendum" that will be included in the lease;

(6) The form that the family uses to request THHA approval of the assisted tenancy, and an explanation of how to request such approval;

(7) A statement of THHA policy on providing information about a family to prospective owners;

(8) THHA subsidy standards, including when THHA will consider granting exceptions to the standards;

(9) The HUD brochure on how to select a unit;

(10) Information on federal, State and local equal opportunity laws, and a copy of the housing discrimination complaint form;

(11) A list of landlords or other parties known to THHA who will be willing to lease a unit to the family, or help the family find a unit;

(12) Notice that if the family includes a disabled person, the family will request a current listing of accessible units known to THHA that will be available;

(13) Family obligations under the program;

(14) Family obligations under the program, including any obligations of a welfare-to-work family.

(15) THHA informal hearing procedures. This information will describe when THHA is required to give a participant family the opportunity for an informal hearing, and how to request a hearing.

### **§ 982.302 Issuance of voucher; Requesting THHA approval of assisted tenancy.**

(a) When a family is selected, or when a participant family wants to move to another unit, THHA issues a voucher to the family. The family will search for a unit.

(b) If the family finds a unit, and the owner is willing to lease the unit under the program, the family will request THHA approval of the tenancy.

THHA **WILL NOT** permit the family to submit more than one request at a time.

(c) The family will submit to THHA a request for approval of the tenancy and a copy of the lease, including the HUD-prescribed tenancy addendum. The request will be submitted during the term of the voucher.

(d) THHA will specify the procedure for requesting approval of the tenancy.

The family will submit the request for approval of the tenancy in the form and manner required by THHA.

### **§ 982.303 Term of voucher.**

(a) *Initial term.* The initial term of a voucher will be at least **30** calendar days.

The initial term will be stated on the voucher.

(b) *Extensions of term.*

(1) At its discretion, THHA will grant a family **one** extension of the initial voucher term.

Any extension of the term is granted by THHA notice to the family.

(2) If the family needs and requests an extension of the initial voucher term as a reasonable accommodation, in accordance with part 8 of this title, to make the program accessible to a family member who is a person with disabilities, THHA will extend the voucher term up to the term reasonably required for that purpose.

(c) *Suspension of term.*

THHA policy will or will not provide for suspension of the initial or any extended term of the voucher.

THHA will grant a suspension for any part of the period after the family has submitted a request for approval of the tenancy up to the time when THHA approves or denies the request.

**§ 982.304 Illegal discrimination: THHA assistance to family.**

A family MAY claim that illegal discrimination because of race, color, religion, sex, national origin, age, familial status or disability prevents the family from finding or leasing a suitable unit with assistance under the program.

THHA will give the family information on how to fill out and file a housing discrimination complaint.

**§ 982.305 THHA approval of assisted tenancy.**

*(a) Program requirements*

THHA will **not** give approval for the family of the assisted tenancy, or execute a HAP contract, until THHA has determined that **all** the following meet program requirements:

- (1) The unit is eligible;
- (2) The unit has been inspected by THHA and passes HQS;
- (3) The lease includes the tenancy addendum;
- (4) The rent to owner is reasonable; and
- (5) At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, and where the gross rent of the unit exceeds the applicable payment standard for the family, the family share does not exceed 40 percent of the family's monthly adjusted income.

*(b) Actions before lease term.*

(1) All of the following will always be completed before the beginning of the initial term of the lease for a unit:

- (i) THHA has inspected the unit and has determined that the unit satisfies the HQS;
- (ii) The landlord and the tenant have executed the lease (including the HUD-prescribed tenancy addendum, and the lead-based paint disclosure information as required in §35.92(b) of this title); and

(2) (i) THHA will inspect the unit, determine whether the unit satisfies the HQS, and notify the family and owner of the determination:

A) within **(15) fifteen** days after the family and the owner submit a request for approval of the tenancy.

The fifteen day clock is suspended during any period when the unit is not available for inspection.

(3) In the case of a unit subject to a lease-purchase agreement, THHA will provide written notice to the family of the environmental requirements that will be met before commencing homeownership assistance for the family (see §982.626(c)).

(c) *When HAP contract is executed.*

(1) THHA **will usually** execute the HAP contract before the beginning of the lease term.

(2) THHA will not pay any housing assistance payment to the owner until the HAP contract has been executed.

(3) If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, THHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

(4) Any HAP contract executed after the 60 day period is void, and THHA will not pay any housing assistance payment to the owner.

(d) *Notice to family and owner*

After receiving the family's request for approval of the assisted tenancy, THHA will promptly notify the family and owner whether the assisted tenancy is approved.

(e) *Procedure after THHA approval.*

If THHA has given approval for the family of the assisted tenancy, the owner and THHA execute the HAP contract.

**§ 982.306 THHA disapproval of owner.**

(a) THHA will not approve an assisted tenancy if THHA has been informed (by HUD or otherwise) that the owner is debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

(b) When directed by HUD, THHA will not approve an assisted tenancy if:

(1) The federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements, and such action is pending; or

(2) A court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.

(c) In its administrative discretion, THHA will deny approval of an assisted tenancy for any of the following reasons:

(1) The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);

(2) The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

(3) The owner has engaged in any drug-related criminal activity or any violent criminal activity;

(4) The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;

(5) The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that:

(i) Threatens the right to peaceful enjoyment of the premises by other residents;

(ii) Threatens the health or safety of other residents, of employees of THHA, or of owner employees or other persons engaged in management of the housing;

(iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or

(iv) Is drug-related criminal activity or violent criminal activity; or

(6) The owner has a history or practice of renting units that fail to meet State or local housing codes; or

(7) The owner has not paid State or local real estate taxes, fines or assessments.

(d) THHA will not approve a unit if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless THHA determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities.

This restriction against THHA approval of a unit only applies at the time a family initially receives tenant-based assistance for occupancy of a particular unit, but does not apply to THHA approval of a new tenancy with continued tenant-based assistance in the same unit.

(e) Nothing in this rule is intended to give any owner any right to participate in the program.

(f) For purposes of this section, "owner" includes a principal or other interested party.

[60 FR 34695, July 3, 1995, as amended at 63 FR 27437, Will 18, 1998; 64 FR 26644, Will 14, 1999; 64 FR 56913, Oct. 21, 1999; 65 FR 16821, Mar. 30, 2000]

### **§ 982.307 Tenant screening.**

(a) *THHA option and owner responsibility.*

(1) THHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy.

However, THHA will screen applicants for family behavior or suitability for tenancy.

(2) The owner is responsible for screening and selection of the family to occupy the owner's unit.

At or before THHA approval of the tenancy, THHA will inform the owner that screening and selection for tenancy is the responsibility of the owner.



(3) The owner is responsible for screening of families on the basis of their tenancy histories.

An owner will consider a family's background with respect to such factors as:

- (i) Payment of rent and utility bills;
- (ii) Caring for a unit and premises;
- (iii) Respecting the rights of other residents to the peaceful enjoyment of their housing;
- (iv) Drug related criminal activity or other criminal activity that is a threat to the health, safety or property of others; and
- (v) Compliance with other essential conditions of tenancy.

(b) *THHA information about tenant.*

(1) THHA will give the owner:

- (i) The family's current and prior address (as shown in THHA records); and
- (ii) The name and address (if known to THHA) of the landlord at the family's current and prior address.

(2) When a family wants to lease a dwelling unit, THHA will offer the owner other information in THHA possession, about the family, including information about the tenancy history of family members, or about drug-trafficking by family members.

(3) THHA will give the family a statement of THHA policy on providing information to owners.

The statement will be included in the information packet that is given to a family selected to participate in the program.

THHA policy will provide that THHA will give the same types of information to all families and to all owners.

### **§ 982.308 Lease and tenancy.**

(a) *Tenant's legal capacity.* The tenant will have legal capacity to enter a lease under State and local law.

“Legal capacity” means that the tenant is bound by the terms of the lease and will enforce the terms of the lease against the owner.

(b) *Form of lease.*

(1) The tenant and the owner will enter a written lease for the unit.

The lease will be executed by the owner and the tenant.

(2) If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease will be in such standard form (plus the HUD-prescribed tenancy addendum).

If the owner does not use a standard lease form for rental to unassisted tenants, the owner will use another form of lease, such as a THHA model lease (including the HUD-prescribed tenancy addendum).

The HAP contract prescribed by HUD will contain the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.

(b) *State and local law.*

THHA will review the lease to determine if the lease complies with State and local law.

THHA will decline to approve the tenancy if THHA determines that the lease does not comply with State or local law.

(d) *Required information.*

The lease will specify all of the following:

- (1) The names of the owner and the tenant;
- (2) The unit rented (address, apartment number, and any other information needed to identify the contract unit);
- (3) The term of the lease (initial term and any provisions for renewal);
- (4) The amount of the monthly rent to owner; and
- (5) A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.

(e) *Reasonable rent.* The rent to owner will be reasonable (see §982.507).

(f) *Tenancy addendum.*

(1) The HAP contract form required by HUD shall include an addendum (the “tenancy addendum”), that sets forth:

(i) The tenancy requirements for the program (in accordance with this section and §§982.309 and 982.310); and

(ii) The composition of the household as approved by THHA (family members and any THHA-approved live-in aide).

(2) All provisions in the HUD-required tenancy addendum will be added word-for-word to the owner's standard form lease that is used by the owner for unassisted tenants.

The tenant shall have the right to enforce the tenancy addendum against the owner, and the terms of the tenancy addendum shall prevail over any other provisions of the lease.

(g) *Changes in lease or rent.*

(1) If the tenant and the owner agree to any changes in the lease, such changes will be in writing, and the owner will immediately give THHA a copy of such changes.

The lease, including any changes, will be in accordance with the requirements of this section.

(2) In the following cases, tenant-based assistance shall not be continued unless THHA has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner:

(i) If there are any changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;

(ii) If there are any changes in lease provisions governing the term of the lease;

(iii) If the family moves to a new unit, even if the unit is in the same building or complex.

(3) THHA approval of the tenancy, and execution of a new HAP contract, are not required for changes in the lease other than as specified in paragraph (g)(2) of this section.

(4) The owner will notify THHA of any changes in the amount of the rent to owner at least sixty days before any such changes go into effect, and any such changes shall be subject to rent reasonableness requirements (see §982.503).

### **§ 982.309 Term of assisted tenancy.**

(a) *Initial term of lease.*

(1) Except as provided in paragraph (a)(2) of this section, the initial lease term will be for at least one year.

(2) THHA will approve a shorter initial lease term if THHA determines that:

(i) Such shorter term would improve housing opportunities for the tenant; and

(ii) Such shorter term is the prevailing local market practice.

(3) During the initial term of the lease, the owner will not raise the rent to owner.

(b) *Term of HAP contract.*

(1) The term of the HAP contract begins on the first day of the lease term and ends on the last day of the lease term.

(2) The HAP contract terminates if any of the following occurs:

(i) The lease is terminated by the owner or the tenant;

(ii) THHA terminates the HAP contract; or

(iii) THHA terminates assistance for the family.

(c) *Family responsibility.*

(1) If the family terminates the lease on notice to the owner, the family will give THHA a copy of the notice of termination at the same time.

Failure to do this is a breach of family obligations under the program.

(2) The family will notify THHA and the owner before the family moves out of the unit.

Failure to do this is a breach of family obligations under the program.

**§ 982.310 Owner termination of tenancy.**

(a) *Grounds.* During the term of the lease, the owner will not terminate the tenancy except on the following grounds:

(1) Serious violation (including but not limited to failure to pay rent or other amounts due under the lease) or repeated violation of the terms and conditions of the lease;

(2) Violation of federal, State, or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises; or

(3) Other good cause.

(b) *Nonpayment by THHA: Not grounds for termination of tenancy.*

(1) The family is not responsible for payment of the portion of the rent to owner covered by the housing assistance payment under the HAP contract between the owner and THHA.

(2) THHA failure to pay the housing assistance payment to the owner is not a violation of the lease between the tenant and the owner.

During the term of the lease the owner will not terminate the tenancy of the family for nonpayment of THHA housing assistance payment.

(c) *Criminal activity.*

(1) *Evicting drug criminals due to drug crime on or near the premises.*

The lease will provide that drug-related criminal activity engaged in, on or near the premises by any tenant, household member, or guest, or such activity engaged in on the premises by any other person under the tenant's control, is grounds for the owner to terminate tenancy.

In addition, the lease will provide that the owner will evict a family when the owner determines that a household member is illegally using a drug or when the owner determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(2) *Evicting other criminals.*

(i) *Threat to other residents.* The lease will provide that the owner will terminate tenancy for any of the following types of criminal activity by a covered person:

(A) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises);

(B) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; or

(C) Any violent criminal activity on or near the premises by a tenant, household member, or guest, or any such activity on the premises by any other person under the tenant's control.

(ii) *Fugitive felon or parole violator.* The lease will provide that the owner will terminate the tenancy if a tenant is:

(A) Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or

(B) Violating a condition of probation or parole imposed under Federal or State law.

(3) *Evidence of criminal activity.*

The owner will terminate tenancy and evict by judicial action a family for criminal activity by a covered person in accordance with this section if the owner determines that the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.

(d) *Other good cause.*

(1) "Other good cause" for termination of tenancy by the owner will include, but is not limited to, any of the following examples:

(i) Failure by the family to accept the offer of a new lease or revision;

(ii) A family history of disturbance of neighbors or destruction of property, or of living or housekeeping habits resulting in damage to the unit or premises;

(iii) The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or

(iv) A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rental).

(2) During the initial lease term, the owner will not terminate the tenancy for "other good cause", unless the owner is terminating the tenancy because of something the family did or failed to do.

(e) *Owner notice—(1) Notice of grounds.*

(i) The owner will give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease.

The tenancy does not terminate before the owner has given this notice, and the notice will be given at or before commencement of the eviction action.

(ii) The notice of grounds will be included in, or will be combined with, any owner eviction notice to the tenant.

(2) *Eviction notice.*

(i) Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under State or local law to commence an eviction action.

(ii) The owner will give THHA a copy of any owner eviction notice to the tenant.

(f) *Eviction by court action.* The owner will only evict the tenant from the unit by instituting a court action.

(h) *Termination of tenancy decisions.*—

(1) *General.* If the law and regulation permit the owner to take an action but do not require action to be taken, the owner will take or not take the action in accordance with the owner's standards for eviction.

The owner will consider all of the circumstances relevant to a particular eviction case, such as:

- (i) The seriousness of the offending action;
- (ii) The effect on the community of denial or termination or the failure of the owner to take such action;
- (iii) The extent of participation by the leaseholder in the offending action;
- (iv) The effect of denial of admission or termination of tenancy on household members not involved in the offending activity;
- (v) The demand for assisted housing by families who will adhere to lease responsibilities;
- (vi) The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- (vii) The effect of the owner's action on the integrity of the program.

(2) *Exclusion of culpable household member.*

The owner will require a tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

(3) *Consideration of rehabilitation.*

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner will 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 owner will require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

(4) *Nondiscrimination limitation.* The owner's termination of assistance actions will be consistent with fair housing and equal opportunity provisions of §5.105 of this title.

**§ 982.311 When assistance is paid.**

(a) *Payments under HAP contract.* Housing assistance payments are paid to the owner in accordance with the terms of the HAP contract.

Housing assistance payments will only be paid to the owner during the lease term, and while the family is residing in the unit.

*Termination of payment: When owner terminates the lease.*

Housing assistance payments terminate when the lease is terminated by the owner in accordance with the lease.

However, if the owner has commenced the process to evict the tenant, and if the family continues to reside in the unit, THHA will continue to make housing assistance payments to the owner in accordance with the HAP contract until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

*Termination of payment: Other reasons for termination.*

Housing assistance payments terminate if:

- (1) The lease terminates;
- (2) The HAP contract terminates; or
- (3) THHA terminates assistance for the family.

(d) *Family move-out.*

(1) If the family moves out of the unit, THHA will not make any housing assistance payment to the owner for any month after the month when the family moves out.

The owner will keep the housing assistance payment for the month when the family moves out of the unit.

(2) If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit will begin during the month the family moves out of the first assisted unit.

Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

**§ 982.312 Absence from unit.**

(a) The family may be absent from the unit for brief periods.

However, the family will not be absent from the unit for a period of more than **30** consecutive calendar days in any circumstance, or for any reason.

At its discretion, THHA will allow absence for a lesser period in accordance with THHA policy.

(b) Housing assistance payments terminate if the family is absent for longer than the maximum period permitted. The term of the HAP contract and assisted lease also terminate.

(The owner will reimburse THHA for any housing assistance payment for the period after the termination.)

(c) Absence means that no member of the family is residing in the unit.



(d) (1) The family will supply any information or certification requested by THHA to verify that the family is residing in the unit, or relating to family absence from the unit.

The family will cooperate with THHA for this purpose.

The family will promptly notify THHA of absence from the unit, including any information requested on the purposes of family absences.

(2) THHA will 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.

### **§ 982.313 Security deposit: Amounts owed by tenant.**

(a) The owner will collect a security deposit from the tenant.

(b) THHA will prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

(c) When the tenant moves out of the dwelling unit, the owner, subject to State or local law, will use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid rent payable by the tenant, damages to the unit or for other amounts the tenant owes under the lease.

(d) The owner will give the tenant a written list of all items charged against the security deposit, and the amount of each item.

After deducting the amount, if any, used to reimburse the owner, the owner will refund promptly the full amount of the unused balance to the tenant.

(e) If the security deposit is not sufficient to cover amounts the tenant owes under the lease, the owner will seek to collect the balance from the tenant.

### **§ 982.314 Move with continued tenant-based assistance.**

(a) *Applicability*

This section states when a participant family will move to a new unit with continued tenant-based assistance:

(b) *When family will move.*

A family will move to a new unit if:

(1) The assisted lease for the old unit has terminated.

This includes a termination because:

(i) THHA has terminated the HAP contract for the owner's breach; or

(ii) The lease has terminated by mutual agreement of the owner and the tenant.

(2) The owner has given the tenant a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the tenant.

(3) The tenant has given notice of lease termination (if the tenant has a right to terminate the lease on notice to the owner, for owner breach or otherwise).

(c) *How many moves.*

(1) A participant family may move one or more times with continued assistance under the program, **inside** THHA jurisdiction.

(2) THHA policy :

(i) forbids any move by the family during the initial lease term; and

(ii) forbids more than one move by the family during any one year period.

(d) *Notice that family wants to move.*

(1) If the family terminates the lease on notice to the owner, the family will give THHA a copy of the notice at the same time.

(2) If the family wants to move to a new unit, the family will notify THHA and the owner before moving from the old unit.

(e) *When THHA will deny permission to move.*

(1) THHA will deny permission to move if THHA does not have sufficient funding for continued assistance.

(2) At any time, THHA will deny permission to move in accordance with §982.552 (grounds for denial or termination of assistance).

### **§ 982.315 Family break-up.**

(a) THHA has discretion to determine which members of an assisted family continue to receive assistance in the program if the family breaks up.

THHA will decide who remains in the program if the family breaks up.

(b) The factors to be considered in making this decision under THHA policy will 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.

(4) Other factors specified by THHA.

(c) 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, THHA is bound by the court's determination of which family members continue to receive assistance in the program.

### **§ 982.316 Live-in aide.**

(a) A family that consists of one or more elderly, near-elderly or disabled persons can request that THHA approve a live-in aide to reside in the unit and provide necessary supportive services for a family member who is a person with disabilities.

THHA will approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR part 8 to make the program accessible to and usable by the family member with a disability. (See §982.402(b)(6) concerning effect of live-in aide on family unit size.)

(b) At any time, THHA can refuse to approve a particular person as a live-in aide, or will withdraw such approval, if:

(1) The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

(2) The person commits drug-related criminal activity or violent criminal activity; or

(3) The person currently owes rent or other amounts to THHA or to another THHA in connection with Section 8 or public housing assistance under the 1937 Act.

### **§ 982.317 Lease-purchase agreements.**

(a) A family leasing a unit with assistance under the program will enter into an agreement with an owner to purchase the unit.

So long as the family is receiving such rental assistance, all requirements applicable to families otherwise leasing units under the tenant-based program apply.

Any homeownership premium (e.g., increment of value attributable to the value of the lease-purchase right or agreement such as an extra monthly payment to accumulate a down-payment or reduce the purchase price) included in the rent to the owner that would result in a higher subsidy amount than would otherwise be paid by THHA will be absorbed by the family.

(b) In determining whether the rent to owner for a unit subject to a lease-purchase agreement is a reasonable amount in accordance with §982.503, any homeownership premium paid by the family to the owner will be excluded when THHA determines rent reasonableness.

## **Subpart H—Where Family Can Live and Move**

### **§ 982.351 Overview.**

This subpart describes what kind of housing is eligible for leasing, and the areas where a family can live with tenant-based assistance. The subpart covers:

(a) Assistance for a family that rents a dwelling unit in the jurisdiction of THHA that originally selected the family for tenant-based assistance.

(b) “Portability” assistance for a family THHA rents a unit outside the jurisdiction of the initial THHA.

### **§ 982.352 Eligible housing.**

(a) *Ineligible housing.* The following types of housing will **not** be assisted by a THHA in the tenant-based programs:

- (1) A public housing or Indian housing unit;
- (2) A unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f);
- (3) Nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services;
- (4) College or other school dormitories;
- (5) Units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions;
- (6) A unit occupied by its owner or by a person with any interest in the unit.
- (7) For provisions on THHA disapproval of an owner, see §982.306.

(b) *THHA-owned housing.*

(1) A unit that is owned by THHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by THHA) will only be assisted under the tenant-based program if all the following conditions are satisfied:

(i) THHA will inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease, and a THHA-owned unit is freely selected by the family, without THHA pressure or steering.

(ii) The unit is not ineligible housing.

(iii) During assisted occupancy, the family will not benefit from any form of housing subsidy that is prohibited under paragraph (c) of this section.

(iv) (A) THHA will obtain the services of an independent entity to perform the following THHA functions as required under the program rule:

(1) To determine rent reasonableness in accordance with §982.507. The independent agency shall communicate the rent reasonableness determination to the family and THHA.

(2) To assist the family negotiate the rent to owner in accordance with §982.506.

(3) To inspect the unit for compliance with the HQS in accordance with §982.305(a) and §982.405 (except that §982.405(e) is not applicable). The independent agency shall communicate the results of each such inspection to the family and THHA.

(B) The independent agency used to perform these functions will be approved by HUD.

The independent agency will be the unit of general local government for THHA jurisdiction (unless THHA is itself the unit of general local government or an agency of such government), or will be another HUD-approved independent agency.

(C) THHA will compensate the independent agency from THHA ongoing administrative fee income for the services performed by the independent agency.

THHA will not use other program receipts to compensate the independent agency for such services.

THHA and the independent agency will not charge the family any fee or charge for the services provided by the independent agency.

(c) *Prohibition against other housing subsidy.*

A family will not receive the benefit of tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- (1) Public or Indian housing assistance;
- (2) Other Section 8 assistance (including other tenant-based assistance);
- (3) Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- (4) Section 101 rent supplements;
- (5) Section 236 rental assistance payments;
- (6) Tenant-based assistance under the HOME Program;
- (7) Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- (8) Any local or State rent subsidy;
- (9) Section 202 supportive housing for the elderly;
- (10) Section 811 supportive housing for persons with disabilities;
- (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- (12) Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, “housing subsidy” does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

**§ 982.353 Where family can lease a unit with tenant-based assistance.**

*Assistance in THHA jurisdiction.*

The family will receive tenant-based assistance to lease a unit located anywhere in VIGO COUNTY

(b) *Portability: Assistance outside the initial THHA jurisdiction.*

**DISALLOWED UNTIL FURTHER NOTICE DUE TO FINANCIAL SHORTFALL**

(c) *Nonresident applicants.*

(1) This paragraph (c) applies if neither the household head or spouse of an assisted family already had a “domicile” (legal residence) in the jurisdiction of the initial THHA at the time when the family first submitted an application for participation in the program to the initial THHA.

(2) The following apply during the 12 month period from the time when a family described in paragraph (c)(1) of this section is admitted to the program:

- (i) The family will lease a unit anywhere in the jurisdiction of the initial THHA;
- (ii) The family does not have any right to portability;

(d) *Income eligibility.*

(1) For admission to the program, a family will be income eligible in the area where the family initially leases a unit with assistance under the program.

(2) If a portable family is a participant in the initial THHA Section 8 tenant-based program (either THHA voucher program or THHA certificate program), income eligibility is not re-determined when the family moves to the receiving THHA program under portability procedures.

(3) Except as provided in paragraph (d)(2) of this section, a portable family will be income eligible for admission to the voucher program in the area where the family leases a unit under portability procedures.

(e) *Leasing in-place.* If the dwelling unit is approvable, a family will select the dwelling unit occupied by the family before selection for participation in the program.

(f) *Freedom of choice.* THHA will not directly or indirectly reduce the family's opportunity to select among available units except as provided in paragraph (a) of this section, or elsewhere in this part 982 (e.g. prohibition on use of ineligible housing, housing not meeting HQS, or housing for which the rent to owner exceeds a reasonable rent).

## **Subpart I—Dwelling Unit: Housing Quality Standards, Subsidy Standards, Inspection and Maintenance**

### **§ 982.401 Housing quality standards (HQS).**

(a) *Performance and acceptability requirements.*

1) This section states the housing quality standards (HQS) for housing assisted in the programs.

(2) (i) The HQS consist of:

(A) Performance requirements; and

(B) Acceptability criteria or HUD approved variations in the acceptability criteria.

(ii) This section states performance and acceptability criteria for these key aspects of housing quality:

- (A) Sanitary facilities;
- (B) Food preparation and refuse disposal;
- (C) Space and security;
- (D) Thermal environment;
- (E) Illumination and electricity;
- (F) Structure and materials;
- (G) Interior air quality;
- (H) Water supply;
- (I) Lead-based paint;
- (J) Access;
- (K) Site and neighborhood;
- (L) Sanitary condition; and
- (M) Smoke detectors.

(3) All program housing will meet the HQS performance requirements both at commencement of assisted occupancy, and throughout the assisted tenancy.

(4) (i) In addition to meeting HQS performance requirements, the housing will meet the acceptability criteria stated in this section, unless variations are approved by HUD.

(ii) HUD will approve acceptability criteria variations for the following purposes:

(A) Variations which apply standards in local housing codes or other codes adopted by THHA; or

(B) Variations because of local climatic or geographic conditions.

(iii) Acceptability criteria variations will only be approved by HUD pursuant to paragraph (a)(4)(ii) of this section if such variations either:

(A) Meet or exceed the performance requirements; or

(B) Significantly expand affordable housing opportunities for families assisted under the program.

(iv) HUD will not approve any acceptability criteria variation if HUD believes that such variation is likely to adversely affect the health or safety of participant families, or severely restrict housing choice.



(b) *Sanitary facilities—*

(1) *Performance requirements.*

The dwelling unit will include sanitary facilities located in the unit. The sanitary facilities will be in proper operating condition, and adequate for personal cleanliness and the disposal of human waste.

The sanitary facilities will be usable in privacy.

(2) *Acceptability criteria.*

(i) The bathroom will be located in a separate private room and have a flush toilet in proper operating condition.

(ii) The dwelling unit will have a fixed basin in proper operating condition, with a sink trap and hot and cold running water.

(iii) The dwelling unit will have a shower or a tub in proper operating condition with hot and cold running water.

(iv) The facilities will utilize an approvable public or private disposal system (including a locally approvable septic system).

(c) *Food preparation and refuse disposal—*

(1) *Performance requirement.*

(i) The dwelling unit will have suitable space and equipment to store, prepare, and serve foods in a sanitary manner.

(ii) There will be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g, garbage cans).

(2) *Acceptability criteria.*

(i) The dwelling unit will have an oven, and a stove or range, and a refrigerator of appropriate size for the family.

All of the equipment will be in proper operating condition.

The equipment will be supplied by either the owner or the family.

A microwave oven will be substituted for a tenant-supplied oven and stove or range

A microwave oven will be substituted for an owner-supplied oven and stove or range if the tenant agrees and microwave ovens are furnished instead of an oven and stove or range to both subsidized and unsubsidized tenants in the building or premises.

(ii) The dwelling unit will have a kitchen sink in proper operating condition, with a sink trap and hot and cold running water.

The sink will drain into an approvable public or private system.

(iii) The dwelling unit will have space for the storage, preparation, and serving of food.

(iv) There will be facilities and services for the sanitary disposal of food waste and refuse, including temporary storage facilities where necessary (e.g., garbage cans).

(d) *Space and security*—

1) *Performance requirement.*

The dwelling unit will provide adequate space and security for the family.

(2) *Acceptability criteria.*

(i) At a minimum, the dwelling unit will have a living room, a kitchen area, and a bathroom.

(ii) The dwelling unit will have at least one bedroom or living/sleeping room for each two persons. Children of opposite sex, other than very young children, will not be required to occupy the same bedroom or living/sleeping room.

(iii) Dwelling unit windows that are accessible from the outside, such as basement, first floor, and fire escape windows, will be lockable (such as window units with sash pins or sash locks, and combination windows with latches). Windows that are nailed shut are acceptable only if these windows are not needed for ventilation or as an alternate exit in case of fire.

(iv) The exterior doors of the dwelling unit will be lockable. Exterior doors are doors by which someone can enter or exit the dwelling unit.

(e) *Thermal environment*—

(1) *Performance requirement.*

The dwelling unit will have and be capable of maintaining a thermal environment healthy for the human body.

(2) *Acceptability criteria.*

(i) There will be a safe system for heating the dwelling unit (and a safe cooling system, where present).

The system will be in proper operating condition.

The system will be able to provide adequate heat (and cooling, if applicable), either directly or indirectly, to each room, in order to assure a healthy living environment appropriate to the climate.

(ii) The dwelling unit will not contain unvented room heaters that burn gas, oil, or kerosene. Electric heaters are acceptable.

(f) *Illumination and electricity*—

(1) *Performance requirement.*

Each room will have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants.

The dwelling unit will have sufficient electrical sources so occupants can use essential electrical appliances. The electrical fixtures and wiring will ensure safety from fire.

2) *Acceptability criteria.*

(i) There will be at least one window in the living room and in each sleeping room.

(ii) The kitchen area and the bathroom will have a permanent ceiling or wall light fixture in proper operating condition. The kitchen area will also have at least one electrical outlet in proper operating condition.

(iii) The living room and each bedroom will have at least two electrical outlets in proper operating condition. Permanent overhead or wall-mounted light fixtures will count as one of the required electrical outlets.

(g) *Structure and materials*—

(1) *Performance requirement.*

The dwelling unit will be structurally sound

The structure will not present any threat to the health and safety of the occupants and will protect the occupants from the environment.

(2) *Acceptability criteria.*

(i) Ceilings, walls, and floors will not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling, missing parts, or other serious damage.

(ii) The roof will be structurally sound and weathertight.

(iii) The exterior wall structure and surface will not have any serious defects such as serious leaning, buckling, sagging, large holes, or defects that will result in air infiltration or vermin infestation.

(iv) The condition and equipment of interior and exterior stairs, halls, porches, walkways, etc., will not present a danger of tripping and falling. For example, broken or missing steps or loose boards are unacceptable.

(v) Elevators will be working and safe.

(h) *Interior air quality*—

(1) *Performance requirement.*

The dwelling unit will be free of pollutants in the air at levels that threaten the health of the occupants.

(2) *Acceptability criteria.*

(i) The dwelling unit will be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful pollutants.

(ii) There will be adequate air circulation in the dwelling unit.

(iii) Bathroom areas will have one operable window or other adequate exhaust ventilation.

(iv) Any room used for sleeping will have at least one window. If the window is designed to be operable, the window will work.

(i) *Water supply—*

(1) *Performance requirement.*

The water supply will be free from contamination.

(2) *Acceptability criteria.*

The dwelling unit will be served by an approvable public or private water supply that is sanitary and free from contamination.

(j) *Lead-based paint performance requirement.*

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), and implementing regulations at part 35, subparts A, B, M, and R of this title apply to units assisted under this part.

(k) *Access performance requirement.*

The dwelling unit will be able to be used and maintained without unauthorized use of other private properties.

The building will provide an alternate means of exit in case of fire (such as fire stairs or egress through windows).

(l) *Site and Neighborhood—*

(1) *Performance requirement.*

The site and neighborhood will be reasonably free from disturbing noises and reverberations and other dangers to the health, safety, and general welfare of the occupants.

(2) *Acceptability criteria.*

The site and neighborhood will not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks or steps; instability; flooding, poor drainage, septic tank back-ups or sewage hazards; mudslides; abnormal air pollution, smoke or dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; vermin or rodent infestation; or fire hazards.

(m) *Sanitary condition*—

1) *Performance requirement.*

The dwelling unit and its equipment will be in sanitary condition.

(2) *Acceptability criteria.*

The dwelling unit and its equipment will be free of vermin and rodent infestation.

(n) *Smoke detectors performance requirement*—

(1) Except as provided in paragraph (n)(2) of this section, each dwelling unit will have at least one battery-operated or hard-wired smoke detector, in proper operating condition, on each level of the dwelling unit, including basements but excepting crawl spaces and unfinished attics.

Smoke detectors will be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards).

If the dwelling unit is occupied by any hearing-impaired person, smoke detectors will have an alarm system, designed for hearing-impaired persons as specified in NFPA 74 (or successor standards).

(2) For units assisted prior to April 24, 1993, owners who installed battery-operated or hard-wired smoke detectors prior to April 24, 1993 in compliance with HUD's smoke detector requirements, including the regulations published on July 30, 1992, (57 FR 33846), will not be required subsequently to comply with any additional requirements mandated by NFPA 74

(i.e., the owner would not be required to install a smoke detector in a basement not used for living purposes, nor would the owner be required to change the location of the smoke detectors that have already been installed on the other floors of the unit).

### **§ 982.402 Subsidy standards.**

(a) *Purpose.*

(1) THHA will establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions.

(2) For each family, THHA determines the appropriate number of bedrooms under THHA subsidy standards (family unit size).

(3) The family unit size number is entered on the voucher issued to the family. THHA issues the family a voucher for the family unit size when a family is selected for participation in the program.

(b) *Determining family unit size.*

The following requirements apply when THHA determines family unit size under THHA subsidy standards:

(1) The subsidy standards will provide for the smallest number of bedrooms needed to house a family without overcrowding.

(2) The subsidy standards will be consistent with space requirements under the housing quality standards (See §982.401(d)).

(3) The subsidy standards will be applied consistently for all families of like size and composition.

(4) A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.

(5) A family that consists of a pregnant woman (with no other persons) will be treated as a two-person family.

(6) Any live-in aide (approved by THHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) will be counted in determining the family unit size;

(7) Unless a live-in-aide resides with the family, the family unit size for any family consisting of a single person will be either a zero or one-bedroom unit, as determined under THHA subsidy standards.

(8) In determining family unit size for a particular family, THHA will grant an exception to its established subsidy standards if THHA determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances.

(For a single person other than a disabled or elderly person or remaining family member, such THHA exception will not override the limitation in paragraph (b)(7) of this section.)

*Effect of family unit size-maximum subsidy in voucher program.*

The family unit size as determined for a family under THHA subsidy standard is used to determine the maximum rent subsidy for a family assisted in the voucher program.

For a voucher tenancy, THHA establishes payment standards by number of bedrooms.

The payment standard for a family shall be the lower of:

- (1) The payment standard amount for the family unit size; or
- (2) The payment standard amount for the unit size of the unit rented by the family.
- (3) *Voucher program.*

For a voucher tenancy, THHA establishes payment standards by number of bedrooms.

The payment standards for the family will be the lower of:

- (i) The payment standards for the family unit size; or
- (ii) The payment standard for the unit size rented by the family.

*(d) Size of unit occupied by family.*

(1) The family will lease an otherwise acceptable dwelling unit with fewer bedrooms than the family unit size. However, the dwelling unit will meet the applicable HQS space requirements.

(2) The family will lease an otherwise acceptable dwelling unit with more bedrooms than the family unit size.

### **§ 982.403 Terminating HAP contract when unit is too small.**

(a) *Violation of HQS space standards.*

(1) If THHA determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, THHA will issue the family a new voucher, and the family and THHA will try to find an acceptable unit as soon as possible.

(2) If an acceptable unit is available for rental by the family, THHA will terminate the HAP contract in accordance with its terms.

(c) *Termination.* When THHA terminates the HAP contract under paragraph (a) of this section:

(1) THHA will notify the family and the owner of the termination; and

(2) The HAP contract terminates at the end of the calendar month that follows the calendar month in which THHA gives such notice to the owner.

(3) The family will move to a new unit in accordance with §982.314.

### **§ 982.404 Maintenance: Owner and family responsibility; THHA remedies.**

(a) *Owner obligation.*

(1) The owner will maintain the unit in accordance with HQS.

(2) If the owner fails to maintain the dwelling unit in accordance with HQS, THHA will take prompt and vigorous action to enforce the owner obligations.

THHA remedies for such breach of the HQS include termination, suspension or reduction of housing assistance payments and termination of the HAP contract.

(3) THHA will not make any housing assistance payments for a dwelling unit that fails to meet the HQS, unless the owner corrects the defect within the period specified by THHA and THHA verifies the correction.

If a defect is life threatening, the owner will correct the defect within no more than 24 hours.

For other defects, the owner will correct the defect within no more than 30 calendar days (or any THHA-approved extension).

(4) The owner is not responsible for a breach of the HQS that is not caused by the owner, and for which the family is responsible (as provided in §982.404(b) and §982.551(c)). (However, THHA will terminate assistance to a family because of HQS breach caused by the family.)

(b) *Family obligation.*

(1) The family is responsible for a breach of the HQS that is caused by any of the following:

(i) The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the tenant;

(ii) The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the tenant; or

(iii) Any member of the household or guest damages the dwelling unit or premises (damages beyond ordinary wear and tear).

(2) If an HQS breach caused by the family is life threatening, the family will correct the defect within no more than 24 hours. For other family-caused defects, the family will correct the defect within no more than 30 calendar days (or any THHA-approved extension).

(3) If the family has caused a breach of the HQS, THHA will take prompt and vigorous action to enforce the family obligations. THHA will terminate assistance for the family in accordance with §982.552.

#### **§ 982.405 THHA initial and periodic unit inspection.**

(a) THHA will inspect the unit leased to a family prior to the initial term of the lease, at least annually during assisted occupancy, and at other times as needed, to determine if the unit meets the HQS. (See §982.305(b)(2) concerning timing of initial inspection by THHA.)

(b) THHA will conduct supervisory quality control HQS inspections.

(c) In scheduling inspections, THHA will consider complaints and any other information brought to the attention of THHA.

(d) THHA will notify the owner of defects shown by the inspection.

(e) THHA will not charge the family or owner for initial inspection or re-inspection of the unit.

#### **§ 982.406 Enforcement of HQS.**

Part 982 does not create any right of the family, or any party other than HUD or THHA, to require enforcement of the HQS requirements by HUD or THHA, or to assert any claim against HUD or THHA, for damages, injunction or other relief, for alleged failure to enforce the HQS.

### **Subpart J—Housing Assistance Payments Contract and Owner Responsibility**

#### **§ 982.451 Housing assistance payments contract.**

(a) (1) The HAP contract will be in the form required by HUD.

(2) The term of the HAP contract is the same as the term of the lease.

(b) (1) The amount of the monthly housing assistance payment by THHA to the owner is determined by THHA in accordance with HUD regulations and other requirements. The amount of the housing assistance payment is subject to change during the HAP contract term.

(2) The monthly housing assistance payment by THHA is credited toward the monthly rent to owner under the family's lease.

(3) The total of rent paid by the tenant plus THHA housing assistance payment to the owner will not be more than the rent to owner. The owner will immediately return any excess payment to THHA.

(4) (i) The part of the rent to owner which is paid by the tenant will not be more than:



(A) The rent to owner; minus

(B) THHA housing assistance payment to the owner.

(ii) The owner will not demand or accept any rent payment from the tenant in excess of this maximum, and will immediately return any excess rent payment to the tenant.

(iii) The family is not responsible for payment of the portion of rent to owner covered by the housing assistance payment under the HAP contract between the owner and THHA. See §982.310(b).

(5) (i) THHA will pay the housing assistance payment promptly when due to the owner in accordance with the HAP contract.

(ii) (A) The HAP contract shall provide for penalties against THHA for late payment of housing assistance payments due to the owner if all the following circumstances apply:

(1) Such penalties are in accordance with generally accepted practices and law, as applicable in the local housing market, governing penalties for late payment of rent by a tenant;

(2) It is the owner's practice to charge such penalties for assisted and unassisted tenants; and

(3) The owner also charges such penalties against the tenant for late payment of family rent to owner.

(B) THHA is not obligated to pay any late payment penalty if HUD determines that late payment by THHA is due to factors beyond THHA's control.

THHA will add HAP contract provisions which define when the housing assistance payment by THHA is deemed received by the owner (*e.g.*, upon mailing by THHA or actual receipt by the owner).

(iii) THHA will only use the following sources to pay a late payment penalty from program receipts under the consolidated ACC: administrative fee income for the program; or the administrative fee reserve for the program.

THHA will not use other program receipts for this purpose.

### **§ 982.452 Owner responsibilities.**

(a) The owner is responsible for performing all of the owner's obligations under the HAP contract and the lease.

(b) The owner is responsible for:

(1) Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit.

(2) Maintaining the unit in accordance with HQS, including performance of ordinary and extraordinary maintenance. For provisions on family maintenance responsibilities, see §982.404(a)(4).

(3) Complying with equal opportunity requirements.

- (4) Preparing and furnishing to THHA information required under the HAP contract.
- (5) Collecting from the family:
  - (i) Any security deposit.
  - (ii) The tenant contribution  
(the part of rent to owner not covered by the housing assistance payment).
  - (iii) Any charges for unit damage by the family.
- (6) Enforcing tenant obligations under the lease.
- (7) Paying for utilities and services (unless paid by the family under the lease).

(c) For provisions on modifications to a dwelling unit occupied or to be occupied by a disabled person, see 24 CFR 100.203.

**§ 982.453 Owner breach of contract.**

(a) Any of the following actions by the owner (including a principal or other interested party) is a breach of the HAP contract by the owner:

(1) If the owner has violated any obligation under the HAP contract for the dwelling unit, including the owner's obligation to maintain the unit in accordance with the HQS.

(2) If the owner has violated any obligation under any other HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).

(3) If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

(4) For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable mortgage insurance or loan program, with the mortgage or mortgage note, or with the regulatory agreement; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan.

(5) If the owner has engaged in drug-related criminal activity.

(6) If the owner has committed any violent criminal activity.

(b) THHA rights and remedies against the owner under the HAP contract include recovery of overpayments, abatement or other reduction of housing assistance payments, termination of housing assistance payments, and termination of the HAP contract.

**§ 982.454 Termination of HAP contract: Insufficient funding.**

THHA will terminate the HAP contract if THHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

**§ 982.455 Automatic termination of HAP contract.**

The HAP contract terminates automatically **180** calendar days after the last housing assistance payment to the owner.

### **§ 982.456 Third parties.**

(a) Even if the family continues to occupy the unit, THHA will exercise any rights and remedies against the owner under the HAP contract.

(b) (1) The family is not a party to or third party beneficiary of the HAP contract.

Except as provided in paragraph (b)(2) of this section, the family will not exercise any right or remedy against the owner under the HAP contract.

(2) The tenant will exercise any right or remedy against the owner under the lease between the tenant and the owner, including enforcement of the owner's obligations under the tenancy addendum (which is included both in the HAP contract between THHA and the owner; and in the lease between the tenant and the owner.)

(c) The HAP contract shall not be construed as creating any right of the family or other third party (other than HUD) to enforce any provision of the HAP contract, or to assert any claim against HUD, THHA or the owner under the HAP contract.

## **Subpart K—Rent and Housing Assistance Payment**

### **§ 982.501 Overview.**

### **§ 982.502 Conversion to voucher program.**

### **§ 982.503 Voucher tenancy: Payment standard amount and schedule.**

(a) *Payment standard schedule.*

(1) HUD publishes the fair market rents for each market area in the United States (see part 888 of this title).

THHA adopts a payment standard schedule that establishes voucher payment standard amounts for each FMR area in THHA jurisdiction.

For each FMR area, THHA will establish payment standard amounts for each “unit size.”

Unit size is measured by number of bedrooms (zero-bedroom, one-bedroom, and so on).

(2) The payment standard amounts on THHA schedule are used to calculate the monthly housing assistance payment for a family (§982.505).

(3) THHA voucher payment standard schedule shall establish a single payment standard amount for each unit size.

For each unit size, THHA will establish a single payment standard amount for the whole FMR area, or will establish a separate payment standard amount for each designated part of the FMR area.

(b) *Establishing payment standard amounts.*

(1) (i) THHA will establish the payment standard amount for a unit size at any level between 90 percent and 110 percent of the published FMR for that unit size.

(ii) THHA may establish a separate payment standard amount within the basic range for a designated part of an FMR area.

(2) THHA will request HUD approval to establish a payment standard amount that is higher or lower than the basic range.

**§ 982.504 Voucher tenancy: Payment standard for family in restructured subsidized multifamily project.**

**§ 982.505 Voucher tenancy: How to calculate housing assistance payment.**

(a) *Use of payment standard.*

A payment standard is used to calculate the monthly housing assistance payment for a family.

The “payment standard” is the maximum monthly subsidy payment.

(b) *Amount of monthly housing assistance payment.*

THHA shall pay a monthly housing assistance payment on behalf of the family that is equal to the *lower* of:

- (1) The payment standard for the family minus the total tenant payment; or
- (2) The gross rent minus the total tenant payment.

(c) *Payment standard for family.*

(1) The payment standard for the family is the lower of:

- (i) The payment standard amount for the family unit size; or
- (ii) The payment standard amount for the size of the dwelling unit rented by the family.

(2) If THHA has established a separate payment standard amount for a designated part of an FMR area in accordance with §982.503 (including an exception payment standard amount as determined in accordance with §982.503(b)(2) and §982.503(c)), and the dwelling unit is located in such designated part, THHA will use the appropriate payment standard amount for such designated part to calculate the payment standard for the family.

The payment standard for the family shall be calculated in accordance with this paragraph and paragraph (c)(1) of this section.

(4) *Decrease in the payment standard amount during the HAP contract term.*

If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally will be used to calculate the monthly housing assistance payment for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount.

THHA will determine the payment standard for the family as follows.

(i) *Step 1:* At the first regular reexamination following the decrease in the payment standard amount, THHA shall determine the payment standard for the family in accordance with paragraphs (c)(1) and (c)(2) of this section (using the decreased payment standard amount).

(ii) *Step 2* (first reexamination payment standard amount): THHA shall compare the payment standard amount from step 1 to the payment standard amount last used to calculate the monthly housing assistance payment for the family.

The payment standard amount used by THHA to calculate the monthly housing assistance payment at the first regular reexamination following the decrease in the payment standard amount is the higher of these two payment standard amounts.

THHA shall advise the family that the application of the lower payment standard amount will be deferred until the second regular reexamination following the effective date of the decrease in the payment standard amount.

(iii) *Step 3* (second reexamination payment standard amount): At the second regular reexamination following the decrease in the payment standard amount, the lower payment standard amount shall be used to calculate the monthly housing assistance payment for the family unless THHA has subsequently increased the payment standard amount, in which case the payment standard amount is determined in accordance with paragraph (c)(4) of this section.

(4) *Increase in the payment standard amount during the HAP contract term.* If the payment standard amount is increased during the term of the HAP contract, the increased payment standard amount shall be used to calculate the monthly housing assistance payment for the family beginning at the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard amount.

(5) *Change in family unit size during the HAP contract term.* Irrespective of any increase or decrease in the payment standard amount, if the family unit size increases or decreases during the HAP contract term, the new family unit size will be used to determine the payment standard amount for the family beginning at the family's first regular reexamination following the change in family unit size.

(d) *THHA approval of higher payment standard for the family as a reasonable accommodation.*

If the family includes a person with disabilities and requires a higher payment standard for the family, as a reasonable accommodation for such person, in accordance with part 8 of this title, THHA will establish a higher payment standard for the family within the basic range.

### **§ 982.506 Negotiating rent to owner.**

The owner and the family negotiate the rent to owner.

At the family's request, THHA will help the family negotiate the rent to owner.

### **§ 982.507 Rent to owner: Reasonable rent.**

(a) *THHA determination.*

(1) THHA will not approve a lease until THHA determines that the initial rent to owner is a reasonable rent.

(2) THHA will re-determine the reasonable rent:

(i) Before any increase in the rent to owner;

(ii) If there is a five percent decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect 1 year before the contract anniversary; or

(iii) If directed by HUD.

(3) THHA will also re-determine the reasonable rent at any other time.

(4) At all times during the assisted tenancy, the rent to owner will not exceed the reasonable rent as most recently determined or re-determined by THHA.

(b) *Comparability.*

THHA will determine whether the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units.

To make this determination, THHA will consider:

(1) The location, quality, size, unit type, and age of the contract unit; and

(2) Any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

(c) *Owner certification of rents charged for other units.*

By accepting each monthly housing assistance payment from THHA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises.

The owner will give THHA information requested by THHA on rents charged by the owner for other units in the premises or elsewhere.

#### **§ 982.508 Maximum family share at initial occupancy.**

At the time THHA approves a tenancy for initial occupancy of a dwelling unit by a family with tenant-based assistance under the program, and where the gross rent of the unit exceeds the applicable payment standard for the family, the family share will not exceed **40 percent** of the family's adjusted monthly income.

The determination of adjusted monthly income will be based on verification information received by THHA no earlier than 60 days before THHA issues a voucher to the family.

#### **§ 982.509 Rent to owner: Effect of rent control.**

In addition to the rent reasonableness limit under this subpart, the amount of rent to owner also will be subject to rent control limits under State or local law.

#### **§ 982.510 Other fees and charges.**

(a) The cost of meals or supportive services will not be included in the rent to owner, and the value of meals or supportive services will not be included in the calculation of reasonable rent.

(b) The lease will not require the tenant or family members to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

(c) The owner will not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises.

### **§ 982.514 Distribution of housing assistance payment.**

The monthly housing assistance payment is distributed as follows:

- (a) THHA pays the owner the lesser of the housing assistance payment or the rent to owner.
- (b) If the housing assistance payment exceeds the rent to owner, THHA will pay the balance of the housing assistance payment (“utility reimbursement”) either to the family or directly to the utility supplier to pay the utility bill on behalf of the family.

If THHA elects to pay the utility supplier directly, THHA will notify the family of the amount paid to the utility supplier.

### **§ 982.515 Family share: Family responsibility.**

- (a) The family share is calculated by subtracting the amount of the housing assistance payment from the gross rent.
- (b) The family rent to owner is calculated by subtracting the amount of the housing assistance payment to the owner from the rent to owner.
- (c) THHA will not use housing assistance payments or other program funds (including any administrative fee reserve) to pay any part of the family share, including the family rent to owner.

Payment of the whole family share is the responsibility of the family.

### **§ 982.516 Family income and composition: Regular and interim examinations.**

(a) *THHA responsibility for reexamination and verification.*

- (1) THHA will conduct a reexamination of family income and composition at least annually.
- (2) THHA will obtain and document in the tenant file third party verification of the following factors, or will document in the tenant file why third party verification was not available:

- (i) Reported family annual income;
- (ii) The value of assets;
- (iii) Expenses related to deductions from annual income; and
- (iv) Other factors that affect the determination of adjusted income.

(b) *When THHA conducts interim reexamination.*

- (1) At any time, THHA will conduct an interim reexamination of family income and composition.
- (2) At any time, the family will request an interim determination of family income or composition because of any changes since the last determination. THHA will make the interim determination within a reasonable time after the family request.
- (3) Interim examinations will be conducted in accordance with policies in THHA administrative plan.



(c) *Family reporting of change.*

The family will report a change in family income or composition as soon as possible.

(d) *Effective date of reexamination.*

**(1) All changes will be effective on the anniversary date of the HAP contract unless, during the interim, said change would benefit the family receiving assistance.**

(2) At the effective date of a regular or interim reexamination, THHA will make appropriate adjustments in the housing assistance payment.

(e) *Family member income.* Family income will include income of all family members, including family members not related by blood or marriage.

If any new family member is added, family income will include any income of the additional family member.

THHA will conduct a reexamination to determine such additional income, and will make appropriate adjustments in the housing assistance payment.

(f) *Accuracy of family income data.*

THHA will establish procedures that are appropriate and necessary to assure that income data provided by applicant or participant families is complete and accurate.

(g) *Execution of release and consent.*

(1) As a condition of admission to or continued assistance under the program, THHA shall require the family head, and such other family members as THHA designates, to execute a HUD-approved release and consent form (including any release and consent as required under §5.230 of this title) authorizing any depository or private source of income, or any Federal, State or local agency, to furnish or release to THHA or HUD such information as THHA or HUD determines to be necessary.

(2) THHA and HUD will limit the use or disclosure of information obtained from a family or from another source pursuant to this release and consent to purposes directly in connection with administration of the program.

**§ 982.517 Utility allowance schedule.**

(a) *Maintaining schedule.*

(1) THHA will maintain a utility allowance schedule for all tenant-paid utilities (except telephone), for cost of tenant-supplied refrigerators and ranges, and for other tenant-paid housing services (e.g., trash collection (disposal of waste and refuse)).

(2) THHA will give HUD a copy of the utility allowance schedule. At HUD's request, THHA also will provide any information or procedures used in preparation of the schedule.

(b) *How allowances are determined.*



(1) The utility allowance schedule will be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality.

In developing the schedule, THHA will use normal patterns of consumption for the community as a whole and current utility rates.

(i) a THHA's utility allowance schedule, and the utility allowance for an individual family, will include the utilities and services that are necessary in the locality to provide housing that complies with the housing quality standards.

However, THHA will not provide any allowance for non-essential utility costs, such as costs of cable or satellite television.

(ii) In the utility allowance schedule, THHA will classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection (disposal of waste and refuse); other electric; refrigerator (cost of tenant-supplied refrigerator); range (cost of tenant-supplied range); and other specified housing services.

THHA will provide a utility allowance for tenant-paid air-conditioning costs if the majority of housing units in the market provide centrally air-conditioned units or there is appropriate wiring for tenant-installed air conditioners.

(3) The cost of each utility and housing service category will be stated separately. For each of these categories, the utility allowance schedule will take into consideration unit size (by number of bedrooms), and unit types (e.g., apartment, row-house, town house, single-family detached, and manufactured housing) that are typical in the community.

(4) The utility allowance schedule will be prepared and submitted in accordance with HUD requirements on the form prescribed by HUD.

*(c) Revisions of utility allowance schedule.*

(1) a THHA will review its schedule of utility allowances each year, and will revise its allowance for a utility category if there THHAs been a change of 10 percent or more in the utility rate since the last time the utility allowance schedule was revised.

THHA will maintain information supporting its annual review of utility allowances and any revisions made in its utility allowance schedule.

(2) At HUD's direction, THHA will revise the utility allowance schedule to correct any errors, or as necessary to update the schedule.

*(d) Use of utility allowance schedule.*

(1) THHA will use the appropriate utility allowance for the size of dwelling unit actually leased by the family (rather than the family unit size as determined under THHA subsidy standards).

(2) At reexamination, THHA will use THHA current utility allowance schedule.

*(e) Higher utility allowance as reasonable accommodation for a person with disabilities.*

On request from a family that includes a person with disabilities, THHA will approve a utility allowance which is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation in accordance with 24 CFR part 8 to make the program accessible to and usable by the family member with a disability.

**§ 982.518 Regular tenancy: How to calculate housing assistance payment.**

The monthly housing assistance payment equals the gross rent, minus the higher of:

- (a) The total tenant payment; or
- (b) The minimum rent as required by law.

**§ 982.519 Regular tenancy: Annual adjustment of rent to owner.**

(a) *When rent is adjusted.* At each annual anniversary date of the HAP contract, THHA will adjust the rent to owner at the request of the owner in accordance with this section.

(b) *Amount of annual adjustment.*

(1) The adjusted rent to owner equals the lesser of:

(i) The pre-adjustment rent to owner multiplied by the applicable Section 8 annual adjustment factor, published by HUD in the Federal Register, that is in effect 60 days before the HAP contract anniversary;

(ii) The reasonable rent (as most recently determined or re-determined by THHA in accordance with §982.503); or

(iii) The amount requested by the owner.

(2) In making the annual adjustment, the pre-adjustment rent to owner does not include any previously approved special adjustments.

(3) The rent to owner will be adjusted up or down in accordance with this section.

(4) Notwithstanding paragraph (b)(1) of this section, the rent to owner for a unit will not be increased at the annual anniversary date unless:

(i) The owner requests the adjustment by giving notice to THHA; and

(ii) During the year before the annual anniversary date, the owner has complied with all requirements of the HAP contract, including compliance with the HQS.

(5) The rent to owner will only be increased for housing assistance payments covering months commencing on the later of:

(i) The first day of the first month commencing on or after the contract anniversary date;

or

(ii) At least sixty days after THHA receives the owner's request.

(6) To receive an increase resulting from the annual adjustment for an annual anniversary date, the owner will request the increase at least sixty days before the next annual anniversary date.

**§ 982.520 Regular tenancy: Special adjustment of rent to owner.**

(a) *Substantial and general cost increases.*

(1) At HUD's sole discretion, HUD will approve a special adjustment of the rent to owner to reflect increases in the actual and necessary costs of owning and maintaining the unit because of substantial and general increases in:

- (i) Real property taxes;
- (ii) Special governmental assessments;
- (iii) Utility rates; or
- (iv) Costs of utilities not covered by regulated rates.

(2) A THHA will make a special adjustment of the rent to owner only if the adjustment has been approved by HUD. The owner does not have any right to receive a special adjustment.

(b) *Reasonable rent.* The adjusted rent will not exceed the reasonable rent.

The owner will not receive a special adjustment if the adjusted rent would exceed the reasonable rent.

(c) *Term of special adjustment.*

(1) THHA will withdraw or limit the term of any special adjustment.

(2) If a special adjustment is approved to cover temporary or one-time costs, the special adjustment is only a temporary or one-time increase of the rent to owner.

**§ 982.521 Rent to owner in subsidized project.**

(a) *Applicability to subsidized project*

This section applies to a program tenancy in any of the following types of federally subsidized project:

- (1) An insured or non-insured Section 236 project;
- (2) A Section 202 project;
- (3) A Section 221(d)(3) below market interest rate (BMIR) project; or
- (4) A Section 515 project of the Rural Development Administration.

(b) *How rent to owner is determined.*

The rent to owner is the subsidized rent as determined in accordance with requirements for the applicable federal program listed in paragraph (a) of this section.

This determination is not subject to the prohibition against increasing the rent to owner during the initial lease term (see §982.309).

**Subpart L—Family Obligations; Denial and Termination of Assistance**

**§ 982.551 Obligations of participant.**

(a) *Purpose.* This section states the obligations of a participant family under the program.

(b) *Supplying required information—*

(1) The family will supply any information that THHA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR part 5).

“Information” includes any requested certification, release or other documentation.

(2) The family will supply any information requested by THHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.

(3) The family will disclose and verify social security numbers (as provided by part 5, subpart B, of this title) and will sign and submit consent forms for obtaining information in accordance with part 5, subpart B, of this title.

(4) Any information supplied by the family will be true and complete.

(c) *HQS breach caused by family.*

The family is responsible for an HQS breach caused by the family as described in §982.404(b).

(d) *Allowing THHA inspection.*

The family will allow THHA to inspect the unit at reasonable times and after reasonable notice.

(e) *Violation of lease.*

The family will not commit any serious or repeated violation of the lease.

(f) *Family notice of move or lease termination.*

The family will notify THHA and the owner before the family moves out of the unit, or terminates the lease on notice to the owner. See §982.314(d).

(g) *Owner eviction notice.*

The family will promptly give THHA a copy of any owner eviction notice.

(h) *Use and occupancy of unit.—*

(1) The family will use the assisted unit for residence by the family. The unit will be the family's only residence.

(2) The composition of the assisted family residing in the unit will be approved by THHA.

The family will promptly inform THHA of the birth, adoption or court-awarded custody of a child.

The family will request THHA approval to add any other family member as an occupant of the unit.

No other person [i.e., nobody but members of the assisted family] will reside in the unit (except for a foster child or live-in aide as provided in paragraph (h)(4) of this section).

(3) The family will promptly notify THHA if any family member no longer resides in the unit.

(4) If THHA has given approval, a foster child or a live-in-aide will reside in the unit.

THHA has the discretion to adopt reasonable policies concerning residence by a foster child or a live-in-aide, and defining when THHA consent will be given or denied.

(5) Members of the household will engage in legal profitmaking activities in the unit, but only if such activities are incidental to primary use of the unit for residence by members of the family.

(6) The family will not sublease or let the unit.

(7) The family will not assign the lease or transfer the unit.

(i) *Absence from unit.*

The family will supply any information or certification requested by THHA to verify that the family is living in the unit, or relating to family absence from the unit, including any THHA-requested information or certification on the purposes of family absences.

The family will cooperate with THHA for this purpose.

The family will promptly notify THHA of absence from the unit.

(j) *Interest in unit.*

The family will not own or have any interest in the unit.

(k) *Fraud and other program violation.*

The members of the family will not commit fraud, bribery or any other corrupt or criminal act in connection with the programs.

(l) *Crime by household members.*

The members of the household will not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises (see §982.553).

(m) *Alcohol abuse by household members.*

The members of the household will not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

(n) *Other housing assistance.*

An assisted family, or members of the family, will not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, State or local housing assistance program.

**§ 982.552 THHA denial or termination of assistance for family.**

(a) *Action or inaction by family.*

(1) THHA will deny assistance for an applicant or terminate assistance for a participant under the programs because of the family's action or failure to act as described in this section or §982.553.

The provisions of this section do not affect denial or termination of assistance for grounds other than action or failure to act by the family.

(2) Denial of assistance for an applicant will include any or all of the following: denying listing on THHA waiting list, denying or withdrawing a voucher, refusing to enter into a HAP contract or approve a lease, and refusing to process or provide assistance under portability procedures.

(3) Termination of assistance for a participant will include any or all of the following: refusing to enter into a HAP contract or approve a lease, terminating housing assistance payments under an outstanding HAP contract, and refusing to process or provide assistance under portability procedures.

(4) This section does not limit or affect exercise of THHA rights and remedies against the owner under the HAP contract, including termination, suspension or reduction of housing assistance payments, or termination of the HAP contract.

*(b) Requirement to deny admission or terminate assistance.*

(1) For provisions on denial of admission and termination of assistance for illegal drug use, other criminal activity, and alcohol abuse that would threaten other residents, see §982.553.

(2) THHA will terminate program assistance for a family evicted from housing assisted under the program for serious violation of the lease.

(3) THHA will deny admission to the program for an applicant, or terminate program assistance for a participant, if any member of the family fails to sign and submit consent forms for obtaining information in accordance with part 5, subparts B and F of this title.

(4) The family will submit required evidence of citizenship or eligible immigration status. See part 5 of this title for a statement of circumstances in which THHA will deny admission or terminate program assistance because a family member does not establish citizenship or eligible immigration status, and the applicable informal hearing procedures.

*(c) Authority to deny admission or terminate assistance.*

*(1) Grounds for denial or termination of assistance.*

THHA will at any time deny program assistance for an applicant, or terminate program assistance for a participant, for any of the following grounds:

(i) If the family violates any family obligations under the program (see §982.551). See §982.553 concerning denial or termination of assistance for crime by family members.

(ii) If any member of the family has been evicted from federally assisted housing in the last five years;

(iii) If a THHA has ever terminated assistance under the program for any member of the family.

(iv) If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program (see also §982.553(a)(1));

(v) If the family currently owes rent or other amounts to THHA or to another THHA in connection with Section 8 or public housing assistance under the 1937 Act.

(vi) If the family has not reimbursed any THHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

(vii) If the family breaches an agreement with THHA to pay amounts owed to a THHA, or amounts paid to an owner by a THHA. (THHA, at its discretion, will offer a family the opportunity to

enter an agreement to pay amounts owed to a THHA or amounts paid to an owner by a THHA. THHA will prescribe the terms of the agreement.)

(viii) If a family participating in the FSS program fails to comply, without good cause, with the family's FSS contract of participation.

(ix) If the family has engaged in or threatened abusive or violent behavior toward THHA personnel.

(x) If a welfare-to-work (WTW) family fails, willfully and persistently, to fulfill its obligations under the welfare-to-work voucher program.

(xi) If the family has been engaged in criminal activity or alcohol abuse as described in §982.553.

*(2) Consideration of circumstances.*

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

(i) THHA will consider all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances 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.

(ii) THHA will impose, as a condition of continued assistance for other family members, a requirement that other family members who participated in or were culpable for the action or failure will not reside in the unit.

THHA will permit the other members of a participant family to continue receiving assistance.

(iii) 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, THHA 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, THHA will require the applicant or tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

(iv) If the family includes a person with disabilities, THHA decision concerning such action is subject to consideration of reasonable accommodation in accordance with part 8 of this title.

*(v) Nondiscrimination limitation.*

THHA's admission and eviction actions will be consistent with fair housing and equal opportunity provisions of §5.105 of this title.



(d) *Information for family*

THHA will give the family a written description of:

- (1) Family obligations under the program.
- (2) The grounds on which THHA will deny or terminate assistance because of family action or failure to act.
- (3) THHA informal hearing procedures.

(e) *Applicant screening.*

THHA will at any time deny program assistance for an applicant, in accordance with THHA policy, upon screening of applicants for family behavior or suitability for tenancy.

**§ 982.553 Denial of admission and termination of assistance for criminals and alcohol abusers.**

(a) *Denial of admission.*

(1) *Prohibiting admission of drug criminals.*

(i) THHA will prohibit admission to the program of an applicant for three years from the date of eviction if a household member has been evicted from federally assisted housing for drug-related criminal activity.

However, THHA will admit the household if THHA determines:

- (A) That the evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by THHA; or
- (B) That the circumstances leading to eviction no longer exist (for example, the criminal household member has died or is imprisoned).

(ii) THHA will establish standards that prohibit admission if:

- (A) THHA determines that any household member is currently engaging in illegal use of a drug;
- (B) THHA determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use will threaten the health, safety, or right to peaceful enjoyment of the premises by other residents; or
- (C) 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.

(2) *Prohibiting admission of other criminals—*

(i) *Mandatory prohibition.*

THHA *will* establish standards that prohibit admission to the program if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program.

In this screening of applicants, THHA will 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.

(ii) *Permissive prohibitions.*

(A) THHA *will* prohibit admission of a household to the program if THHA determines that any household member is currently engaged in, or has engaged in during a reasonable time before the admission:

(1) Drug-related criminal activity;

(2) Violent criminal activity;

(3) Other criminal activity which will threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or

(4) Other criminal activity which will threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of THHA (including a THHA employee or a THHA contractor, subcontractor or agent).

(B) THHA will establish a period before the admission decision during which an applicant will not to have engaged in the activities specified in paragraph (a)(2)(i) of this section (“reasonable time”).

(C) If THHA previously denied admission to an applicant because a member of the household engaged in criminal activity, THHA will reconsider the applicant if THHA has sufficient evidence that the members of the household are not currently engaged in, and have not engaged in, such criminal activity during a reasonable period, as determined by THHA, before the admission decision.

(1) THHA would have “sufficient evidence” if the household member submitted a certification that she or he is not currently engaged in and has not engaged in such criminal activity during the specified period and provided supporting information from such sources as a probation officer, a landlord, neighbors, social service agency workers and criminal records, which THHA verified.

(2) For purposes of this section, a household member is “currently engaged in” criminal activity if the person has engaged in the behavior recently enough to justify a reasonable belief that the behavior is current.

(3) *Prohibiting admission of alcohol abusers.*

THHA will establish standards that prohibit admission to the program if THHA determines that it has reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol will threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

(b) *Terminating assistance—*

(1) *Terminating assistance for drug criminals.*

(i) THHA *will* establish standards that allow THHA to terminate assistance for a family under the program if THHA determines that:

(A) Any household member is currently engaged in any illegal use of a drug; or

(B) A pattern of illegal use of a drug by any household member interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(ii) THHA will immediately terminate assistance for a family under the program if THHA determines that any member of the household has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

(iii) THHA will establish standards that allow THHA to terminate assistance under the program for a family if THHA determines that any family member has violated the family's obligation under §982.551 not to engage in any drug-related criminal activity.

(2) *Terminating assistance for other criminals.*

THHA will establish standards that allow THHA to terminate assistance under the program for a family if THHA determines that any household member has violated the family's obligation under §982.551 not to engage in violent criminal activity.

(3) *Terminating assistance for alcohol abusers.*

THHA will establish standards that allow termination of assistance for a family if THHA determines that a household member's abuse or pattern of abuse of alcohol will threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

(c) *Evidence of criminal activity.*

THHA will terminate assistance for criminal activity by a household member as authorized in this section if THHA determines, based on a preponderance of the evidence, that the household member has engaged in the activity, regardless of whether the household member has been arrested or convicted for such activity.

(d) *Use of criminal record.—*

(1) *Denial.* If a THHA proposes to deny admission for criminal activity as shown by a criminal record, THHA will provide the subject of the record and the applicant with a copy of the criminal record.

THHA will give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process in accordance with §982.554.

(2) *Termination of assistance.*

If a THHA proposes to terminate assistance for criminal activity as shown by a criminal record, THHA will notify the household of the proposed action to be based on the information and will provide the subject of the record and the tenant with a copy of the criminal record.

THHA will give the family an opportunity to dispute the accuracy and relevance of that record in accordance with §982.555.

(3) *Cost of obtaining criminal record.* THHA will not pass along to the tenant the costs of a criminal records check.

### **§ 982.554 Informal review for applicant.**

(a) *Notice to applicant.* THHA will give an applicant for participation prompt notice of a decision denying assistance to the applicant.

The notice will contain a brief statement of the reasons for THHA decision.

The notice will also state that the applicant will request an informal review of the decision and will describe how to obtain the informal review.

(b) *Informal review process.*

THHA will give an applicant an opportunity for an informal review of THHA decision denying assistance to the applicant.

The administrative plan will state THHA procedures for conducting an informal review.

THHA review procedures will comply with the following:

(1) The review will be conducted by any person or persons designated by THHA, other than a person who made or approved the decision under review or a subordinate of this person.

(2) The applicant will be given an opportunity to present written or oral objections to THHA decision.

(3) THHA will notify the applicant of THHA final decision after the informal review, including a brief statement of the reasons for the final decision.

(c) *When informal review is not required.*

THHA is not required to provide the applicant an opportunity for an informal review for any of the following:

(1) Discretionary administrative determinations by THHA.

(2) General policy issues or class grievances.

(3) A determination of the family unit size under THHA subsidy standards.

(4) An THHA determination not to approve an extension or suspension of a voucher term.

(5) A THHA determination not to grant approval of the tenancy.

(6) An THHA determination that a unit selected by the applicant is not in compliance with HQS.

(7) An THHA determination that the unit is not in accordance with HQS because of the family size or composition.

(d) *Restrictions on assistance for noncitizens.*

The informal hearing provisions for the denial of assistance on the basis of ineligible immigration status are contained in 24 CFR part 5.

**§ 982.555 Informal hearing for participant.**

(a) *When hearing is required*

(1) a THHA will give a participant family an opportunity for an informal hearing to consider whether the following THHA decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations and THHA policies:

(i) A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.

(ii) A determination of the appropriate utility allowance (if any) for tenant-paid utilities from THHA utility allowance schedule.

(iii) A determination of the family unit size under THHA subsidy standards.

(iv) A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under THHA subsidy standards, or THHA determination to deny the family's request for an exception from the standards.

(v) A determination to terminate assistance for a participant family because of the family's action or failure to act (see §982.552).

(vi) A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under THHA policy and HUD rules.

(2) In the cases described in paragraphs (a)(1) (iv), (v) and (vi) of this section, THHA will give the opportunity for an informal hearing before THHA terminates housing assistance payments for the family under an outstanding HAP contract.

(b) *When hearing is not required.*

THHA is not required to provide a participant family an opportunity for an informal hearing for any of the following:

(1) Discretionary administrative determinations by THHA.

(2) General policy issues or class grievances.

(3) Establishment of THHA schedule of utility allowances for families in the program.

(4) a THHA determination not to approve an extension or suspension of a voucher term.

(5) a THHA determination not to approve a unit or tenancy.

(6) a THHA determination that an assisted unit is not in compliance with HQS. (However, THHA will provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family as described in §982.551(c).)

(7) a THHA determination that the unit is not in accordance with HQS because of the family size.

(8) A determination by THHA to exercise or not to exercise any right or remedy against the owner under a HAP contract.

(c) *Notice to family.*

(1) In the cases described in paragraphs (a)(1) (i), (ii) and (iii) of this section, THHA will notify the family that the family will ask for an explanation of the basis of THHA determination, and that if the family does not agree with the determination, the family will request an informal hearing on the decision.

(2) In the cases described in paragraphs (a)(1) (iv), (v) and (vi) of this section, THHA will give the family prompt written notice that the family will request a hearing. The notice will:

(i) Contain a brief statement of reasons for the decision,

(ii) State that if the family does not agree with the decision, the family will request an informal hearing on the decision, and

(iii) State the deadline for the family to request an informal hearing.

(d) *Expeditious hearing process.*

Where a hearing for a participant family is required under this section, THHA will proceed with the hearing in a reasonably expeditious manner upon the request of the family.

(d) *Hearing procedures—*

*See Public Housing Procedures document*

## **Subpart M—Special Housing Types**

### **§ 982.601 Overview.**

(a) *Special housing types.*

This subpart describes program requirements for special housing types. The following are the special housing types:

- (1) Single room occupancy (SRO) housing;
- (2) Congregate housing;
- (3) Group home;
- (4) Shared housing;
- (5) Manufactured home;
- (6) Cooperative housing (excluding families that are not cooperative members); and
- (7) Homeownership option.

(b) *THHA choice to offer special housing type.*

(1) THHA will permit a family to use any of the following special housing types in accordance with requirements of the program: single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home when the family owns the home and leases the manufactured home space, cooperative housing or homeownership option.

(2) In general, THHA is not required to permit families (including families that move into THHA program under portability procedures) to use any of these special housing types, and will limit the number of families using special housing types.

(3) THHA will permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities in accordance with 24 CFR part 8.

(4) For occupancy of a manufactured home, see §982.620(a).

(c) *Program funding for special housing types.*

(1) HUD does not provide any additional or designated funding for special housing types, or for a specific special housing type (e.g, the homeownership option).

Assistance for special housing types is paid from program funding available for THHA's tenant-based program under the consolidated annual contributions contract.

(2) THHA will not set aside program funding or program slots for special housing types or for a specific special housing type.

(d) *Family choice of housing and housing type.*

The family chooses whether to use housing that qualifies as a special housing type under this subpart, or as any specific special housing type, or to use other eligible housing in accordance with requirements of the program.

THHA will not restrict the family's freedom to choose among available units in accordance with §982.353.

(e) *Applicability of requirements.*

(1) Except as modified by this subpart, the requirements of other subparts of this part apply to the special housing types.

(2) Provisions in this subpart only apply to a specific special housing type. The housing type is noted in the title of each section.

(3) Housing will meet the requirements of this subpart for a single special housing type specified by the family. Such housing is not subject to requirements for other special housing types. A single unit cannot be designated as more than one special housing type.

**Single Room Occupancy (SRO)**

**§ 982.602 SRO: Who will reside in an SRO?**

A single person will reside in an SRO housing unit.



**§ 982.603 SRO: Lease and HAP contract.**

For SRO housing, there is a separate lease and HAP contract for each assisted person.

**§ 982.604 SRO: Voucher housing assistance payment.**

(a) For a person residing in SRO housing, the payment standard is 75 percent of the zero-bedroom payment standard amount on THHA payment standard schedule.

For a person residing in SRO housing in an exception area, the payment standard is 75 percent of the HUD-approved zero-bedroom exception payment standard amount.

(b) The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

**§ 982.605 SRO: Housing quality standards.**

(a) *HQS standards for SRO.* The HQS in §982.401 apply to SRO housing. However, the standards in this section apply in place of §982.401(b) (sanitary facilities), §982.401(c) (food preparation and refuse disposal), and §982.401(d) (space and security). Since the SRO units will not house children, the housing quality standards in §982.401(j), concerning lead-based paint, do not apply to SRO housing.

(b) *Performance requirements.*

(1) SRO housing is subject to the additional performance requirements in this paragraph (b).

(2) Sanitary facilities, and space and security characteristics will meet local code standards for SRO housing. In the absence of applicable local code standards for SRO housing, the following standards apply:

(i) *Sanitary facilities.*

(A) At least one flush toilet that can be used in privacy, lavatory basin, and bathtub or shower, in proper operating condition, will be supplied for each six persons or fewer residing in the SRO housing.

(B) If SRO units are leased only to males, flush urinals will be substituted for not more than one-half the required number of flush toilets. However, there will be at least one flush toilet in the building.

(C) Every lavatory basin and bathtub or shower will be supplied at all times with an adequate quantity of hot and cold running water.

(D) All of these facilities will be in proper operating condition, and will be adequate for personal cleanliness and the disposal of human waste. The facilities will utilize an approvable public or private disposal system.

(E) Sanitary facilities will be reasonably accessible from a common hall or passageway to all persons sharing them. These facilities will not be located more than one floor above or below the SRO unit. Sanitary facilities will not be located below grade unless the SRO units are located on that level.

(ii) *Space and security.*

(A) No more than one person will reside in an SRO unit.

(B) An SRO unit will contain at least one hundred ten square feet of floor space.

(C) An SRO unit will contain at least four square feet of closet space for each resident (with an unobstructed height of at least five feet).

If there is less closet space, space equal to the amount of the deficiency will be subtracted from the area of the habitable room space when determining the amount of floor space in the SRO unit.

The SRO unit will contain at least one hundred ten square feet of remaining floor space after subtracting the amount of the deficiency in minimum closet space.

(D) Exterior doors and windows accessible from outside an SRO unit will be lockable.

(3) *Access.*

(i) Access doors to an SRO unit will have locks for privacy in proper operating condition.

(ii) An SRO unit will have immediate access to two or more approved means of exit, appropriately marked, leading to safe and open space at ground level, and any means of exit required by State and local law.

(iii) The resident will be able to access an SRO unit without passing through any other unit.

(4) *Sprinkler system.*

A sprinkler system that protects all major spaces, hard wired smoke detectors, and such other fire and safety improvements as State or local law will require will be installed in each building.

The term “major spaces” means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

## **Congregate Housing**

### **§ 982.606 Congregate housing: Who will reside in congregate housing.**

(a) An elderly person or a person with disabilities will reside in a congregate housing unit.

(b) (1) If approved by THHA, a family member or live-in aide will reside with the elderly person or person with disabilities.

(2) THHA will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities in accordance with 24 CFR part 8. See §982.316 concerning occupancy by a live-in aide.

### **§ 982.607 Congregate housing: Lease and HAP contract.**

For congregate housing, there is a separate lease and HAP contract for each assisted family.

## **§ 982.608 Congregate housing: Voucher housing assistance payment.**

(a) Unless there is a live-in aide:

(1) For a family residing in congregate housing, the payment standard is the zero-bedroom payment standard amount on THHA payment standard schedule. For a family residing in congregate housing in an exception area, the payment standard is the HUD-approved zero-bedroom exception payment standard amount.

(2) However, if there are two or more rooms in the unit (not including kitchen or sanitary facilities), the payment standard for a family residing in congregate housing is the one-bedroom payment standard amount.

(b) If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

## **§ 982.609 Congregate housing: Housing quality standards.**

*HQS standards for congregate housing.*

The HQS in §982.401 apply to congregate housing.

However, the standards in this section apply in place of §982.401(c) (food preparation and refuse disposal).

Congregate housing is not subject to the HQS acceptability requirement in §982.401(d)(2)(i) that the dwelling unit will have a kitchen area.

(b) *Food preparation and refuse disposal: Additional performance requirements.*

The following additional performance requirements apply to congregate housing:

(1) The unit will contain a refrigerator of appropriate size.

(2) There will be central kitchen and dining facilities on the premises. These facilities:

(i) Will be located within the premises, and accessible to the residents;

(ii) Will contain suitable space and equipment to store, prepare, and serve food in a sanitary manner;

(iii) Will be used to provide a food service that is provided for the residents, and that is not provided by the residents; and

(iv) Will be for the primary use of residents of the congregate units and be sufficient in size to accommodate the residents.

(3) There will be adequate facilities and services for the sanitary disposal of food waste and refuse, including facilities for temporary storage where necessary.

## **Group Home**

### **§ 982.610 Group home: Who will reside in a group home.**

(a) An elderly person or a person with disabilities will reside in a State-approved group home.

(b) (1) If approved by THHA, a live-in aide will reside with a person with disabilities.

(2) THHA will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities in accordance with 24 CFR part 8. See §982.316 concerning occupancy by a live-in aide.

(c) Except for a live-in aide, all residents of a group home, whether assisted or unassisted, will be elderly persons or persons with disabilities.

(d) Persons residing in a group home will not require continual medical or nursing care.

(e) Persons who are not assisted under the tenant-based program will reside in a group home.

(f) No more than 12 persons will reside in a group home. This limit covers all persons who reside in the unit, including assisted and unassisted residents and any live-in aide.

### **§ 982.611 Group home: Lease and HAP contract.**

For assistance in a group home, there is a separate HAP contract and lease for each assisted person.

### **§ 982.612 Group home: State approval of group home.**

A group home will be licensed, certified, or otherwise approved in writing by the State (e.g., Department of Human Resources, Mental Health, Retardation, or Social Services) as a group home for elderly persons or persons with disabilities.

### **§ 982.613 Group home: Rent and voucher housing assistance payment.**

*Meaning of pro-rata portion.*

For a group home, the term “pro-rata portion” means the ratio derived by dividing the number of persons in the assisted household by the total number of residents (assisted and unassisted) residing in the group home.

The number of persons in the assisted household equals one assisted person plus any THHA-approved live-in aide.

(b) *Rent to owner: Reasonable rent limit.*

(1) The rent to owner for an assisted person will not exceed the pro-rata portion of the reasonable rent for the group home.

(2) The reasonable rent for a group home is determined in accordance with §982.507.

In determining reasonable rent for the group home, THHA will consider whether sanitary facilities, and facilities for food preparation and service, are common facilities or private facilities.

(c) *Payment standard.*

(1) *Family unit size.*

(i) Unless there is a live-in aide, the family unit size is zero or one bedroom.

(ii) If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

(2) The payment standard for a person who resides in a group home is the lower of:

(i) The payment standard amount on THHA payment standard schedule for the family unit size; or

(ii) The pro-rata portion of the payment standard amount on THHA payment standard schedule for the group home size.

(iii) If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

(d) *Utility allowance.*

The utility allowance for each assisted person residing in a group home is the pro-rata portion of the utility allowance for the group home unit size.

### **§ 982.614 Group home: Housing quality standards.**

(a) *Compliance with HQS*

THHA will not give approval to reside in a group home unless the unit, including the portion of the unit available for use by the assisted person under the lease, meets the housing quality standards.

(b) *Applicable HQS standards.*

(1) The HQS in §982.401 apply to assistance in a group home.

However, the standards in this section apply in place of §982.401(b) (sanitary facilities), §982.401(c) (food preparation and refuse disposal), §982.401(d) (space and security), §982.401(g) (structure and materials) and §982.401(l) (site and neighborhood).

(2) The entire unit will comply with the HQS.

(c) *Additional performance requirements.*

The following additional performance requirements apply to a group home:

(1) *Sanitary facilities.*

(i) There will be a bathroom in the unit.

The unit will contain, and an assisted resident will have ready access to:

(A) A flush toilet that can be used in privacy;

(B) A fixed basin with hot and cold running water; and

(C) A shower or bathtub with hot and cold running water.

(ii) All of these facilities will be in proper operating condition, and will be adequate for personal cleanliness and the disposal of human waste.

The facilities will utilize an approvable public or private disposal system.

(iii) The unit will contain private or common sanitary facilities.

However, the facilities will be sufficient in number so that they need not be shared by more than four residents of the group home.

(iv) Sanitary facilities in the group home will be readily accessible to and usable by residents, including persons with disabilities.

(2) *Food preparation and service.*

(i) The unit will contain a kitchen and a dining area.

There will be adequate space to store, prepare, and serve foods in a sanitary manner.

(ii) Food preparation and service equipment will be in proper operating condition.

The equipment will be adequate for the number of residents in the group home.

The unit will contain the following equipment:

(A) A stove or range, and oven;

(B) A refrigerator; and

(C) A kitchen sink with hot and cold running water.

The sink will drain into an approvable public or private disposal system.

(iii) There will be adequate facilities and services for the sanitary disposal of food waste and refuse, including facilities for temporary storage where necessary.

(iv) The unit will contain private or common facilities for food preparation and service.

(3) *Space and security.*

(i) The unit will provide adequate space and security for the assisted person.

(ii) The unit will contain a living room, kitchen, dining area, bathroom, and other appropriate social, recreational or community space.

The unit will contain at least one bedroom of appropriate size for each two persons.

(iii) Doors and windows that are accessible from outside the unit will be lockable.

(4) *Structure and material.*

(i) The unit will be structurally sound to avoid any threat to the health and safety of the residents, and to protect the residents from the environment.

(ii) Ceilings, walls, and floors will not have any serious defects such as severe bulging or leaning, loose surface materials, severe buckling or noticeable movement under walking stress, missing parts or other significant damage.

The roof structure will be firm, and the roof will be weather tight.

The exterior or wall structure and exterior wall surface will not have any serious defects such as serious leaning, buckling, sagging, cracks or large holes, loose siding, or other serious damage.

The condition and equipment of interior and exterior stairways, halls, porches, walkways, etc., will not present a danger of tripping or falling.

Elevators will be maintained in safe operating condition.

(iii) The group home will be accessible to and usable by a resident with disabilities.

(5) *Site and neighborhood.*

The site and neighborhood will be reasonably free from disturbing noises and reverberations and other hazards to the health, safety, and general welfare of the residents.

The site and neighborhood will not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks or steps, instability, flooding, poor drainage, septic tank back-ups, sewage hazards or mud slides, abnormal air pollution, smoke or dust, excessive noise, vibrations or vehicular traffic, excessive accumulations of trash, vermin or rodent infestation, or fire hazards.

The unit will be located in a residential setting.

**Shared Housing**  
**§ 982.615 Shared housing: Occupancy.**

(a) *Sharing a unit.*

An assisted family will reside in shared housing.

In shared housing, an assisted family shares a unit with the other resident or residents of the unit.

The unit will be a house or an apartment.

(b) *Who will share a dwelling unit with assisted family?*

(1) If approved by the HA, a live-in aide will reside with the family to care for a person with disabilities.

THHA will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities in accordance with 24 CFR part 8. See §982.316 concerning occupancy by a live-in aide.

(2) Other persons who are assisted under the tenant-based program, or other persons who are not assisted under the tenant-based program, will reside in a shared housing unit.

(3) The owner of a shared housing unit will reside in the unit. A resident owner will enter into a HAP contract with THHA.

However, housing assistance will not be paid on behalf of an owner.

An assisted person will not be related by blood or marriage to a resident owner.

**§ 982.616 Shared housing: Lease and HAP contract.**

For assistance in a shared housing unit, there is a separate HAP contract and lease for each assisted family.

**§ 982.617 Shared housing: Rent and voucher housing assistance payment.**

(a) *Meaning of pro-rata portion.*

For shared housing, the term “pro-rata portion” means the ratio derived by dividing the number of bedrooms in the private space available for occupancy by a family by the total number of bedrooms in the unit.



For example, for a family entitled to occupy three bedrooms in a five bedroom unit, the ratio would be 3/5.

(b) *Rent to owner: Reasonable rent.*

(1) The rent to owner for the family will not exceed the pro-rata portion of the reasonable rent for the shared housing dwelling unit.

(2) The reasonable rent is determined in accordance with §982.507.

(c) *Payment standard.*

The payment standard for a family that resides in a shared housing is the lower of:

(1) The payment standard amount on THHA payment standard schedule for the family unit size;  
or

(2) The pro-rata portion of the payment standard amount on THHA payment standard schedule for the size of the shared housing unit.

(d) *Utility allowance.*

The utility allowance for an assisted family residing in shared housing is the pro-rata portion of the utility allowance for the shared housing unit.

**§ 982.618 Shared housing: Housing quality standards.**

(a) *Compliance with HQS.*

THHA will not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

(b) *Applicable HQS standards.*

The HQS in §982.401 apply to assistance in shared housing.

However, the HQS standards in this section apply in place of §982.401(d) (space and security).

(c) *Facilities available for family.*

The facilities available for the use of an assisted family in shared housing under the family's lease will include (whether in the family's private space or in the common space) a living room, sanitary facilities in accordance with §982.401(b), and food preparation and refuse disposal facilities in accordance with §982.401(c).

(d) *Space and security: Performance requirements.*

(1) The entire unit will provide adequate space and security for all its residents (whether assisted or unassisted).

(2) (i) Each unit will contain private space for each assisted family, plus common space for shared use by the residents of the unit. Common space will be appropriate for shared use by the residents.

(ii) The private space for each assisted family will contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family will not be less than the family unit size.

(iii) A zero or one bedroom unit will not be used for shared housing.

## **Cooperative** **§ 982.619 Cooperative housing.**

(a) *Assistance in cooperative housing.*

This section applies to rental assistance for a cooperative member residing in cooperative housing. However, this section does not apply to:

(1) Assistance for a cooperative member under the homeownership option pursuant to §§982.625 through 982.641; or

(2) Rental assistance for a family that leases a cooperative housing unit from a cooperative member (such rental assistance is not a special housing type, and is subject to requirements in other subparts of this part 982).

(b) *Rent to owner.*

(1) The reasonable rent for a cooperative unit is determined in accordance with §982.507.

For cooperative housing, the rent to owner is the monthly carrying charge under the occupancy agreement/lease between the member and the cooperative.

(2) The carrying charge consists of the amount assessed to the member by the cooperative for occupancy of the housing.

The carrying charge includes the member's share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds.

However, the carrying charge does not include down-payments or other payments to purchase the cooperative unit, or to amortize a loan to the family for this purpose.

(3) Gross rent is the carrying charge plus any utility allowance.

(4) For a regular tenancy under the certificate program, rent to owner is adjusted in accordance with §982.519 (annual adjustment) and §982.520 (special adjustments).

For a cooperative, adjustments are applied to the carrying charge as determined in accordance with this section.

(5) The occupancy agreement/lease and other appropriate documents will provide that the monthly carrying charge is subject to Section 8 limitations on rent to owner.

(c) *Housing assistance payment.*

The amount of the housing assistance payment is determined in accordance with subpart K of this part.

(d) *Maintenance.*

(1) During the term of the HAP contract between THHA and the cooperative, the dwelling unit and premises will be maintained in accordance with the HQS.

If the dwelling unit and premises are not maintained in accordance with the HQS, THHA will exercise all available remedies, regardless of whether the family or the cooperative is responsible for such breach of the HQS. THHA remedies for breach of the HQS include recovery of overpayments, abatement or other reduction of housing assistance payments, termination of housing assistance payments and termination of the HAP contract.

(2) THHA will not make any housing assistance payments if the contract unit does not meet the HQS, unless any defect is corrected within the period specified by THHA and THHA verifies the correction.

If a defect is life-threatening, the defect will be corrected within no more than 24 hours.

For other defects, the defect will be corrected within the period specified by THHA.

(3) The family is responsible for a breach of the HQS that is caused by any of the following:

(i) The family fails to perform any maintenance for which the family is responsible in accordance with the terms of the cooperative occupancy agreement between the cooperative member and the cooperative;

(ii) The family fails to pay for any utilities that the cooperative is not required to pay for, but which are to be paid by the cooperative member;

(iii) The family fails to provide and maintain any appliances that the cooperative is not required to provide, but which are to be provided by the cooperative member; or

(iv) Any member of the household or guest damages the dwelling unit or premises (damages beyond ordinary wear and tear).

(4) If the family has caused a breach of the HQS for which the family is responsible, THHA will take **prompt and vigorous action** to enforce such family obligations.

THHA will terminate assistance for violation of family obligations in accordance with §982.552.

(5) Section 982.404 does not apply to assistance for cooperative housing under this section.

(e) *Live-in aide.*

(1) If approved by THHA, a live-in aide will reside with the family to care for a person with disabilities.

THHA will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities in accordance with 24 CFR part 8. See §982.316 concerning occupancy by a live-in aide.

(2) If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

## **Manufactured Home**

### **§ 982.620 Manufactured home: Applicability of requirements.**

#### *(a) Assistance for resident of manufactured home.*

(1) A family will reside in a manufactured home with assistance under the program.

(2) THHA will permit a family to lease a manufactured home and space with assistance under the program.

(3) THHA will provide assistance for a family that owns the manufactured home and leases only the space.

#### *(b) Applicability.*

(1) The HQS in §982.621 always apply when assistance is provided to a family occupying a manufactured home (under paragraph (a)(2) or (a)(3) of this section).

(2) Sections 982.622 to 982.624 only apply when assistance is provided to a manufactured home owner to lease a manufactured home space.

#### *(c) Live-in aide.*

(1) If approved by THHA, a live-in aide will reside with the family to care for a person with disabilities.

THHA will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities in accordance with 24 CFR part 8. See §982.316 concerning occupancy by a live-in aide.

(2) If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

### **§ 982.621 Manufactured home: Housing quality standards.**

A manufactured home will meet all the HQS performance requirements and acceptability criteria in §982.401. A manufactured home also will meet the following requirements:

#### *(a) Performance requirement*

A manufactured home will be placed on the site in a stable manner, and will be free from hazards such as sliding or wind damage.

#### *(b) Acceptability criteria.*

A manufactured home will be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist wind overturning and sliding.

## **Manufactured Home Space Rental**

### **§ 982.622 Manufactured home space rental: Rent to owner.**

#### *(a) What is included.*

(1) Rent to owner for rental of a manufactured home space includes payment for maintenance and services that the owner will provide to the tenant under the lease for the space.

(2) Rent to owner does not include the costs of utilities and trash collection for the manufactured home.

However, the owner will charge the family a separate fee for the cost of utilities or trash collection provided by the owner.

(b) *Reasonable rent.*

(1) During the assisted tenancy, the rent to owner for the manufactured home space will not exceed a reasonable rent as determined in accordance with this section. Section 982.503 is not applicable.

(2) THHA will not approve a lease for a manufactured home space until THHA determines that the initial rent to owner for the space is a reasonable rent.

At least annually during the assisted tenancy, THHA will re-determine that the current rent to owner is a reasonable rent.

(3) THHA will determine whether the rent to owner for the manufactured home space is a reasonable rent in comparison to rent for other comparable manufactured home spaces.

To make this determination, THHA will consider the location and size of the space, and any services and maintenance to be provided by the owner in accordance with the lease (without a fee in addition to the rent).

By accepting each monthly housing assistance payment from THHA, the owner of the manufactured home space certifies that the rent to owner for the space is not more than rent charged by the owner for unassisted rental of comparable spaces in the same manufactured home park or elsewhere.

The owner will give THHA information, as requested by THHA, on rents charged by the owner for other manufactured home spaces.

**§ 982.623 Manufactured home space rental: Housing assistance payment.**

(a) *Housing assistance payment: For certificate tenancy.*

(1) During the term of a certificate tenancy (entered prior to the merger date), the amount of the monthly housing assistance payment equals the lesser of the amounts specified in paragraphs (b)(1)(i) or (b)(1)(ii) of this section:

(i) Manufactured home space cost minus the total tenant payment.

(ii) The rent to owner for the manufactured home space.

(2) “Manufactured home space cost” means the sum of:

(i) The amortization cost,

(ii) The utility allowance, and

(iii) The rent to owner for the manufactured home space.

(3) *Amortization cost.*

(i) The amortization cost will include debt service to amortize cost (other than furniture costs) included in the purchase price of the manufactured home.

The debt service includes the payment for principal and interest on the loan.

The debt service amount will be reduced by 15 percent to exclude debt service to amortize the cost of furniture, unless THHA determines that furniture was not included in the purchase price.

(ii) The amount of the amortization cost is the debt service established at time of application to a lender for financing purchase of the manufactured home if monthly payments are still being made. Any increase in debt service due to refinancing after purchase of the home is not included in amortization cost.

(iii) Debt service for set-up charges incurred by a family that relocates its home will be included in the monthly amortization payment made by the family. In addition, set-up charges incurred before the family became an assisted family will be included in the amortization cost if monthly payments are still being made to amortize such charges.

(b) *Housing assistance payment for voucher tenancy.*

(1) There is a separate fair market rent for a manufactured home space.

The FMR for a manufactured home space is determined in accordance with §888.113(e) of this title.

The FMR for a manufactured home space is generally **40 percent** of the published FMR for a two-bedroom unit.

(2) The payment standard shall be determined in accordance with §982.505.

(3) THHA shall pay a monthly housing assistance payment on behalf of the family that is equal to the lower of:

(i) The payment standard minus the total tenant payment; or

(ii) The rent paid for rental of the real property on which the manufactured home owned by the family is located (“space rent”) minus the total tenant payment.

(4) The space rent is the sum of the following as determined by THHA:

(i) Rent to owner for the manufactured home space;

(ii) Owner maintenance and management charges for the space;

(iii) The utility allowance for tenant-paid utilities.

**§ 982.624 Manufactured home space rental: Utility allowance schedule.**

THHA will establish utility allowances for manufactured home space rental.

For the first twelve months of the initial lease term only, the allowances will include a reasonable amount for utility hook-up charges payable by the family if the family actually incurs the expenses because of a move.

Allowances for utility hook-up charges do not apply to a family that leases a manufactured home space in place.

Utility allowances for manufactured home space will not cover costs payable by a family to cover the digging of a well or installation of a septic system.

### **Homeownership Option** **§ 982.625 Homeownership option: General.**

(a) The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family.

(b) A family assisted under the homeownership option will be a newly admitted or existing participant in the program.

(c) *Forms of homeownership assistance.*

(1) A THHA will provide one of two forms of homeownership assistance for a family:

(i) Monthly homeownership assistance payments; or

(ii) A single down-payment assistance grant.

(2) *Prohibition against combining forms of homeownership assistance.* A family will only receive one form of homeownership assistance.

Accordingly, a family that includes a person who was an adult member of a family that previously received either of the two forms of homeownership assistance will not receive the other form of homeownership assistance from any THHA.

(d) *THHA choice to offer homeownership options.*

(1) THHA will choose to offer either or both forms of homeownership assistance under this subpart, or choose not to offer either form of assistance.

However, THHA will offer either form of homeownership assistance if necessary as a reasonable accommodation for a person with disabilities in accordance with §982.601(b)(3).

(2) It is the sole responsibility of THHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation.

THHA will determine what is reasonable based on the specific circumstances and individual needs of the person with a disability.

THHA will determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where THHA has otherwise opted not to implement a homeownership program.

(e) *Family choice.*



1) The family chooses whether to participate in the homeownership option if offered by THHA.

(2) If THHA offers both forms of homeownership assistance, the family chooses which form of homeownership assistance to receive.

(f) THHA will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and useable by persons with disabilities in accordance with part 8 of this title. (See §982.316 concerning occupancy by a live-in aide.)

(g) THHA will have the capacity to operate a successful Section 8 homeownership program. THHA has the required capacity if it satisfies either paragraph (g)(1), (g)(2), or (g)(3) of this section.

(1) THHA establishes a minimum homeowner down-payment requirement of at least 3 percent of the purchase price for participation in its Section 8 homeownership program, and requires that at least one percent of the purchase price come from the family's personal resources;

(2) THHA requires that financing for purchase of a home under its Section 8 homeownership program:

- (i) Be provided, insured, or guaranteed by the state or Federal government;
- (ii) Comply with secondary mortgage market underwriting requirements; or
- (iii) Comply with generally accepted private sector underwriting standards; or

(3) THHA otherwise demonstrates in its Annual Plan that it has the capacity, or will acquire the capacity, to successfully operate a Section 8 homeownership program.

(h) *Recapture of homeownership assistance.*

THHA shall not impose or enforce any requirement for the recapture of voucher homeownership assistance on the sale or refinancing of a home purchased with assistance under the homeownership option.

(i) *Applicable requirements*

The following specify what regulatory provisions (under the heading “homeownership option”) are applicable to either or both forms of homeownership assistance (except as otherwise specifically provided):

(1) *Common provisions.* The following provisions apply to both forms of homeownership assistance:

- (i) Section 982.625 (General);
- (ii) Section 982.626 (Initial requirements);
- (iii) Section 982.627 (Eligibility requirements for families);
- (iv) Section 982.628 (Eligible units);
- (v) Section 982.629 (Additional THHA requirements for family search and purchase);
- (vi) Section 982.630 (Homeownership counseling);

(vii) Section 982.631 (Home inspections, contract of sale, and THHA disapproval of seller);

(viii) Section 982.632 (Financing purchase of home; affordability of purchase);

(ix) Section 982.636 (Portability);

(x) Section 982.638 (Denial or termination of assistance for family); and

(xi) Section 982.641 (Applicability of other requirements).

*(2) Monthly homeownership assistance payments*

The following provisions only apply to homeownership assistance in the form of monthly homeownership assistance payments:

(i) Section 982.633 (Continued assistance requirements; family obligations);

(ii) Section 982.634 (Maximum term of homeownership assistance);

(iii) Section 982.635 (Amount and distribution of monthly homeownership assistance payment);

(iv) Section 982.637 (Move with continued tenant-based assistance); and

(v) Section 982.639 (Administrative fees).

*(3) Down-payment assistance grant.*

The following provision only applies to homeownership assistance in the form of a down-payment assistance grant: Section 982.643 (Down-payment assistance grants).

**§ 982.626 Homeownership option: Initial requirements.**

*(a) List of initial requirements.*

Before commencing homeownership assistance for a family, THHA will determine that all of the following initial requirements have been satisfied:

(1) The family is qualified to receive homeownership assistance (see §982.627);

(2) The unit is eligible (see §982.628); and

(3) The family has satisfactorily completed THHA program of required pre-assistance homeownership counseling (see §982.630).

*(b) Additional THHA requirements.*

Unless otherwise provided in this part, THHA will limit homeownership assistance to families or purposes defined by THHA, and will prescribe additional requirements for commencement of homeownership assistance for a family.

Any such limits or additional requirements will be described in THHA administrative plan.

*(c) Environmental requirements.*

THHA is responsible for complying with the authorities listed in §58.6 of this title requiring the purchaser to obtain and maintain flood insurance for units in special flood hazard areas, prohibiting assistance for acquiring units in the coastal barriers resource system, and requiring notification to the purchaser of units in airport runway clear zones and airfield clear zones.

## **§ 982.627 Homeownership option: Eligibility requirements for families.**

### *(a) Determination whether family is qualified.*

THHA will not provide homeownership assistance for a family unless THHA determines that the family satisfies all of the following initial requirements at commencement of homeownership assistance for the family:

(1) The family has been admitted to the Section 8 Housing Choice Voucher program, in accordance with subpart E of this part.

(2) The family satisfies any first-time homeowner requirements (described in paragraph (b) of this section).

(3) The family satisfies the minimum income requirement (described in paragraph (c) of this section).

(4) The family satisfies the employment requirements (described in paragraph (d) of this section).

(5) The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option (see paragraph (e) of this section).

(6) Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.

(7) Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with §982.631(c).

(8) The family also satisfies any other initial requirements established by THHA (see §982.626(b)). Any such additional requirements will be described in THHA administrative plan.

### *(b) First-time homeowner requirements.*

At commencement of homeownership assistance for the family, the family will be any of the following:

(1) A first-time homeowner (defined at §982.4);

(2) A cooperative member (defined at §982.4); or

(3) A family of which a family member is a person with disabilities, and use of the homeownership option is needed as a reasonable accommodation so that the program is readily accessible to and usable by such person, in accordance with part 8 of this title.

### *(c) Minimum income requirements.*

(1) At commencement of monthly homeownership assistance payments for the family, or at the time of a down-payment assistance grant for the family, the family will demonstrate that the annual income, as determined by THHA in accordance with §5.609 of this title, of the adult family members who will own the home at commencement of homeownership assistance is not less than:

(i) In the case of a disabled family (as defined in §5.403(b) of this title), the monthly Federal Supplemental Security Income (SSI) benefit for an individual living alone (or paying his or her share of food and housing costs) multiplied by twelve; or

(ii) In the case of other families, the Federal minimum wage multiplied by 2,000 hours.

(2) (i) Except in the case of an elderly family or a disabled family (see the definitions of these terms at §5.403(b) of this title), THHA shall not count any welfare assistance received by the family in determining annual income under this section.

(ii) The disregard of welfare assistance income under paragraph (c)(2)(i) of this section only affects the determination of minimum annual income used to determine if a family initially qualifies for commencement of homeownership assistance in accordance with this section, but does not affect:

(A) The determination of income-eligibility for admission to the voucher program;

(B) Calculation of the amount of the family's total tenant payment (gross family contribution); or

(C) Calculation of the amount of homeownership assistance payments on behalf of the family.

(iii) In the case of an elderly or disabled family, THHA shall include welfare assistance for the adult family members who will own the home in determining if the family meets the minimum income requirement.

(3) A THHA will establish a minimum income standard that is higher than those described in paragraph (c)(1) of this section for either or both types of families.

However, a family that meets the applicable HUD minimum income requirement described in paragraph (c)(1) of this section, but not the higher standard established by THHA shall be considered to satisfy the minimum income requirement if:

(i) The family demonstrates that it has been pre-qualified or pre-approved for financing;

(ii) The pre-qualified or pre-approved financing meets any THHA established requirements under §982.632 for financing the purchase of the home (including qualifications of lenders and terms of financing); and

(iii) The pre-qualified or pre-approved financing amount is sufficient to purchase housing that meets HQS in THHA's jurisdiction.

(d) *Employment requirements.*

(1) Except as provided in paragraph (d)(2) of this section, the family will demonstrate that one or more adult members of the family who will own the home at commencement of homeownership assistance:

(i) Is currently employed on a full-time basis (the term "full-time employment" means not less than an average of 30 hours per week); and

(ii) Has been continuously so employed during the year before commencement of homeownership assistance for the family.

(2) THHA shall have discretion to determine whether and to what extent interruptions are considered to break continuity of employment during the year.

THHA will count successive employment during the year. THHA will count self-employment in a business.

(3) The employment requirement does not apply to an elderly family or a disabled family (see the definitions of these terms at §5.403(b) of this title).

Furthermore, if a family, other than an elderly family or a disabled family, includes a person with disabilities, THHA shall grant an exemption from the employment requirement if THHA determines that an exemption is needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities in accordance with part 8 of this title.

(4) A THHA will not establish an employment requirement in addition to the employment standard established by this paragraph.

*(e) Prohibition against assistance to family that has defaulted.*

THHA shall not commence homeownership assistance for a family that includes an individual who was an adult member of a family at the time when such family received homeownership assistance and defaulted on a mortgage securing debt incurred to purchase the home.

### **§ 982.628 Homeownership option: Eligible units.**

*(a) Initial requirements applicable to the unit.*

THHA will determine that the unit satisfies all of the following requirements:

(1) The unit is eligible. (See §982.352. Paragraphs (a)(6), (a)(7) and (b) of §982.352 do not apply.)

(2) The unit is either under construction or already existing at the time the family enters into the contract of sale.

(3) The unit is either a one-unit property (including a manufactured home) or a single dwelling unit in a cooperative or condominium.

(see §982.631).

(5) The unit satisfies the HQS (see §982.401 and §982.631).

*(b) Purchase of home where family will not own fee title to the real property.*

Homeownership assistance will be provided for the purchase of a home where the family will not own fee title to the real property on which the home is located, but only if:

(1) The home is located on a permanent foundation; and

(2) The family has the right to occupy the home site for at least forty years.

(c) *THHA disapproval of seller.*

THHA will not commence homeownership assistance for occupancy of a home if THHA has been informed (by HUD or otherwise) that the seller of the home is debarred, suspended, or subject to a limited denial of participation under part 24 of this title.

(d) *THHA-owned units.*

Homeownership assistance will be provided for the purchase of a unit that is owned by THHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by THHA), only if all of the following conditions are satisfied:

(1) THHA will inform the family, both orally and in writing, that the family has the right to purchase any eligible unit and a THHA-owned unit is freely selected by the family without THHA pressure or steering;

(2) The unit is not ineligible housing;

(3) THHA will obtain the services of an independent agency, in accordance with §982.352(b)(1)(iv)(B) and (C), to perform the following THHA functions:

(i) Inspection of the unit for compliance with the HQS, in accordance with §982.631(a);

(ii) Review of the independent inspection report, in accordance with §982.631(b)(4);

(iii) Review of the contract of sale, in accordance with §982.631(c); and

(iv) Determination of the reasonableness of the sales price and any THHA provided financing, in accordance with §982.632 and other supplementary guidance established by HUD.

**§ 982.629 Homeownership option: Additional THHA requirements for family search and purchase.**

(a) THHA will establish the maximum time for a family to locate a home, and to purchase the home.

(b) THHA will require periodic family reports on the family's progress in finding and purchasing a home.

(c) If the family is unable to purchase a home within the maximum time established by THHA, THHA will issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher.

**§ 982.630 Homeownership option: Homeownership counseling.**

(a) Before commencement of homeownership assistance for a family, the family will attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by THHA (pre-assistance counseling).

(b) Suggested topics for THHA-required pre-assistance counseling program include:

(1) Home maintenance (including care of the grounds);

(2) Budgeting and money management;

(3) Credit counseling;

(4) How to negotiate the purchase price of a home;

(5) How to obtain homeownership financing and loan preapprovals, including a description of types of financing that will be available, and the pros and cons of different types of financing;

(6) How to find a home, including information about homeownership opportunities, schools, and transportation in THHA jurisdiction;

(7) Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;

(8) Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and

(9) Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 *et seq.*) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

(c) THHA will adapt the subjects covered in pre-assistance counseling (as listed in paragraph (b) of this section) to local circumstances and the needs of individual families.

(d) THHA will also offer additional counseling after commencement of homeownership assistance (ongoing counseling).

If THHA offers a program of ongoing counseling for participants in the homeownership option, THHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

(e) If THHA is not using a HUD-approved housing counseling agency to provide the counseling for families participating in the homeownership option, THHA will ensure that its counseling program is consistent with the homeownership counseling provided under HUD's Housing Counseling program.

**§ 982.631 Homeownership option: Home inspections, contract of sale, and THHA disapproval of seller.**

(a) HQS inspection by THHA.

THHA will not commence monthly homeownership assistance payments or provide a down-payment assistance grant for the family until THHA has inspected the unit and has determined that the unit passes HQS.

(b) *Independent inspection.*

(1) The unit will also be inspected by an independent professional inspector selected by and paid by the family.

(2) The independent inspection will cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems.

The independent inspector will be qualified to report on property conditions, including major building systems and components.

(3) THHA will not require the family to use an independent inspector selected by THHA. The independent inspector will not be a THHA employee or contractor, or other person under control of THHA.



However, THHA will establish standards for qualification of inspectors selected by families under the homeownership option.

(4) The independent inspector will provide a copy of the inspection report both to the family and to THHA.

THHA will not commence monthly homeownership assistance payments, or provide a down-payment assistance grant for the family, until THHA has reviewed the inspection report of the independent inspector.

Even if the unit otherwise complies with the HQS (and will qualify for assistance under THHA's tenant-based rental voucher program), THHA shall have discretion to disapprove the unit for assistance under the homeownership option because of information in the inspection report.

(c) *Contract of sale.*

(1) Before commencement of monthly homeownership assistance payments or receipt of a down-payment assistance grant, a member or members of the family will enter into a contract of sale with the seller of the unit to be acquired by the family.

The family will give THHA a copy of the contract of sale (see also §982.627(a)(7)).

(2) The contract of sale will:

(i) Specify the price and other terms of sale by the seller to the purchaser.

(ii) Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser.

(iii) Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser.

(iv) Provide that the purchaser is not obligated to pay for any necessary repairs.

(v) Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under part 24 of this title.

(d) *THHA disapproval of seller.*

In its administrative discretion, THHA will deny approval of a seller for any reason provided for disapproval of an owner in §982.306(c).

**§ 982.632 Homeownership option: Financing purchase of home; affordability of purchase.**

(a) THHA will establish requirements for financing purchase of a home to be assisted under the homeownership option.

Such THHA requirements will include requirements concerning qualification of lenders (for example, prohibition of seller financing or case-by-case approval of seller financing), or concerning terms of financing (for example, a prohibition of balloon payment mortgages, establishment of a minimum homeowner equity requirement from personal resources, or provisions required to protect borrowers against high cost loans or predatory loans).

A THHA will not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

(b) If the purchase of the home is financed with FHA mortgage insurance, such financing is subject to FHA mortgage insurance requirements.

(c) THHA will establish requirements or other restrictions concerning debt secured by the home.

(d) THHA will review lender qualifications and the loan terms before authorizing homeownership assistance.

THHA will disapprove proposed financing, refinancing or other debt if THHA determines that the debt is unaffordable, or if THHA determines that the lender or the loan terms do not meet THHA qualifications.

In making this determination, THHA will take into account other family expenses, such as child care, unreimbursed medical expenses, homeownership expenses, and other family expenses as determined by THHA.

(e) All THHA financing or affordability requirements will be described in THHA administrative plan.

**§ 982.633 Homeownership option: Continued assistance requirements; Family obligations.**

*Occupancy of home.*

Homeownership assistance will only be paid while the family is residing in the home.

If the family moves out of the home, THHA will not continue homeownership assistance after the month when the family moves out.

The family or lender is not required to refund to THHA the homeownership assistance for the month when the family moves out.

(b) *Family obligations.*

The family will comply with the following obligations.

(1) *Ongoing counseling.* To the extent required by THHA, the family will attend and complete ongoing homeownership and housing counseling.

(2) *Compliance with mortgage.* The family will comply with the terms of any mortgage securing debt incurred to purchase the home (or any refinancing of such debt).

(3) *Prohibition against conveyance or transfer of home.*

(i) So long as the family is receiving homeownership assistance, use and occupancy of the home is subject to §982.551(h) and (i).

(ii) The family will grant a mortgage on the home for debt incurred to finance purchase of the home or any refinancing of such debt.

(iii) Upon death of a family member who holds, in whole or in part, title to the home or ownership of cooperative membership shares for the home, homeownership assistance will continue pending settlement of the decedent's estate, notwithstanding transfer of title by operation of law to the decedent's executor or legal representative, so long as the home is solely occupied by remaining family members in accordance with §982.551(h).

(4) *Supplying required information.*

(i) The family will supply required information to THHA in accordance with §982.551(b).

(ii) In addition to other required information, the family will supply any information as required by THHA or HUD concerning:

(A) Any mortgage or other debt incurred to purchase the home, and any refinancing of such debt (including information needed to determine whether the family has defaulted on the debt, and the nature of any such default), and information on any satisfaction or payment of the mortgage debt;

(B) Any sale or other transfer of any interest in the home; or

(C) The family's homeownership expenses.

(5) *Notice of move-out.* The family will notify THHA before the family moves out of the home.

(6) *Notice of mortgage default.* The family will notify THHA if the family defaults on a mortgage securing any debt incurred to purchase the home.

(7) *Prohibition on ownership interest on second residence.*

During the time the family receives homeownership assistance under this subpart, no family member will have any ownership interest in any other residential property.

(8) *Additional THHA requirements*

THHA will establish additional requirements for continuation of homeownership assistance for the family (for example, a requirement for post-purchase homeownership counseling or for periodic unit inspections while the family is receiving homeownership assistance).

The family will comply with any such requirements.

(9) *Other family obligations.*

The family will comply with the obligations of a participant family described in §982.551.

However, the following provisions do not apply to assistance under the homeownership option: §982.551(c), (d), (e), (f), (g) and (j).

*(c) Statement of homeowner obligations.*

Before commencement of homeownership assistance, the family will execute a statement of family obligations in the form prescribed by HUD.

In the statement, the family agrees to comply with all family obligations under the homeownership option.

**§ 982.634 Homeownership option: Maximum term of homeownership assistance.**

(a) *Maximum term of assistance.* Except in the case of a family that qualifies as an elderly or disabled family (see paragraph (c) of this section), the family members described in paragraph (b) of this section shall not receive homeownership assistance for more than:

(1) **Fifteen years**, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; or

(2) **Ten years**, in all other cases.

*(b) Applicability of maximum term.*

The maximum term described in paragraph (a) of this section applies to any member of the family who:

(1) Has an ownership interest in the unit during the time that homeownership payments are made; or

(2) Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

*(c) Exception for elderly and disabled families.*

(1) As noted in paragraph (a) of this section, the maximum term of assistance does not apply to elderly and disabled families.

(2) In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

(3) If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced.

However, such a family will be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance in accordance with this part).

*Assistance for different homes or PHAs.*

If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the maximum term described in paragraph (a) of this section.

**§ 982.635 Homeownership option: Amount and distribution of monthly homeownership assistance payment.**

(a) *Amount of monthly homeownership assistance payment.*

While the family is residing in the home, THHA shall pay a monthly homeownership assistance payment on behalf of the family that is equal to the *lower of*:

- (1) The payment standard minus the total tenant payment; or
- (2) The family's monthly homeownership expenses minus the total tenant payment.

(b) *Payment standard for family.*

(1) The payment standard for a family is the lower of:

- (i) The payment standard for the family unit size; or
- (ii) The payment standard for the size of the home.

(2) If the home is located in an exception payment standard area, THHA will use the appropriate payment standard for the exception payment standard area.

(3) The payment standard for a family is the greater of:

(i) The payment standard (as determined in accordance with paragraphs (b)(1) and (b)(2) of this section) at the commencement of homeownership assistance for occupancy of the home; or

(ii) The payment standard (as determined in accordance with paragraphs (b)(1) and (b)(2) of this section) at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.

(4) THHA will use the same payment standard schedule, payment standard amounts, and subsidy standards pursuant to §§982.402 and 982.503 for the homeownership option as for the rental voucher program.

(c) *Determination of homeownership expenses.*

(1) THHA shall adopt policies for determining the amount of homeownership expenses to be allowed by THHA in accordance with HUD requirements.

(2) Homeownership expenses for a homeowner (other than a cooperative member) will only include amounts allowed by THHA to cover:

(i) Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;

(ii) Real estate taxes and public assessments on the home;

(iii) Home insurance;

(iv) THHA allowance for maintenance expenses;

(v) THHA allowance for costs of major repairs and replacements;

(vi) THHA utility allowance for the home;

(vii) Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home.

If a member of the family is a person with disabilities, such debt will include debt incurred by the family to finance costs needed to make the home accessible for such person, if THHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person, in accordance with part 8 of this title; and

(viii) Land lease payments (where a family does not own fee title to the real property on which the home is located; see §982.628(b)).

(3) Homeownership expenses for a cooperative member will only include amounts allowed by THHA to cover:

(i) The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;

(ii) Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;

(iii) Home insurance;

(iv) THHA allowance for maintenance expenses;

(v) THHA allowance for costs of major repairs and replacements;

(vi) THHA utility allowance for the home; and

(vii) Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home.

If a member of the family is a person with disabilities, such debt will include debt incurred by the family to finance costs needed to make the home accessible for such person, if THHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person, in accordance with part 8 of this title.

(4) If the home is a cooperative or condominium unit, homeownership expenses will also include cooperative or condominium operating charges or maintenance fees assessed by the condominium or cooperative homeowner association.

(d) *Payment to lender or family.* THHA will pay homeownership assistance payments either:

(1) Directly to the family or;

(2) At the discretion of THHA, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, THHA will pay the excess directly to the family.

(e) *Automatic termination of homeownership assistance.*

Homeownership assistance for a family terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family.

However, a THHA has the discretion to grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

**§ 982.636 Homeownership option: Portability.**

(a) *General.*

**NO** family will qualify to move outside the initial THHA jurisdiction with continued homeownership assistance under the voucher program in accordance with this section.

**§ 982.637 Homeownership option: Move with continued tenant-based assistance.**

(a) *Move to new unit.*

(1) A family receiving homeownership assistance will move to a new unit with continued tenant-based assistance in accordance with this section.

The family will move either with voucher rental assistance (in accordance with rental assistance program requirements) or with voucher homeownership assistance (in accordance with homeownership option program requirements).

(2) THHA will **not** commence continued tenant-based assistance for occupancy of the new unit so long as any family member owns any title or other interest in the prior home.

(3) THHA prohibits more than one move by the family during any one year period.

(b) *Requirements for continuation of homeownership assistance.*

THHA will determine that all initial requirements listed in §982.626 have been satisfied if a family that has received homeownership assistance wants to move to a new unit with continued homeownership assistance.

However, the following requirements do not apply:

(1) The requirement for pre-assistance counseling (§982.630) is not applicable.

However, THHA will require that the family complete additional counseling (before or after moving to a new unit with continued assistance under the homeownership option).

(2) The requirement that a family will be a first-time homeowner (§982.627) is not applicable.

(c) *When THHA will deny permission to move with continued assistance.*

THHA will deny permission to move to a new unit with continued voucher assistance as follows:

(1) *Lack of funding to provide continued assistance.*

THHA will deny permission to move with continued rental or homeownership assistance if THHA determines that it does not have sufficient funding to provide continued assistance.



(2) *Termination or denial of assistance under §982.638.*

At any time, THHA will deny permission to move with continued rental or homeownership assistance in accordance with §982.638.

**§ 982.638 Homeownership option: Denial or termination of assistance for family.**

(a) *General.*

THHA shall terminate homeownership assistance for the family, and shall deny voucher rental assistance for the family, in accordance with this section.

(b) *Denial or termination of assistance under basic voucher program.*

At any time, THHA will deny or terminate homeownership assistance in accordance with §982.552 (Grounds for denial or termination of assistance) or §982.553 (Crime by family members).

(c) *Failure to comply with family obligations.*

THHA will deny or terminate assistance for violation of participant obligations described in §982.551 or §982.633.

(d) *Mortgage default.*

THHA will terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA-insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.

THHA, **in its discretion**, will permit the family to move to a new unit with continued voucher rental assistance. However, THHA will deny such permission, if:

(1) The family defaulted on an FHA-insured mortgage; and

(2) The family fails to demonstrate that:

(i) The family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and

(ii) The family has moved, or will move, from the home within the period established or approved by HUD.

**§ 982.639 Homeownership option: Administrative fees.**

**§ 982.641 Homeownership option: Applicability of other requirements.**

(a) *General.*

The following types of provisions (located in other subparts of this part) do not apply to assistance under the homeownership option:

(1) Any provisions concerning the Section 8 owner or the HAP contract between THHA and owner;

(2) Any provisions concerning the assisted tenancy or the lease between the family and the owner;

(3) Any provisions concerning THHA approval of the assisted tenancy;

(4) Any provisions concerning rent to owner or reasonable rent; and

(5) Any provisions concerning the issuance or term of voucher.

*(b) Subpart G requirements.*

The following provisions of subpart G of this part do not apply to assistance under the homeownership option:

(1) Section 982.302 (Issuance of voucher; Requesting THHA approval of assisted tenancy);

(2) Section 982.303 (Term of voucher);

(3) Section 982.305 (THHA approval of assisted tenancy);

(4) Section 982.306 (THHA disapproval of owner) (except that a THHA will disapprove a seller for any reason described in paragraph (c), see §982.631(d)).

(5) Section 982.307 (Tenant screening);

(6) Section 982.308 (Lease and tenancy);

(7) Section 982.309 (Term of assisted tenancy);

(8) Section 982.310 (Owner termination of tenancy);

(9) Section 982.311 (When assistance is paid) (except that §982.311(c)(3) is applicable to assistance under the homeownership option);

(10) Section 982.313 (Security deposit: Amounts owed by tenant); and

(11) Section 982.314 (Move with continued tenant-based assistance).

*(c) Subpart H requirements.*

The following provisions of subpart H of this part do not apply to assistance under the homeownership option:

(1) Section 982.352(a)(6) (Prohibition of owner-occupied assisted unit);

(2) Section 982.352(b) (THHA-owned housing); and

(3) Those provisions of §982.353(b)(1),(2), and (3) (Where family can lease a unit with tenant-based assistance) and §982.355 (Portability: Administration by receiving THHA) that are inapplicable per §982.636;

*(d) Subpart I requirements.*

The following provisions of subpart I of this part do not apply to assistance under the homeownership option:

- (1) Section 982.403 (Terminating HAP contract when unit is too small);
- (2) Section 982.404 (Maintenance: Owner and family responsibility; THHA remedies); and
- (3) Section 982.405 (THHA initial and periodic unit inspection).

*(e) Subpart J requirements.*

The requirements of subpart J of this part (Housing Assistance Payments Contract and Owner Responsibility) (§§982.451–456) do not apply to assistance under the homeownership option.

*(f) Subpart K requirements.*

Except for those sections listed below, the requirements of subpart K of this part (Rent and Housing Assistance Payment) (§§982.501–521) do not apply to assistance under the homeownership option:

- (1) Section 982.503 (Voucher tenancy: Payment standard amount and schedule);
- (2) Section 982.516 (Family income and composition: Regular and interim reexaminations); and
- (3) Section 982.517 (Utility allowance schedule).

*(g) Subpart L requirements.*

The following provisions of subpart L of this part do not apply to assistance under the homeownership option:

- (1) Section 982.551(c) (HQS breach caused by family);
- (2) Section 982.551(d) (Allowing THHA inspection);
- (3) Section 982.551(e) (Violation of lease);
- (4) Section 982.551(g) (Owner eviction notice); and
- (5) Section 982.551(j) (Interest in unit).

*(h) Subpart M requirements.*

The following provisions of subpart M of this part do not apply to assistance under the homeownership option:

- (1) Sections 982.602–982.619; and
- (2) Sections 982.622–982.624.

**§ 982.642 Homeownership option: Pilot program for homeownership assistance for disabled families.**

*(a) General.*

This section implements the pilot program authorized by section 302 of the American Homeownership and Economic Opportunity Act of 2000.

Under the pilot program, a THHA may provide homeownership assistance to a disabled family residing in a home purchased and owned by one or more members of the family.

A THHA that administers tenant-based assistance has the choice whether to offer homeownership assistance under the pilot program (whether or not THHA has also decided to offer the homeownership option).

*(b) Applicability of homeownership option requirements.*

Except as provided in this section, all of the regulations applicable to the homeownership option (as described in §§982.625 through 982.641) are also applicable to the pilot program.

*(c) Initial eligibility requirements.*

Before commencing homeownership assistance under the pilot program for a family, THHA will determine that all of the following initial requirements have been satisfied:

- (1) The family is a disabled family (as defined in §5.403 of this title);
- (2) The family annual income does not exceed 99 percent of the median income for the area;
- (3) The family is not a current homeowner;
- (4) The family will close on the purchase of the home during the period starting on July 23, 2001 and ending on July 23, 2004; and
- (5) The family meets the initial requirements described in §982.626; however, the following initial requirements do not apply to a family seeking to participate in the pilot program:
  - (i) The income eligibility requirements of §982.201(b)(1);
  - (ii) The first-time homeowner requirements of §982.627(b); and
  - (iii) The mortgage default requirements of §982.627(e), if THHA determines that the default is due to catastrophic medical reasons or due to the impact of a federally declared major disaster or emergency.

*(d) Amount and distribution of homeownership assistance payments.*

(1) While the family is residing in the home, THHA shall calculate a monthly homeownership assistance payment on behalf of the family in accordance with §982.635 and this section.

(2) A family that is a low income family (as defined at 24 CFR 5.603(b)) as determined by HUD shall receive the full amount of the monthly homeownership assistance payment calculated under §982.635.

(3) A family whose annual income is greater than the low income family ceiling but does not exceed 89 percent of the median income for the area as determined by HUD shall receive a monthly homeownership assistance payment equal to 66 percent of the amount calculated under §982.635.

(4) A family whose annual income is greater than the 89 percent ceiling but does not exceed 99 percent of the median income for the area as determined by HUD shall receive a monthly homeownership assistance payment equal to 33 percent of the amount calculated under §982.635.

(5) A family whose annual income is greater than 99 percent of the median income for the area shall not receive homeownership assistance under the pilot program.

*(e) Assistance payments to lender.*

THHA will make homeownership assistance payments to a lender on behalf of the disabled family.

If the assistance payment exceeds the amount due to the lender, THHA will pay the excess directly to the family.

The provisions of §982.635(d), which permit THHA to make monthly homeownership assistance payments directly to the family, do not apply to the pilot program.

*(f) Mortgage defaults.*

The requirements of §982.638(d) regarding mortgage defaults are applicable to the pilot program.

However, notwithstanding §982.638(d), THHA will, in its discretion, permit a family that has defaulted on its mortgage to move to a new unit with continued voucher homeownership assistance if THHA determines that the default is due to catastrophic medical reasons or due to the impact of a federally declared major disaster or emergency.

The requirements of §§982.627(a)(5) and 982.627(e) do not apply to such a family.

**§ 982.643 Homeownership option: Down payment assistance grants.**

*(a) General.*

(1) A THHA will provide a single down-payment assistance grant for a participant that has received tenant-based or project-based rental assistance in the Housing Choice Voucher Program.

(2) The down-payment assistance grant will be applied toward the down-payment required in connection with the purchase of the home and/or reasonable and customary closing costs in connection with the purchase of the home.

(3) If THHA permits the down-payment grant to be applied to closing costs, THHA will define what fees and charges constitute reasonable and customary closing costs.

However, if the purchase of a home is financed with FHA mortgage insurance, such financing is subject to FHA mortgage insurance requirements, including any requirements concerning closing costs (see §982.632(b) of this part regarding the applicability of FHA requirements to voucher homeownership assistance and §203.27 of this title regarding allowable fees, charges and discounts for FHA-insured mortgages).

*(b) Maximum down-payment grant.*

A down-payment assistance grant will not exceed twelve times the difference between the payment standard and the total tenant payment.

*(c) Payment of down-payment grant.*

The down-payment assistance grant shall be paid at the closing of the family's purchase of the home.

(d) *Administrative fee.*

For each down-payment assistance grant made by THHA, HUD will pay THHA a one-time administrative fee in accordance with §982.152(a)(1)(iii).

(e) *Return to tenant-based assistance.*

A family that has received a down-payment assistance grant will apply for and receive tenant-based rental assistance, in accordance with program requirements and THHA policies.

However, THHA will not commence tenant-based rental assistance for occupancy of the new unit so long as any member of the family owns any title or other interest in the home purchased with homeownership assistance.

Further, eighteen months will have passed since the family's receipt of the down-payment assistance grant.

## **Title 24: Housing and Urban Development**

### **PART 984—SECTION 8 AND PUBLIC HOUSING FAMILY SELF-SUFFICIENCY PROGRAM**

#### **Subpart A—General**

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#### **Subpart B—Program Development and Approval Procedures**

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#### **Subpart C—Program Operation**

- [§ 984.301 Program implementation.](#)
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#### **Subpart D—Reporting**

- [§ 984.401 Reporting.](#)

## **Subpart A —General**

### **§ 984.101 Purpose, scope, and applicability.**

(a) *Purpose.* (1) The purpose of the Family Self-Sufficiency (FSS) program is to promote the development of local strategies to coordinate the use of public housing assistance and housing assistance under the Section 8 rental certificate and rental voucher programs with public and private resources, to enable families eligible to receive assistance under these programs to achieve economic independence and self-sufficiency.

(2) The purpose of this part is to implement the policies and procedures applicable to operation of a local FSS program, as established under section 23 of the 1937 Act (42 U.S.C. 1437u), under HUD's rental voucher, rental certificate, and public housing programs.

(b) *Scope.*

(1) Each THHA that received funding for public housing units under the FY 1991 and FY 1992 FSS incentive award competitions will operate a public housing FSS program.

(2) Each THHA that received funding for Section 8 rental certificates or rental vouchers under the combined FY 1991/1992 FSS incentive award competition will operate a Section 8 FSS program.

(3) Unless THHA receives an exemption under §984.105:

(i) Each THHA for which HUD reserved funding (budget authority) for additional rental certificates or rental vouchers in FY 1993 through October 20, 1998 will operate a Section 8 FSS program.

(ii) Each THHA for which HUD reserved funding (budget authority) to acquire or construct additional public housing units in FY 1993 through October 20, 1998 will operate a public housing FSS program.

(c) *Applicability.*

This part applies to:

**(1) The public housing program, and**

**(2) The Section 8 certificate and voucher programs.**

### **§ 984.102 Program objectives.**

The objective of the FSS program is to reduce the dependency of low-income families on welfare assistance and on Section 8, public, or any Federal, State, or local rent or homeownership subsidies.

Under the FSS program, low-income families are provided opportunities for education, job training, counseling, and other forms of social service assistance, while living in assisted housing, so that they will obtain the education, employment, and business and social skills necessary to achieve self-sufficiency, as defined in §984.103 of this subpart A.

**The Department will measure the success of a local FSS program not only by the number of families who achieve self-sufficiency, but also by the number of FSS families who, as a result of participation in the program,**



**have family members who obtain their first job, or**  
**who obtain higher paying jobs; no longer need benefits received under one or more welfare programs;**  
**obtain a high school diploma or higher education degree; or**  
**accomplish similar goals that will assist the family in obtaining economic independence.**

### § 984.103 Definitions.

(a) The terms *1937 Act*, *Fair Market Rent*, *HUD*, *Public Housing*, *Public Housing Agency* (THHA), *Secretary*, and *Section 8*, as used in this part, are defined in part 5 of this title.

(b) As used in this part:

#### *Certification*

Means a **written assertion** based on supporting evidence, provided by the FSS family or THHA, as will be required under this part, and which:

(1) Shall be maintained by THHA in the case of the family's certification, or by HUD in the case of THHA's certification;

(2) Shall be made available for inspection by HUD, THHA, and the public, as appropriate; and

(3) Shall be deemed to be accurate for purposes of this part, unless the Secretary or THHA, as applicable, determines otherwise after inspecting the evidence and providing due notice and opportunity for comment.

#### *Chief executive officer (CEO).*

The CEO of a unit of general local government means the elected official or the legally designated official, who has the primary responsibility for the conduct of that entity's governmental affairs.

#### *Contract of participation*

Means a contract in a form approved by HUD, entered into between a participating family and a THHA 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 THHA and all members of the family who will participate in the FSS program, and which plans are attached to the contract of participation as exhibits.

#### *Earned income*

Means income or earnings included in annual income from wages, tips, salaries, other employee compensation, and self-employment.

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 THHA on behalf of a participating family.

*Effective date of contract of participation*

Means the first day of the month following the month in which the FSS family and THHA entered into the contract of participation.

*Eligible families means:*

(1) For the public housing FSS program, current residents of public housing.

Eligible families also include current residents of public housing who are participants in local public housing self-sufficiency programs; and

(2) For Section 8 FSS program, current Section 8 rental certificate or rental voucher program participants, including participants in the Project Self-Sufficiency or Operation Bootstrap or other local self-sufficiency programs.

*Enrollment*

Means the date that the FSS family entered into the contract of participation with THHA.

*Family Self-Sufficiency program or FSS program*

Means the program established by a THHA 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 1937 Act.

*FSS account*

Means the FSS escrow account authorized by section 23 of the 1937 Act, and as provided by §984.305 of this subpart A.

*FSS credit*

Means the amount credited by THHA to the participating family's FSS account.

*FSS family or participating family*

Means a family that resides in public housing or receives assistance under the rental certificate or 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 this §984.103.

*FSS slots*

Refer to the total number of public housing units or the total number of rental certificates or rental vouchers that comprise the minimum size of a THHA's respective public housing FSS program or Section 8 FSS program.

*Head of FSS family*

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

#### *Housing subsidies*

Means assistance to meet the costs and expenses of temporary shelter, rental housing or homeownership, including rent, mortgage or utility payments.

#### *Individual training and 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 THHA 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 will be signed by THHA and the participating family member, and is attached to, and incorporated as part of the contract of participation.

An individual training and services plan will be prepared for the head of the FSS family.

#### *JOBS Program*

Means the Job Opportunities and Basic Skills Training Program authorized under part F of title IV of the Social Security Act (42 U.S.C. 402(a)(19)).

#### *JTPA*

Means the Job Training Partnership Act (29 U.S.C. 1579(a)).

#### *Low-income family.*

Defined in part 5 of this title.

*Program Coordinating Committee or PCC* is the committee described in §984.202 of this part.

#### *Self-sufficiency*

Means that an FSS family is no longer receiving Section 8, public or Indian housing assistance, or any Federal, State, or local rent or homeownership subsidies or welfare assistance.

Achievement of self-sufficiency, although an FSS program objective, is **not** a condition for receipt of the FSS account funds. (See §984.305 of this part.)

#### *Supportive services*

Means those appropriate services that a THHA will make available, or cause to be made available to an FSS family under a contract of participation, and will include:

(1) *Child care*—child care of a type that provides sufficient hours of operation and serves an appropriate range of ages;

(2) *Transportation*—transportation necessary to enable a participating family to receive available services, or to commute to their places of employment;

(3) *Education*—remedial education; education for completion of secondary or post secondary schooling;

(4) *Employment*—job training, preparation, and counseling; job development and placement; and follow-up assistance after job placement and completion of the contract of participation;

(5) *Personal welfare*—substance/alcohol abuse treatment and counseling;

(6) *Household skills and management*—training in homemaking and parenting skills; household management; and money management;

(7) *Counseling*—counseling in the areas of:

(i) The responsibilities of homeownership;

(ii) Opportunities available for affordable rental and homeownership in the private housing market, including information on an individual's rights under the Fair Housing Act; and

(iii) Money management; and

(8) *Other services*—any other services and resources, including case management, reasonable accommodations for individuals with disabilities, that THHA will determine to be appropriate in assisting FSS families to achieve economic independence and self-sufficiency.

*Unit size or size of unit* refers to the number of bedrooms in a dwelling unit.

*Very low-income family.* See definitions in 24 CFR 813.102 and 913.102.

#### *Welfare assistance*

Means (for purposes of the FSS program only) income assistance from Federal or State welfare programs, and includes only cash maintenance payments designed to meet a family's ongoing basic needs.

Welfare assistance does **not** include:

(1) Non-recurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

- (3) Supportive services such as child care and transportation provided to families who are employed;
- (4) Refundable earned income tax credits;
- (5) Contributions to, and distributions from, Individual Development Accounts under TANF;
- (6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement and other employment-related services that do not provide basic income support;
- (7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of the Social Security Act, to an individual who is not otherwise receiving assistance;
- (8) Amounts solely directed to meeting housing expenses;
- (9) Amounts for health care;
- (10) Food stamps and emergency rental and utilities assistance; and
- 11) SSI, SSDI, or Social Security.

#### **§ 984.104 Basic requirements of the FSS program.**

An FSS program established under this part shall be operated in conformity with:

- (a) The regulations of this part, and for a Section 8 FSS program, the rental certificate and rental voucher regulations, codified in 24 CFR parts 882, 887, and 982 respectively, and, for a public housing FSS program, the applicable public housing regulations, including the regulations in 24 CFR parts 913, 960, and 966;
- (b) An Action Plan, as described in §984.201, and provide comprehensive supportive services as defined in §984.103; and
- (c) An FSS program established under this part shall be operated in compliance with the nondiscrimination and equal opportunity requirements set forth in 24 CFR part 5, with the exception of Executive Orders 11246, 11625, 12432, and 12138.

#### **§ 984.105 Minimum program size.**

(a) *FSS program size.*

(1) *Minimum program size requirement.*

THHA will operate an FSS program of the minimum program size determined in accordance with paragraph (b) of this section.

(2) *Exception or reduction of minimum program size*

Paragraph (c) of this section states when HUD will grant an exception to the minimum program size requirement, and paragraph (d) states when the minimum program size will be reduced.

(3) *Option to operate larger FSS program.*

THHA will choose to operate an FSS program of a larger size than the minimum.

(b) *How to determine FSS minimum program size.*

(1) *Public housing*

The minimum size of a THHA's public housing FSS program is equal to the number of public housing units specified below:

(i) The total number of public housing units reserved in FY 1993 through October 20, 1998; plus

(ii) The number of public housing units reserved in FY 1991 and FY 1992 under the FSS incentive award competitions; minus

(iii) The number of families that have graduated from THHA's public housing FSS program on or after October 21, 1998, by fulfilling their FSS contract of participation obligations.

(2) *Section 8.* The minimum size of a THHA's Section 8 FSS program is equal to the number of Section 8 certificate and voucher program units as calculated below:

(i) *Units included.*

(A) The number of rental certificates and rental voucher units reserved under the combined FY 1991/1992 FSS incentive award competition; plus

(B) The number of additional rental certificates and rental voucher units reserved in FY 1993 through October 20, 1998 (not including the renewal of funding for units previously reserved), minus such units that are excluded from minimum program size in accordance with paragraph (b)(2)(ii) of this section; minus

(C) The number of families who have graduated from THHA's Section 8 FSS program on or after October 21, 1998, by fulfilling their contract of participation obligations.

(ii) *Units excluded.*

When determining a THHA's minimum Section 8 FSS program size, funding reserved in FY 1993 through October 20, 1998 for the following program categories is excluded (except as provided in paragraph (b)(2)(ii)(B) of this section):

(A) Funding for families affected by termination, expiration or owner opt-out under Section 8 project-based programs;

(B) Funding for families affected by demolition or disposition of a public housing project or replacement of a public housing project;

(C) Funding for families affected by conversion of assistance from the Section 23 leased

(D) Funding for families affected by the sale of a HUD-owned project; and

(E) Funding for families affected by the prepayment of a mortgage or voluntary termination of mortgage insurance.

(3) *Maintaining minimum program size.*

The minimum program size for a THHA's public housing or Section 8 FSS program is reduced by one slot for each family that graduates from the FSS program by fulfilling its FSS contract of participation on or after October 21, 1998.

If an FSS slot is vacated by a family that has not completed its FSS contract of participation obligations, the slot will be filled by a replacement family which has been selected in accordance with the FSS family selection procedures set forth in §984.203.

(c) *Exception to program operation.*

(1) Upon approval by HUD, a THHA will not be required to establish and carry out a public housing or a Section 8 FSS program if THHA provides to HUD a certification, as defined in §984.103, that the establishment and operation of such an FSS program is not feasible because of local circumstances, which will include, but are not limited to:

(i) Lack of accessible supportive services funding, including lack of the availability of programs under JTPA or JOBS;

(ii) Lack of funding for reasonable administrative costs;

(iii) Lack of cooperation by other units of State or local government; or

(iv) Lack of interest in participating in the FSS program on the part of eligible families.

(2) An exception will not be granted if HUD determines that local circumstances do not preclude THHA from effectively operating an FSS program that is smaller than the minimum program size.

(d) *Reduction in program size.*

Upon approval by HUD, a THHA will be permitted to operate a public housing or a Section 8 FSS program that is smaller than the minimum program size if THHA provides to HUD a certification, as defined in §984.103, that the operation of an FSS program of the minimum program size is not feasible because of local circumstances, which will include, but are not limited to:

(1) Decrease in or lack of accessible supportive services, including decrease in the availability of programs under JTPA or JOBS;

(2) Decrease in or lack of funding for reasonable administrative costs;

(3) Decrease in or lack of cooperation by other units of State or local government;

(4) Decrease in or lack of interest in participating in the FSS program on the part of eligible families.

(e) *Expiration of exception.*

A full or partial exception to the FSS minimum program size requirement (approved by HUD in accordance with paragraph (c) or (d) of this section) expires three years from the date of HUD approval of the exception. If a THHA seeks to continue an exception after its expiration, THHA will submit a new request and a new certification to HUD for consideration.

(f) *Review of certification records.*

HUD reserves the right to examine, during its management review of THHA, or at any time, the documentation and data that a THHA relied on in certifying to the unfeasibility of its establishing and operating an FSS program, or of operating an FSS program of less than minimum program size.

## **Subpart B—Program Development and Approval Procedures**

### **§ 984.201 Action Plan.**

(a) *Requirement for Action Plan.*

THHA will have a HUD-approved Action Plan that complies with the requirements of this section before THHA implements an FSS program, whether the FSS program is a mandatory or voluntary program.

(b) *Development of Action Plan.*

The Action Plan shall be developed by THHA in consultation with the chief executive officer of the applicable unit of general local government, and the Program Coordinating Committee.

(c) *Plan submission—*

(1) *Initial submission—*

(i) *Mandatory program.*

Unless the dates stated in paragraph (c) of this section are extended by HUD for good cause, a THHA that is establishing its first FSS program will submit an Action Plan to HUD for approval within 90 days after THHA receives notice from HUD of:

(A) Approval of THHA's application for incentive award units; or

(B) Approval of other funding that establishes the obligation to operate an FSS program, if THHA did not receive FSS incentive award units.

(ii) *Voluntary program.*

THHA will submit its Action Plan and obtain HUD approval of the plan before THHA implements a voluntary FSS program, including a program that exceeds the minimum size for a mandatory program.

(2) *Revision.*

Following HUD's initial approval of the Action Plan, no further approval of the Action Plan is required unless THHA proposes to make policy changes to the Action Plan or increase the size of a voluntary program; or HUD requires other changes.

THHA will submit any changes to the Action Plan to HUD for approval.

(d) *Contents of Plan.*

The Action Plan shall describe the policies and procedures of THHA for operation of a local FSS program, and shall contain, at a minimum, the following information:



(1) *Family demographics.*

A description of the number, size, characteristics, and other demographics (including racial and ethnic data), and the supportive service needs of the families expected to participate in the FSS program;

(2) *Estimate of participating families.*

A description of the number of eligible FSS families who can reasonably be expected to receive supportive services under the FSS program, based on available and anticipated Federal, tribal, State, local, and private resources;

(3) *Eligible families from other self-sufficiency program.*

If applicable, the number of families, by program type, who are participating in Operation Bootstrap, Project Self-Sufficiency, or any other local self-sufficiency program who are expected to agree to execute an FSS contract of participation.

(4) *FSS family selection procedures.*

A statement indicating the procedures to be utilized to select families for participation in the FSS program, subject to the requirements governing the selection of FSS families, set forth in §984.203.

This statement will include a description of how THHA's selection procedures ensure that families will be selected without regard to race, color, religion, sex, handicap, familial status, or national origin.

(5) *Incentives to encourage participation—a description of the incentives that THHA intends to offer eligible families to encourage their participation in the FSS program (incentives plan).*

The incentives plan shall provide for the establishment of the FSS account in accordance with the requirements set forth in §984.305, and other incentives, if any, designed by THHA.

The incentives plan shall be part of the Action Plan.

(6) *Outreach efforts.* A description of:

(i) THHA's efforts, including notification and outreach efforts, to recruit FSS participants from among eligible families; and

(ii) THHA's actions to be taken to assure that both minority and non-minority groups are informed about the FSS program, and how THHA will make this information known.

(7) *FSS activities and supportive services.*

A description of the activities and supportive services to be provided by both public and private resources to FSS families, and identification of the public and private resources which are expected to provide the supportive services.

(8) *Method for identification of family support needs.*

A description of how the FSS program will identify the needs and deliver the services and activities according to the needs of the FSS families;

*(9) Program termination; withholding of services; and available grievance procedures.*

A description of THHA's policies concerning: terminating participation in the FSS program, withholding of supportive services, or terminating or withholding Section 8 assistance, on the basis of a family's failure to comply with the requirements of the contract of participation; and the grievance and hearing procedures available for FSS families.

*(10) Assurances of non-interference with rights of non-participating families.*

An assurance that a family's election not to participate in the FSS program will not affect the family's admission to public housing or to the Section 8 program or the family's right to occupancy in accordance with its lease.

*(11) Timetable for program implementation.*

A timetable for implementation of the FSS program, as provided in §984.301(a)(1), including the schedule for filling FSS slots with eligible FSS families, as provided in §984.301;

*(12) Certification of coordination.*

A certification that development of the services and activities under the FSS program has been coordinated with the JOBS Program; the programs provided under the JTPA; and any other relevant employment, child care, transportation, training, and education programs (e.g., Job Training for the Homeless Demonstration program) in the applicable area, and that implementation will continue to be coordinated, in order to avoid duplication of services and activities; and

*(13) Optional additional information.*

Such other information that would help HUD determine the soundness of THHA's proposed FSS program.

**§ 984.202 Program Coordinating Committee (PCC).**

*(a) General.*

Each participating THHA will establish a PCC whose functions will be to assist THHA in securing commitments of public and private resources for the operation of the FSS program within THHA's jurisdiction, including assistance in developing the Action Plan and in implementing the program.

*(b) Membership—*

*(1) Required membership.*

The PCC will:

(i) For a public housing FSS program, consist of representatives of THHA, and the residents of public housing.

The public housing resident representatives shall be solicited from one or more of the following groups:

(A) An area-wide or city-wide resident council, if one exists;

(B) If THHA will be transferring FSS participants to vacant units in a specific public housing development, the resident council or resident management corporation, if one exists, of the public housing development where the public housing FSS program is to be carried out;

(C) Any other public housing resident group, which THHA believes is interested in the FSS program, and would contribute to the development and implementation of the FSS program; and

(ii) For a Section 8 FSS program, consist of representatives of THHA, and of residents assisted under the section 8 rental certificate or rental voucher program or under HUD's public or Indian housing programs.

(2) *Recommended membership.*

Membership on the PCC also will include representatives of the unit of general local government served by THHA, local agencies (if any) responsible for carrying out JOBS training programs, or programs under the JTPA, and other organizations, such as other State, local or tribal welfare and employment agencies, public and private education or training institutions, child care providers, nonprofit service providers, private business, and any other public and private service providers with resources to assist the FSS program.

(c) *Alternative committee.*

THHA will, in consultation with the chief executive officer of the unit of general local government served by THHA, utilize an existing entity as the PCC if the membership of the existing entity consists or will consist of the individuals identified in paragraph (b)(1) of this section, and also includes individuals from the same or similar organizations identified in paragraph (b)(2) of this section.

**§ 984.203 FSS family selection procedures.**

(a) *Preference in the FSS selection process.*

THHA has the option of giving a selection preference for up to 50 percent of its public housing FSS slots and of its Section 8 FSS slots respectively to eligible families, as defined in §984.103, who have one or more family members currently enrolled in an FSS related service program or on the waiting list for such a program.

THHA will limit the selection preference given to participants in and applicants for FSS related service programs to one or more eligible FSS related service programs.

THHA chooses to exercise the selection preferences option and will include the following information in its Action Plan:

(1) The percentage of FSS slots, not to exceed 50 percent of the total number of FSS slots for each of its FSS programs, for which it will give a selection preference;

(2) The FSS related service programs to which it will give a selection preference to the programs' participants and applicants; and

(3) The method of outreach to, and selection of, families with one or more members participating in the identified programs.

*(b) FSS selection without preference.*

For those FSS slots for which THHA chooses not to exercise the selection preference provided in paragraph (a) of this section, the FSS slots will be filled with eligible families in accordance with an objective selection system, such as a lottery, the length of time living in subsidized housing, or the date the family expressed an interest in participating in the FSS program.

The objective system to be used by THHA will be described in THHA's Action Plan.

(c) *Motivation as a selection factor—*

(1) *General.*

THHA will screen families for interest, and motivation to participate in the FSS program, provided that the factors utilized by THHA are those which solely measure the family's interest, and motivation to participate in the FSS program.

(2) *Permissible motivational screening factors.*

Permitted motivational factors include requiring attendance at FSS orientation sessions or preselection interviews, and assigning certain tasks which indicate the family's willingness to undertake the obligations which will be imposed by the FSS contract of participation.

However, any tasks assigned shall be those which will be readily accomplishable by the family, based on the family members' educational level, and disabilities, if any.

Reasonable accommodations will be made for individuals with mobility, manual, sensory, speech impairments, mental or developmental disabilities.

(3) *Prohibited motivational screening factors*

Prohibited motivational screening factors include the family's educational level, educational or standardized motivational test results, previous job history or job performance, credit rating, marital status, number of children, or other factors, such as sensory or manual skills, and any factors which will result in discriminatory practices or treatment toward individuals with disabilities or minority or non-minority groups.

**§ 984.204 On-site facilities.**

Each THHA will, subject to the approval of HUD, make available and utilize common areas or unoccupied dwelling units in public housing projects to provide supportive services under an FSS program, including a Section 8 FSS program.

**Subpart C—Program Operation**

**§ 984.301 Program implementation.**

(a) *Program implementation deadline.*

(1) *Voluntary program.*

There is no deadline for implementation of a voluntary program.

A voluntary program, however, will not be implemented before the requirements of §984.201 have been satisfied.

(2) *Mandatory program—*

(i) *Program start-up.*

Except as provided in paragraph (a)(3) of this section, operation of a local FSS program will begin within 12 months of the earlier of notification to THHA of HUD's approval of the incentive award units or of other funding that establishes the obligation to operate an FSS program.

Operation means that activities such as outreach, participant selection, and enrollment have begun. Full delivery of the supportive services to be provided to the total number of families required to be served under the program need not occur within 12 months, but will occur by the deadline set forth in paragraph (a)(2) of this section.

(ii) *Full enrollment and delivery of service.*

Except as provided in paragraph (a)(3) of this section, THHA will have completed enrollment of the total number of families required to be served under the FSS program (based on the minimum program size), and will have begun delivery of the supportive services within two years from the date of notification of approval of the application for new public housing units for a public housing FSS program or for new rental certificates or rental vouchers for a Section 8 FSS program.

(iii) *Extension of program deadlines for good cause.*

HUD will extend the deadline set forth in either paragraph (a)(1) or paragraph (a)(2) of this section if THHA requests an extension, and HUD determines that, despite best efforts on the part of THHA, the development of new public housing units will not occur within the deadlines set forth in this paragraph (a), the commitment by public or private resources to deliver supportive services has been withdrawn, the delivery of such services has been delayed, or other local circumstances warrant an extension of the deadlines set forth in this paragraph (a).

(b) *Program administration.*

THHA will employ appropriate staff, including a service coordinator or program coordinator to administer its FSS program, and will contract with an appropriate organization to establish and administer the FSS program, including the FSS account, as provided by §984.305.

**§ 984.302 Administrative fees.**

(a) *Public housing FSS program.*

The performance funding system (PFS), provided under section 9(a) of the 1937 Act, shall provide for the inclusion of reasonable and eligible administrative costs incurred by THHA in carrying out the public housing FSS programs.

These costs are subject to appropriations by the Congress.

However, a THHA will use other resources for this purpose.

(b) *Section 8 FSS program.*

The administrative fees paid to THHAs for HUD-approved costs associated with operation of an FSS program are established by the Congress and subject to appropriations.

**§ 984.303 Contract of participation.**

(a) *General.*

Each family that is selected to participate in an FSS program will enter into a contract of participation with THHA that operates the FSS program in which the family will participate.

The contract of participation shall be signed by the head of the FSS family.

(b) *Form and content of contract—*

(1) *General.*

The contract of participation, which incorporates the individual training and services plan(s), shall be in the form prescribed by HUD, and shall set forth the principal terms and conditions governing participation in the FSS program, including the rights and responsibilities of the FSS family and of THHA, the services to be provided to, and the activities to be completed by, the head of the FSS family and each adult member of the family who elects to participate in the program.

(2) *Interim goals.*

The individual training and services plan, incorporated in the contract of participation, shall establish specific interim and final goals by which THHA, and the family, will measure the family's progress toward fulfilling its obligations under the contract of participation, and becoming self-sufficient.

For each participating FSS family that is a recipient of welfare assistance, THHA will establish as an interim goal that the family become independent from welfare assistance and remain independent from welfare assistance at least one year before the expiration of the term of the contract of participation, including any extension thereof.

(3) *Compliance with lease terms.*

The contract of participation shall provide that one of the obligations of the FSS family is to comply with the terms and conditions of the respective public housing lease or Section 8-assisted lease.

(4) *Employment obligation—*

(i) *Head of family's obligation.*

The head of the FSS family shall be required under the contract of participation to seek and maintain suitable employment during the term of the contract and any extension thereof.

Although other members of the FSS family will seek and maintain employment during the term of the contract, only the head of the FSS family is required to seek and maintain suitable employment.

(ii) *Seek employment.*

The obligation to seek employment means that the head of the FSS family has applied for employment, attended job interviews, and has otherwise followed through on employment opportunities.

(iii) *Determination of suitable employment.*

A determination of suitable employment shall be made by THHA based on the skills, education, and job training of the individual that has been designated the head of the FSS family, and based on the available job opportunities within the jurisdiction served by THHA.

(5) *Consequences of noncompliance with the contract.*

The contract of participation shall specify that if the FSS family fails to comply, without good cause, with the terms and conditions of the contract of participation, which includes compliance with the public housing lease or the Section 8-assisted lease, THHA will:

(i) Withhold the supportive services;

(ii) Terminate the family's participation in the FSS program; or

(iii) For the Section 8 FSS program, terminate or withhold the family's Section 8 assistance, except in the case where the only basis for noncompliance with the contract of participation is noncompliance with the lease, or failure to become independent from welfare assistance.

However, failure to become independent from welfare assistance because of failure of the head of household to meet the employment obligation described in paragraph (a)(4) of this section, or failure of the FSS family to meet any other obligation under the contract of participation, except the interim goal concerning welfare assistance, is grounds for THHA to terminate or withhold Section 8 assistance.

(c) *Contract term.*

The contract of participation shall provide that each FSS family will be required to fulfill those obligations to which the participating family has committed itself under the contract of participation no later than **5 years** after the effective date of the contract.

(d) *Contract extension.*

THHA shall, in writing, extend the term of the contract of participation for a period **not to exceed two years** for any FSS family that requests, in writing, an extension of the contract, provided that THHA finds that good cause exists for granting the extension.

The family's written request for an extension will include a description of the need for the extension.

As used in this paragraph (d), "good cause" means circumstances beyond the control of the FSS family, as determined by THHA, such as a serious illness or involuntary loss of employment.

Extension of the contract of participation will entitle the FSS family to continue to have amounts credited to the family's FSS account in accordance with §984.304.

(e) *Unavailability of supportive services—*

(1) *Good faith effort to replace unavailable services.*

If a social service agency fails to deliver the supportive services pledged under an FSS family member's individual training and services plan, THHA shall make a good faith effort to obtain these services from another agency.



*(2) Assessment of necessity of services.*

If THHA is unable to obtain the services from another agency, THHA shall reassess the family member's needs, and determine whether other available services would achieve the same purpose.

If other available services would not achieve the same purpose, THHA shall determine whether the unavailable services are integral to the FSS family's advancement or progress toward self-sufficiency.

If the unavailable services are:

(i) Determined not to be integral to the FSS family's advancement toward self-sufficiency, THHA shall revise the individual training and services plan to delete these services, and modify the contract of participation to remove any obligation on the part of the FSS family to accept the unavailable services, in accordance with paragraph (f) of this section; or

(ii) Determined to be integral to the FSS family's advancement toward self-sufficiency (which will be the case if the affected family member is the head of the FSS family), THHA shall declare the contract of participation null and void.

Nullification of the contract of participation on the basis of unavailability of supportive services shall not be grounds for termination of Section 8 assistance.

*(f) Modification.*

THHA and the FSS family will mutually agree to modify the contract of participation.

The contract of participation will be modified in writing with respect to the individual training and services plans, the contract term in accordance with paragraph (d) of this section, and designation of the head of the family.

*(g) Completion of the contract.*

The contract of participation is considered to be completed, and a family's participation in the FSS program is considered to be concluded when one of the following occurs:

(1) The FSS family has fulfilled all of its obligations under the contract of participation on or before the expiration of the contract term, including any extension thereof; or

(2) 30 percent of the monthly adjusted income of the FSS family equals or exceeds the published existing housing fair market rent for the size of the unit for which the FSS family qualifies based on THHA's occupancy standards. T

The contract of participation will be considered completed and the family's participation in the FSS program concluded on this basis even though the contract term, including any extension thereof, has not expired, and the family members who have individual training and services plans have not completed all the activities set forth in their plans.

(h) *Termination of the contract.*

The contract of participation is automatically terminated if the family's Section 8 assistance is terminated in accordance with HUD requirements.

The contract of participation will be terminated before the expiration of the contract term, and any extension thereof, by:

(1) Mutual consent of the parties;

(2) The failure of the FSS family to meet its obligations under the contract of participation without good cause, including in the Section 8 FSS program the failure to comply with the contract requirements because the family has moved outside the jurisdiction of THHA;

(3) The family's withdrawal from the FSS program;

(4) Such other act as is deemed inconsistent with the purpose of the FSS program; or

(5) Operation of law.

(i) *Option to terminate Section 8 housing and supportive service assistance.*

THHA **will terminate** or withhold Section 8 housing assistance, the supportive services, and the FSS family's participation in the FSS program, if THHA determines, in accordance with the hearing procedures provided in 24 CFR 982.555 that the FSS family has failed to comply without good cause with the requirements of the contract of participation as provided in paragraph (b)(5) of this section.

(j) *Transitional supportive service assistance.*

A THHA will continue to offer to a former FSS family who has completed its contract of participation and whose head of family is employed, appropriate FSS supportive services in becoming self-sufficient (if the family still resides in public housing, or Section 8-assisted housing), or in remaining self-sufficient (if the family no longer resides in public, Section 8-assisted housing, or other assisted housing).

**§ 984.304 Total tenant payment, family rent, and increases in family income.**

(1) *Public housing FSS program:*

*Calculation of total tenant payment.*

Total tenant payment for a family participating in the public housing FSS program is determined in accordance with the regulations set forth in 24 CFR part 913.

(2) *Section 8 FSS program*

*Calculation of family rent.*

For the rental voucher program, the housing assistance payment for a family participating in the FSS program is determined in accordance with the regulations set forth in 24 CFR §982.505.

(b) *Increases in FSS family income*

Any increase in the earned income of an FSS family during its participation in an FSS program will **not** be considered as income or a resource for purposes of eligibility of the FSS family for other benefits, or amount of benefits payable to the FSS family, under any other program administered by HUD, unless the income of the FSS family equals or exceeds 80 percent of the median income of the area (as determined by HUD, with adjustments for smaller and larger families).

**§ 984.305 FSS account.**

(a) *Establishment of FSS account—*

(1) *General.*

THHA shall deposit the FSS account funds of all families participating in THHA's FSS program into a single depository account.

THHA will deposit the FSS account funds in one or more of the HUD-approved investments.

(2) *Accounting for FSS account funds—*

(i) *Accounting records.*

The total of the combined FSS account funds will be supported in THHA accounting records by a subsidiary ledger showing the balance applicable to each FSS family.

During the term of the contract of participation, THHA shall credit periodically, but not less than annually, to each family's FSS account, the amount of the FSS credit determined in accordance with paragraph (b) of this section.

(ii) *Proration of investment income.*

The investment income for funds in the FSS account will be prorated and credited to each family's FSS account based on the balance in each family's FSS account at the end of the period for which the investment income is credited.

(iii) *Reduction of amounts due by FSS family.*

If the FSS family has not paid the family contribution towards rent, or other amounts, if any, due under the public housing or section 8-assisted lease, the balance in the family's FSS account shall be reduced by that amount (as reported by the owner to THHA in the Section 8 FSS program) before prorating the interest income.

If the FSS family has fraudulently under-reported income, the amount credited to the FSS account will be based on the income amounts originally reported by the FSS family.

(3) *Reporting on FSS account*

Each THHA will be required to make a report, at least once annually, to each FSS family on the status of the family's FSS account.

At a minimum, the report will include:

(i) The balance at the beginning of the reporting period;

(ii) The amount of the family's rent payment that was credited to the FSS account, during the reporting period;

(iii) Any deductions made from the account for amounts due THHA before interest is distributed;

(iv) The amount of interest earned on the account during the year; and

(v) The total in the account at the end of the reporting period.

(b) *FSS credit*—

(1) *Computation of amount.*

For purposes of determining the FSS credit, “family rent” is:

for the public housing program, the total tenant payment as defined in 24 CFR subpart F of 24 CFR part 5;

for the rental certificate program, the total tenant payment as defined in 24 CFR subpart F of 24 CFR part 5;

and for the rental voucher program, 30 percent of adjusted monthly income.

The FSS credit shall be computed as follows:

(i) For FSS families who are very low-income families, the FSS credit shall be the amount which is the lesser of:

(A) Thirty percent of current monthly adjusted income less the family rent, which is obtained by disregarding any increases in earned income (as defined in §984.103) from the effective date of the contract of participation; or

(B) The current family rent less the family rent at the time of the effective date of the contract of participation.

(ii) For FSS families who are low-income families but not very low-income families, the FSS credit shall be the amount determined according to paragraph (b)(1)(i) of this section, but which shall not exceed the amount computed for 50 percent of median income.

(2) *Ineligibility for FSS credit.*

FSS families who are not low-income families shall not be entitled to any FSS credit.

(3) *Cessation of FSS credit.*

THHA shall not make any additional credits to the FSS family's FSS account when the FSS family has completed the contract of participation, as defined in §984.303(g), or when the contract of participation is terminated or otherwise nullified.

(c) *Disbursement of FSS account funds—*

(1) *General.*

The amount in an FSS account, in excess of any amount owed to THHA by the FSS family, as provided in paragraph (a)(3)(iii) of this section, shall be paid to the head of the FSS family

when the contract of participation has been completed as provided in §984.303(g),

and if, at the time of contract completion, the head of the FSS family submits to THHA a certification, as defined in §984.103, that, to the best of his or her knowledge and belief, no member of the FSS family is a recipient of welfare assistance.

(2) *Disbursement before expiration of contract term.*

(i) If THHA determines that the FSS family has fulfilled its obligations under the contract of participation before the expiration of the contract term,

and the head of the FSS family submits a certification that, to the best of his or her knowledge, no member of the FSS family is a recipient of welfare assistance,

the amount in the family's FSS account, in excess of any amount owed to THHA by the FSS family, as provided in paragraph (a)(3)(iii) of this section, shall be paid to the head of the FSS family.

(ii) If THHA determines that the FSS family has fulfilled certain interim goals established in the contract of participation

and needs a portion of the FSS account funds for purposes consistent with the contract of participation, such as completion of higher education (i.e., college, graduate school), or job training, or to meet start-up expenses involved in creation of a small business,

THHA will, **at THHA's sole option**, disburse a portion of the funds from the family's FSS account to assist the family meet those expenses.

(3) *Verification of family certification.*

Before disbursement of the FSS account funds to the family, THHA will verify that the FSS family is no longer a recipient of welfare assistance by requesting copies of any documents which will indicate whether the family is receiving any welfare assistance, and contacting welfare agencies.

(d) *Succession to FSS account.*

If the head of the FSS family ceases to reside with other family members in the public housing or the Section 8-assisted unit,

the remaining members of the FSS family,

after consultation with THHA,

shall have the right to designate another family member to receive the funds in accordance with paragraph (c) (1) or (2) of this section.

(e) *Use of FSS account funds for homeownership.*

A public housing FSS family will use its FSS account funds for the purchase of a home, including the purchase of a home under one of HUD's homeownership programs, or other Federal, State, or local homeownership programs unless such use is prohibited by the statute or regulations governing the particular homeownership program.

*(f) Forfeiture of FSS account funds—*

*(1) Conditions for forfeiture.*

Amounts in the FSS account shall be forfeited upon the occurrence of the following:

(i) The contract of participation is terminated, as provided in §984.303(e) or §984.303(h); or

(ii) The contract of participation is completed by the family, as provided in §984.303(g), but the FSS family is receiving welfare assistance at the time of expiration of the term of the contract of participation, including any extension thereof.

*(2) Treatment of forfeited FSS account funds—*

*(i) Public housing FSS program.*

FSS account funds forfeited by the FSS family will be credited to THHA's operating reserves and counted as other income in the calculation of the PFS operating subsidy eligibility for the next budget year.

*(ii) Section 8 FSS program.*

FSS account funds forfeited by the FSS family will be treated as program receipts for payment of program expenses under THHA budget for the applicable Section 8 program, and shall be used in accordance with HUD requirements governing the use of program receipts.

**§ 984.306 Section 8 residency and portability requirements.**

**UNAVAILABLE DUE TO FUNDING SHORTFALLS**

**Subpart D—Reporting**  
**§ 984.401 Reporting.**

Each THHA that carries out an FSS program under this part shall submit to HUD, in the form prescribed by HUD, a report regarding its FSS program. The report shall include the following information:

- (a) A description of the activities carried out under the program;
- (b) A description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency;
- (c) A description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self-sufficiency; and
- (d) Any recommendations by THHA or the appropriate local program coordinating committee for legislative or administrative action that would improve the FSS program and ensure the effectiveness of the program.

# For General Reference Purposes by Staff and Commissioners and the General Public

## 24 CFR PART 5

### GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

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## Sub-Part A—Generally Applicable Definitions and Federal Requirements; Waivers

### § 5.100 Definitions.

The following definitions apply to this Part and also in other regulations, as noted:

*1937 Act* means the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*)

*ADA* means the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*).

*ALJ* means an administrative law judge appointed to HUD pursuant to 5 U.S.C. 3105 or detailed to HUD pursuant to 5 U.S.C. 3344.

*Covered person,* is for purposes of 24 CFR 5, sub-Part I, and Parts 966 and 982, means a tenant, any member of the tenant's household, a guest or another person under the tenant's control.

*Department* means the Department of Housing and Urban Development.

*Drug Substances Act* means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

*Drug-related criminal activity* means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

*Elderly Person* means an individual who is at least 62 years of age.

*Fair Housing Act* means title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 *et seq.*).

*Fair Market Rent (FMR)* means the rent that would be required to be paid in the Particular housing market area in order to obtain privately owned, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities.

Fair Market Rent includes utilities (except telephone).

Separate Fair Market Rents will be established by HUD for dwelling units of varying sizes (number of bedrooms) and will be published in the Federal Register in accordance with Part 888 of this title.

*Federally assisted housing* (for purposes of sub-Parts I and J of this Part) means housing assisted under any of the following programs:

(1) Public housing;

(2) Housing receiving project-based or tenant-based assistance under Section 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f);

(3) Housing that is assisted under section 202 of the Housing Act of 1959, as amended by section 801 of the National Affordable Housing Act (12 U.S.C. 1701q);

(4) Housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before the enactment of the National Affordable Housing Act;

(5) Housing that is assisted under section 811 of the National Affordable Housing Act (42 U.S.C. 8013);

(6) Housing financed by a loan or mortgage insured under section 221(d)(3) of the National Housing Act (12 U.S.C. 1715l(d)(3)) that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act (12 U.S.C. 1715l(d)(5));

(7) Housing insured, assisted, or held by HUD or by a State or local agency under section 236 of the National Housing Act (12 U.S.C. 1715z-1); or

(8) Housing assisted by the Rural Development Administration under section 514 or section 515 of the Housing Act of 1949 (42 U.S.C. 1483, 1484).

*General Counsel* means the General Counsel of HUD.

*Grantee* means the person or legal entity to which a grant is awarded and that is accountable for the use of the funds provided.

***Guest, only for purposes of 24 CFR Part 5, sub-Parts A and I, and Parts 882, 960, 966, and 982,***

***means 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 requirements of Parts 966 and 982 apply to a guest as so defined.**

*Household,* for purposes of 24 CFR Part 5, sub-Part I, and Parts, 960, 966, 882, and 982, means the family and THHA-approved live-in aide.

*HUD* means the same as *Department*.

*MSA* means a metropolitan statistical area.

*NAHA* means the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 *et seq.*).

*NEPA* means the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

*NOFA* means Notice of Funding Availability.

*OMB* means the Office of Management and Budget.

*Organizational Unit* means the jurisdictional area of each Assistant Secretary, and each office head or field administrator reporting directly to the Secretary.

***Other person under the tenant's control,*** for the purposes of the definition of *covered person* and for Parts 5, 882, 966, and 982 means

that the person, although not staying as a guest (as defined in this section) in the unit,

is or was, at the time of the activity in question,

on the premises (as *premises* is defined in this section)

because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

**Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the tenant's control.**

*Premises*, for purposes of 24 CFR Part 5, sub-Part I, and Parts 960 and 966, means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

*Public housing* means housing assisted under the 1937 Act, other than under Section 8. “Public housing” includes dwelling units in a mixed finance project that are assisted by a THHA with capital or operating assistance.

*Public Housing Agency (THHA)* means any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of this entity, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

*Responsible entity* means:

(1) For the public housing program,

the Section 8 tenant-based assistance program (Part 982 of this title),

and the Section 8 project-based certificate or voucher programs (Part 983 of this title),

and the Section 8 moderate rehabilitation program (Part 882 of this title),

responsible entity means THHA administering the program under an ACC with HUD;

(2) For all other Section 8 programs, responsible entity means the Section 8 project owner.

*Section 8* means section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

*Secretary* means the Secretary of Housing and Urban Development.

*URA* means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4201–4655).

*Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

## **§ 5.105 Other Federal requirements.**

The following Federal requirements apply as noted in the respective program regulations:

(a) *Nondiscrimination and equal opportunity.*

The Fair Housing Act (42 U.S.C. 3601–19) and implementing regulations at 24 CFR Part 100 *et seq.*; Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1959–1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing Programs) and implementing regulations at 24 CFR Part 107; title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations at 24 CFR Part 1; the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) and implementing regulations at 24 CFR Part 146; section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at Part 8 of this title; title II of the Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*; 24 CFR Part 8; section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR Part 135; Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR, 1964–1965 Comp., p. 339; 3 CFR, 1966–1970 Comp., p. 684; 3 CFR, 1966–1970 Comp., p. 803; 3 CFR, 1978 Comp., p. 230; and 3 CFR, 1978 Comp., p. 264, respectively) (Equal Employment Opportunity Programs) and implementing regulations at 41 CFR chapter 60; Executive Order 11625, as amended by Executive Order 12007 (3 CFR, 1971–1975 Comp., p. 616 and 3 CFR, 1977 Comp., p. 139) (Minority Business Enterprises); Executive Order 12432 (3 CFR, 1983 Comp., p. 198) (Minority Business Enterprise Development); and Executive Order 12138, as amended by Executive Order 12608 (3 CFR, 1977 Comp., p. 393 and 3 CFR, 1987 Comp., p. 245) (Women's Business Enterprise).

(b) *Disclosure requirements*

The disclosure requirements and prohibitions of 31 U.S.C. 1352 and implementing regulations at 24 CFR Part 87; and the requirements for funding competitions established by the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3531 *et seq.*).

(c) *Debarred, suspended or ineligible contractors.*

The prohibitions at 24 CFR Part 24 on the use of debarred, suspended or ineligible contractors.

(d) *Drug-Free Workplace.*

The Drug-Free Workplace Act of 1988 (41 U.S.C. 701 *et seq.*) and HUD's implementing regulations at 24 CFR Part 24.

[61 FR 5202, Feb. 9, 1996, as amended at 65 FR 16715, Mar. 29, 2000]

## **§ 5.107 Audit requirements for non-profit organizations.**

Non-profit organizations subject to regulations in the Part 200 and Part 800 series of title 24 of the CFR shall comply with the audit requirements of revised OMB Circular A–133, “Audits of States, Local Governments, and Non-profit Organizations” (see 24 CFR 84.26).

For HUD programs, a non-profit organization is the mortgagor or owner (as these terms are defined in the regulations in the Part 200 and Part 800 series) and not a related or affiliated organization or entity.

**§ 5.108 Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federally Funded Construction Projects.**

(a) *Purpose.* This section implements Executive Order 13202 (issued on February 17, 2001), as amended by Executive Order 13208 (issued on April 6, 2001), entitled “Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects.”

(b) *Definitions:*

For purposes of this section:

*Construction contract* means a contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property, including any subcontracts awarded pursuant to such a contract.

*Financial assistance* includes:

- (i) Grants, loans, and advances of federal funds; or
- (ii) Proceeds from loans guaranteed under section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et seq.*) and title VI of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*).

The term “financial assistance” does not include any other contract of insurance or guaranty.

*Labor organization* has the same meaning it has in 42 U.S.C. 2000e(d).

(c) *Neutrality towards government contractors' labor relations.*

To the extent permitted by law, the bid specifications, project agreements, or other controlling documents for a construction contract awarded on or after June 23, 2003, by a HUD grantee, recipient of financial assistance from HUD, or Party to a cooperative agreement with HUD, for a construction project (or a construction manager acting on their behalf) shall not:

- (1) Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations on the same or other related federally funded construction project; or
- (2) Otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories, or otherwise adhere to agreements with one or more labor organizations, on the same or other related federally funded construction project.

(d) *Exemptions—(1) Exemptions due to special circumstances.*

HUD will exempt a Particular construction project, construction contract, subcontract, grant, or cooperative agreement from any requirement of this section, if HUD determines that special circumstances require an exemption in order to avert an imminent threat to public health or safety or to serve the national security.

HUD will not base a finding of “special circumstances” on the possibility or presence of a labor dispute concerning the use of contractors or subcontractors who are non-signatories to, or



otherwise do not adhere to, agreements with one or more labor organizations, or concerning employees on the construction project who are not members of, or affiliated with, a labor organization.

*(2) Exemption of construction projects subject to project labor agreements entered into as of June 23, 2003.*

HUD will exempt a Particular construction project from any requirement of this section upon written request from the HUD grantee, recipient of financial assistance from HUD, or Party to a cooperative agreement with HUD (or a construction manager acting on their behalf), if HUD determines that:

(i) The HUD grantee, recipient of financial assistance from HUD, or Party to the cooperative agreement with HUD (or a construction manager acting on their behalf) issued, or was a Party to, as of June 23, 2003, bid specifications, project agreements, agreements with one or more labor organizations, or other controlling documents with respect to a Particular construction project, that contain any of the requirements or prohibitions contained in paragraph (c) of this section; and

(ii) One or more construction contracts subject to such requirements or prohibitions was awarded as of June 23, 2003.

*(e) Sanctions.*

If HUD determines that a HUD grantee, recipient of financial assistance from HUD, or Party to a cooperative agreement with HUD (or a construction manager acting on their behalf) performs in a manner contrary to the requirements of this section, HUD will take such action, consistent with law and regulations, as HUD determines appropriate.

*(f) Voluntarily entering into project labor agreements.*

Nothing in this section prohibits contractors or subcontractors from voluntarily entering into project labor agreements.

### **§ 5.109 Equal Participation of Religious Organizations in HUD Programs and Activities.**

*(a) Purpose.* Consistent with Executive Order 13279 (issued on December 12, 2002, 67 FR 77141, 3 CFR, 2002 Comp., p. 258), entitled “Equal Protection of the Laws for Faith-Based and Community Organizations,” this section describes HUD’s policy for the equal Participation of religious organizations in HUD’s programs and activities.

The equal Participation policies and requirements contained in this section are generally applicable to religious organizations in all HUD programs and activities.

More specific policies and requirements regarding the Participation of religious organizations in individual HUD programs will be provided in the regulations for those programs.

*(b) Equal Participation of religious organizations in HUD programs and activities.*

Religious organizations are eligible, on the same basis as any other organization, to Participate in HUD’s programs and activities.

Neither the Federal government, nor a State or local government, nor any other entity that administers any HUD program or activity shall discriminate against an organization on the basis of the organization's religious character or affiliation.

*(c) Inherently religious activities.*

Organizations that receive direct HUD funds under a HUD program or activity will **not** engage in inherently religious activities, such as worship, religious instruction, or proselytization, as Part of the programs or services funded under a HUD program or activity.

If an organization conducts such inherently religious activities, the inherently religious activities will be offered separately, in time or location, from the programs, activities, or services supported by direct HUD funds and Participation will be voluntary for the beneficiaries of the programs, activities or services provided under the HUD program.

*(d) Independence of religious organizations.*

A religious organization that Participates in a HUD program or activity will retain its independence from Federal, State, and local governments, and will continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not engage in any inherently religious activities, such as worship, religious instruction, or proselytization as Part of the programs or services supported by direct HUD funds.

Among other things, religious organizations will use space in their facilities to provide services under a HUD program without removing religious art, icons, scriptures, or other religious symbols.

In addition, a religious organization participating in a HUD program retains its authority over its internal governance, and it will retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

*(e) Exemption from Title VII employment discrimination requirements.*

A religious organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, set forth in section 702(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-1), is not forfeited when the organization Participates in a HUD program.

Some HUD programs, however, contain independent statutory provisions that impose certain nondiscrimination requirements on all grantees.

Accordingly, grantees should consult with the appropriate HUD program office to determine the scope of applicable requirements.

*(f) Nondiscrimination requirements.*

An organization that receives direct HUD funds shall **not**, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

*(g) Acquisition, construction, and rehabilitation of structures.*

HUD funds will not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities.

HUD funds will be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under a HUD program or activity.

Where a structure is used for both eligible and inherently religious activities, HUD funds will not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to the HUD program or activity.

Sanctuaries, chapels, and other rooms that a HUD-funded religious congregation uses as its principal place of worship, however, are **ineligible** for HUD-funded improvements.

Disposition of real property after use for the authorized purpose, or any change in use of the property from the authorized purpose, is subject to government wide regulations governing real property disposition (*see, e.g.*, 24 CFR Parts 84 and 85).

*(h) Commingling of Federal and State and local funds.*

If a state or local government voluntarily contributes its own funds to supplement Federally funded activities, the State or local government has the option to segregate the Federal funds or commingle them.

However, if the funds are commingled, the requirements of this section apply to all of the commingled funds.

Further, if a State or local government is required to contribute matching funds to supplement a Federally funded activity, the matching funds are considered commingled with the Federal assistance and therefore subject to the requirements of this section.

Some HUD programs' requirements govern any project or activity assisted under those programs.

Accordingly, grantees should consult with the appropriate HUD program office to determine the scope of applicable requirements.

**§ 5.110 Waivers.**

Upon determination of good cause, the Secretary will, subject to statutory limitations, waive any provision of this title and delegate this authority in accordance with section 106 of the DePartment of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3535(q)).

## Sub-Part B—Disclosure and Verification of Social Security Numbers and Employer Identification Numbers; Procedures for Obtaining Income Information

### **§ 5.210 Purpose, applicability, and Federal preemption.**

#### *(a) Purpose.*

This sub-Part B requires applicants for and Participants in covered HUD programs to disclose, and submit documentation to verify, their Social Security Numbers (SSNs).

This sub-Part B also enables HUD and THHAs to obtain income information about applicants and Participants in the covered programs through computer matches with State Wage Information Collection Agencies (SWICAs) and Federal agencies, in order to verify an applicant's or Participant's eligibility for or level of assistance.

The purpose of this sub-Part B is to enable HUD to decrease the incidence of fraud, waste, and abuse in the covered programs.

#### *(b) Applicability.*

(1) This sub-Part B applies to mortgage and loan insurance and coinsurance and housing assistance programs contained in chapter II, subchapter B, and chapters VIII and IX of this title.

(2) The information covered by consent forms described in this sub-Part involves income information from SWICAs, and wages, net earnings from self-employment, payments of retirement income, and unearned income as referenced at 26 U.S.C. 6103.

In addition, consent forms will authorize the collection of other information from applicants and Participants to determine eligibility or level of benefits.

#### *(c) Federal preemption.*

This sub-Part B preempts any State law, including restrictions and penalties, that governs the collection and use of income information to the extent State law is inconsistent with this sub-Part.

[61 FR 11113, Mar. 18, 1996, as amended at 65 FR 16715, Mar. 29, 2000]

### **§ 5.212 Compliance with the Privacy Act and other requirements.**

#### *(a) Compliance with the Privacy Act.*

The collection, maintenance, use, and dissemination of SSNs, EINs, any information derived from SSNs and Employer Identification Numbers (EINs), and income information under this sub-Part shall be conducted, to the extent applicable, in compliance with the Privacy Act (5 U.S.C. 552a) and all other provisions of Federal, State, and local law.

#### *(b) Privacy Act notice.*

All assistance applicants shall be provided with a Privacy Act notice at the time of application.

All Participants shall be provided with a Privacy Act notice at each annual income recertification.

## **§ 5.214 Definitions.**

In addition to the definitions in §5.100, the following definitions apply to this sub-Part B:

*Assistance applicant.*

Except as excluded pursuant to 42 U.S.C. 3543(b) and 3544(a)(2), this term means the following:

(1) For any program under 24 CFR Parts 215, 221, 236, 290, or 891, or any program under Section 8 of the 1937 Act: A family or individual that seeks rental assistance under the program.

(2) For the public housing program: A family or individual that seeks admission to the program.

(3) For any program under 24 CFR Part 235: A homeowner or cooperative member seeking homeownership assistance (including where the individual seeks to assume an existing mortgage).

*Computer match* means the automated comparison of data bases containing records about individuals.

*Computer matching agreement* means the agreement that describes the responsibilities and obligations of the Parties Participating in a computer match.

*Consent form* means any consent form approved by HUD

to be signed by assistance applicants and Participants

for the purpose of obtaining income information

from employers and SWICAs;

from the Social Security Administration (including wages, net earnings from self-employment, and payments of retirement income), as referenced at 26 U.S.C. 6103(l)(7)(A);

and for unearned income from the Internal Revenue Service, as referenced at 26 U.S.C. 6103(l)(7)(B).

The consent forms expire after a certain time and will authorize the collection of other information from assistance applicants or Participants to determine eligibility or level of benefits as provided in §§813.109, 913.109, and 950.315 of this title.

*Employer Identification Number (EIN)* means the nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, Partnership, association, company, or corporation pursuant to sections 6011(b), or corresponding provisions of prior law, or 6109 of the Internal Revenue Code.

*Entity applicant.*

(1) Except as excluded pursuant to 42 U.S.C. 3543(b), 3544(a)(2), and paragraph (2) of this definition, this term means a Partnership, corporation, or any other association or entity, other than an individual owner applicant, that seeks to Participate as a private owner in any of the following:

(i) The project-based assistance programs under Section 8 of the 1937 Act;

(ii) The programs in 24 CFR Parts 215, 221, or 236; or

(iii) The other mortgage and loan insurance programs in 24 CFR Parts 201 through 267, except that the term “entity applicant” does not include a mortgagee or lender.

(2) The term does not include a public entity, such as a THHA, IHA, or State Housing Finance Agency.

*Federal agency* means a department of the executive branch of the Federal Government.

*Income information* means information relating to an individual's income, including:

(1) All employment income information known to current or previous employers or other income sources that HUD or the processing entity determines is necessary for purposes of determining an assistance applicant's or Participant's eligibility for, or level of assistance in, a covered program;

(2) All information about wages, as defined in the State's unemployment compensation law, including any Social Security Number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, Employer Identification Number of an employer reporting wages under a State unemployment compensation law;

(3) With respect to unemployment compensation:

(i) Whether an individual is receiving, has received, or has applied for unemployment compensation;

(ii) The amount of unemployment compensation the individual is receiving or is entitled to receive; and

(iii) The period with respect to which the individual actually received such compensation;

(4) Unearned IRS income and self-employment, wages and retirement income as described in the Internal Revenue Code, 26 U.S.C. 6103(l)(7); and

(5) Wage, social security (Title II), and supplemental security income (Title XVI) data obtained from the Social Security Administration.

*Individual owner applicant.*

Except as excluded pursuant to 42 U.S.C. 3543(b), 3544(a)(2), or paragraph (2) of this definition, this term means:

(1) An individual who seeks to participate as a private owner in any of:

(i) The project-based assistance programs under Section 8 of the 1937 Act; or

(ii) The programs in 24 CFR Parts 215, 221, 235 (without homeownership assistance), or 236, including where the individual seeks to assume an existing mortgage; or

(2) An individual who:

(i) Either:

(A) Applies for a mortgage or loan insured or coinsured under any of the programs referred to in paragraph (1)(iii) of the definition of “entity applicant” in this section; or

(B) Seeks to assume an existing mortgage or loan; and

(ii) Intends to hold the mortgaged property in his or her individual right.

*IRS* means the Internal Revenue Service.

*Owner* means the person or entity (or employee of an owner) that leases an assisted dwelling unit to an eligible family and includes, when applicable, a mortgagee.

*Participant.* Except as excluded pursuant to 42 U.S.C. 3543(b) and 3544(a)(2), this term has the following meaning:

(1) For any program under 24 CFR Part 891, or Section 8 of the 1937 Act: A family receiving rental assistance under the program;

(2) For the public housing program: A family or individual that is assisted under the program;

(3) For 24 CFR Parts 215, 221, 236, and 290: A tenant or qualified tenant under any of the programs; and

(4) For 24 CFR Part 235: A homeowner or a cooperative member receiving homeownership assistance.

*Processing entity* means the person or entity that, under any of the programs covered under this sub-Part B, is responsible for making eligibility and related determinations and an income reexamination.

(In the Section 8 and public housing programs, the “processing entity” is the “responsible entity” as defined in §5.100.)

*Social Security Number (SSN)* means the nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration.

The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

*SSA* means the Social Security Administration.

*State Wage Information Collection Agency (SWICA)* means the State agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the State, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

## **Disclosure and Verification of Social Security Numbers and Employer Identification Numbers for Applicants and Participants in Certain HUD Programs**

### **§ 5.216 Disclosure and verification of Social Security and Employer Identification Numbers.**

(a) *Disclosure: assistance applicants.*

Each assistance applicant will submit the following information to the processing entity when the assistant applicant's eligibility under the program involved is being determined:

(1) (i) The complete and accurate SSN assigned to the assistant applicant and to each member of the assistant applicant's household who is at least six years of age; and

(ii) The documentation referred to in paragraph (f)(1) of this section to verify each such SSN; or

(2) If the assistance applicant or any member of the assistance applicant's household who is at least six years of age has not been assigned an SSN, a certification executed by the individual involved that meets the requirements of paragraph (j) of this section.

(b) *Disclosure: individual owner applicants.*

Each individual owner applicant will submit the following information to the processing entity when the individual owner applicant's eligibility under the program involved is being determined:

(1) (i) The complete and accurate SSNs assigned to the individual owner applicant and to each member of the individual owner applicant's household who will be obligated to pay the debt evidenced by the mortgage or loan documents; and

(ii) The documentation referred to in paragraph (f)(1) of this section to verify the SSNs; or

(2) If any person referred to in paragraph (b)(1)(i) of this section has not been assigned an SSN, a certification executed by the individual involved that meets the requirements of paragraph (j) of this section.

(c) *Disclosure: certain officials of entity applicants.*

As explained more fully in HUD administrative instructions, each officer, director, principal stockholder, or other official of an entity applicant will submit the following information to the processing entity when the entity applicant's eligibility under the program involved is being determined:

(1) The complete and accurate SSN assigned to each such individual; and

(2) The documentation referred to in paragraph (f)(1) of this section to verify each SSN.



(d) *Disclosure: Participants—*

(1) *Initial disclosure.* Each Participant whose initial determination of eligibility under the program involved was begun before November 6, 1989, will submit the following information to the processing entity at the next regularly scheduled income reexamination for the program involved:

(i) (A) The complete and accurate SSN assigned to the Participant and to each member of the Participant's family who is at least six years of age; and

(B) The documentation referred to in paragraph (f)(1) of this section to verify each such SSN; or

(ii) If the Participant or any member of the Participant's household who is at least six years of age has not been assigned an SSN, a certification executed by the individual(s) involved that meets the requirements of paragraph (j) of this section.

(2) *Subsequent disclosure.*

Once a Participant has disclosed and verified every SSN, or submitted any certification that an SSN has not been assigned, as provided by paragraph (a) of this section (for an assistance applicant) or paragraph (d)(1) (for a preexisting Participant) of this section, the following rules apply:

(i) If the Participant's household adds a new member who is at least six years of age, the Participant will submit to the processing entity, at the next interim or regularly scheduled income reexamination that includes the new members:

(A) The complete and accurate SSNs assigned to each new member and the documentation referred to in paragraph (f)(1) of this section to verify the SSNs for each new member; or

(B) If the new member has not been assigned an SSN, a certification executed by the individual involved that meets the requirements of paragraph (j) of this section.

(ii) If the Participant or any member of the Participant's household who is at least six years of age obtains a previously undisclosed SSN, or has been assigned a new SSN, the Participant will submit the following to the processing entity at the next regularly scheduled income reexamination:

(A) The complete and accurate SSN assigned to the Participant or household member involved; and

(B) The documentation referred to in paragraph (f)(1) of this section to verify the SSN of each such individual.

(iii) Additional SSN disclosure and verification requirements, including the nature of the disclosure and the verification required and the time and manner for making the disclosure and verification, will be specified in administrative instructions by:

(A) HUD; and

(B) In the case of the public housing program or the programs under Parts 882 and 887 of this title, THHA.

*(e) Disclosure: entity applicants.*

Each entity applicant will submit the following information to the processing entity when the entity applicant's eligibility under the program involved is being determined:

- (1) Any complete and accurate EIN assigned to the entity applicant; and
- (2) The documentation referred to in paragraph (f)(2) of this section to verify the EIN.

*(f) Required documentation—*

(1) *Social Security Numbers.* The documentation necessary to verify the SSN of an individual who is required to disclose his or her SSN under paragraphs (a) through (d) of this section is a valid SSN card issued by the SSA, or such other evidence of the SSN as HUD and, where applicable, THHA will prescribe in administrative instructions.

(2) *Employer Identification Numbers.* The documentation necessary to verify any EIN of an entity applicant that is required to disclose its EIN under paragraph (e) of this section is the official, written communication from the IRS assigning the EIN to the entity applicant, or such other evidence of the EIN as HUD will prescribe in administrative instructions.

*(g) Special documentation rules for assistance applicants and Participants—*

*(1) Certification of inability to meet documentation requirements.*

If an individual who is required to disclose his or her SSN under paragraph (a) (assistance applicants) of this section or paragraph (d) (Participants) of this section is able to disclose the SSN, but cannot meet the documentation requirements of paragraph (f)(1) of this section, the assistance applicant or Participant will submit to the processing entity the individual's SSN and a certification executed by the individual that the SSN submitted has been assigned to the individual, but that acceptable documentation to verify the SSN cannot be provided.

*(2) Acceptance or certification by processing entity.*

Except as provided by paragraph (h) of this section, the processing entity will accept the certification referred to in paragraph (g)(1) of this section and continue to process the assistance applicant's or Participant's eligibility to Participate in the program involved.

*(3) Effect on assistance applicants.*

If the processing entity determines that the assistance applicant is otherwise eligible to Participate in the program, the assistance applicant will not become a Participant in the program, unless it submits to the processing entity the documentation required under paragraph (f)(1) of this section within the time period specified in paragraph (g)(5) of this section.

During such period, the assistance applicant will retain the position that it occupied in the program at the time the determination of eligibility was made, including its place on any waiting list maintained for the program, if applicable.

*(4) Effect on Participants.*

If the processing entity determines that the Participant otherwise continues to be eligible to Participate in the program, Participation will continue, provided that the Participant submits to the processing entity the documentation required under paragraph (f)(1) of this section within the time period specified in paragraph (g)(5) of this section.

*(5) Time for submitting documentation.*

The time period referred to in paragraphs (g)(4) and (5) of this section is 60 calendar days from the date on which the certification referred to in paragraph (g)(1) of this section is executed, except that the processing entity will, in its discretion, extend this period for up to an additional 60 days if the individual is at least 62 years of age and is unable to submit the required documentation within the initial 60-day period.

*(h) Rejection of documentation or certification.*

The processing entity will reject documentation referred to in paragraph (f) of this section, or a certification provided under paragraphs (a)(2), (b)(2), (d), or (g)(1) of this section, only for such reasons as HUD and THHA will prescribe in applicable administrative instructions.

*(i) Information on SSNs and EINs.*

(1) Information regarding SSNs and SSN cards will be obtained by contacting the local SSA Office or consulting the SSA regulations at 20 CFR chapter III (see, Particularly, Part 422).

(2) Information regarding EINs will be obtained by contacting the local office of the IRS or consulting the appropriate regulations for the IRS.

*(j) Form and manner of certifications.*

The certifications referred to in paragraphs (a)(2), (b)(2), (d), and (g)(1) of this section will be in the form and manner that HUD and THHA prescribe in applicable administrative instructions. If an individual who is required to execute a certification is less than 18 years of age, the certification will be executed by his or her parent or guardian or, in accordance with administrative instructions, by the individual or another person.

**§ 5.218 Penalties for failing to disclose and verify Social Security and Employer Identification Numbers.**

*(a) Denial of eligibility: assistance applicants and individual owner applicants.*

The processing entity will deny the eligibility of an assistance applicant or individual owner applicant in accordance with the provisions governing the program involved, if the assistance or individual owner applicant does not meet the applicable SSN disclosure, documentation and verification, and certification requirements specified in §5.216.

*(b) Denial of eligibility: entity applicants.*

The processing entity will deny the eligibility of an entity applicant in accordance with the provisions governing the program involved; if:

(1) The entity applicant does not meet the applicable EIN disclosure and verification requirements specified in §5.216; or

2) Any of the officials of the entity applicant referred to in §5.216(c) does not meet the applicable SSN disclosure, and documentation and verification requirements specified in §5.216.

(c) *Termination of assistance or tenancy: Participants.*

The processing entity will terminate the assistance or tenancy, or both, of a Participant, in accordance with the provisions governing the program involved, if the Participant does not meet the applicable SSN disclosure, documentation and verification, and certification requirements specified in §5.216.

(d) *Cross reference.*

Individuals should consult the regulations and administrative instructions for the programs covered under this sub-Part B for further information on the use of SSNs and EINs in determinations regarding eligibility.

## **Procedures for Obtaining Income Information About Applicants and Participants**

### **§ 5.230 Consent by assistance applicants and Participants.**

(a) *Required consent by assistance applicants and Participants.*

Each member of the family of an assistance applicant or participant who is at least 18 years of age, and each family head and spouse regardless of age, shall sign one or more consent forms.

(b) *Consent authorization—*

(1) *To whom and when.*

The assistance applicant shall submit the signed consent forms to the processing entity when eligibility under a covered program is being determined.

A participant shall sign and submit consent forms at the next regularly scheduled income reexamination.

Assistance applicants and participants shall be responsible for the signing and submitting of consent forms by each applicable family member.

2) *Subsequent consent forms—special cases.*

Participants are required to sign and submit consent forms at the next interim or regularly scheduled income reexamination under the following circumstances:

- (i) When any person 18 years or older becomes a member of the family;
- (ii) When a member of the family turns 18 years of age; and
- (iii) As required by HUD or THHA in administrative instructions.

(c) *Consent form—contents.*

The consent form required by this section shall contain, at a minimum, the following:

(1) A provision authorizing HUD and THHAs to obtain from SWICAs any information or materials necessary to complete or verify the application for Participation and to maintain continued assistance under a covered program; and

(2) A provision authorizing HUD, THHA, or the owner responsible for determining eligibility for or the level of assistance to verify with previous or current employers income information pertinent to the assistance applicant's or Participant's eligibility for or level of assistance under a covered program;

(3) A provision authorizing HUD to request income return information from the IRS and the SSA for the sole purpose of verifying income information pertinent to the assistance applicant's or Participant's eligibility or level of benefits; and

(4) A statement that the authorization to release the information requested by the consent form expires 15 months after the date the consent form is signed.

### **§ 5.232 Penalties for failing to sign consent forms.**

(a) *Denial or termination of benefits.*

In accordance with the provisions governing the program involved, if the assistance applicant or Participant, or any member of the assistance applicant's or Participant's family, does not sign and submit the consent form as required in §5.230, then:

(1) The processing entity shall deny assistance to and admission of an assistance applicant;

(2) Assistance to, and the tenancy of, a Participant will be terminated.

(b) *Cross references.*

Individuals should consult the regulations and administrative instructions for the programs covered under this sub-Part B for further information on the use of income information in determinations regarding eligibility.

### **§ 5.234 Requests for information from SWICAs and Federal agencies; restrictions on use.**

(a) *Information available from SWICAs and Federal agencies—to whom and what.*

Income information will generally be obtained through computer matching agreements between HUD and a SWICA or Federal agency, or between a THHA and a SWICA, as described in paragraph (c) of this section.

Certification that the applicable assistance applicants and Participants have signed appropriate consent forms and have received the necessary Privacy Act notice is required, as follows:

(1) When HUD requests the computer match, the processing entity shall certify to HUD; and

(2) When THHA requests the computer match, THHA shall certify to the SWICA.

(b) *Restrictions on use of information.*

The restrictions of 42 U.S.C. 3544(c)(2)(A) apply to the use by HUD or a THHA of income information obtained from a SWICA. The restrictions of 42 U.S.C. 3544(c)(2)(A) and of 26 U.S.C. 6103(l)(7) apply to the use by HUD or a THHA of income information obtained from the IRS or SSA.

(c) *Computer matching agreements.*

Computer matching agreements shall specify the purpose and the legal authority for the match, and shall include

- a description of the records to be matched,
- a statement regarding disposition of information generated through the match,
- a description of the administrative and technical safeguards to be used in protecting the information obtained through the match,
- a description of the use of records, the restrictions on duplication and re-disclosure,
- a certification,
- and the amount that will be charged for processing a request.

**§ 5.236 Procedures for termination, denial, suspension, or reduction of assistance based on information obtained from a SWICA or Federal agency.**

(a) *Termination, denial, suspension, or reduction of assistance.*

The provisions of 42 U.S.C. 3544(c)(2)(B) and (C) shall govern the termination, denial, suspension, or reduction of benefits for an assistance applicant or Participant based on income information obtained from a SWICA or a Federal agency. Procedures necessary to comply with these provisions are provided in paragraph (b) of this section.

(b) *Procedures for independent verification.*

(1) Any determination or re-determination of family income verified in accordance with this paragraph will be carried out in accordance with the requirements and procedures applicable to the individual covered program. Independent verification of information obtained from a SWICA or a Federal agency will be:

- (i) By HUD;
- (ii) In the case of the public housing program, by a THHA; or
- (iii) In the case of any Section 8 program, by a THHA acting as contract administrator under an ACC.

(2) Upon receiving income information from a SWICA or a Federal agency, HUD or, when applicable, THHA shall compare the information with the information about a family's income that was:

- (i) Provided by the assistance applicant or Participant to THHA; or
- (ii) Obtained by the owner (or mortgagee, as applicable) from the assistance applicant or Participant or from his or her employer.

(3) When the income information reveals an employer or other income source that was not disclosed by the assistance applicant or Participant, or when the income information differs substantially from the information received from the assistance applicant or Participant or from his or her employer:

(i) HUD or, as applicable or directed by HUD, THHA shall request the undisclosed employer or other income source to furnish any information necessary to establish an assistance applicant's or Participant's eligibility for or level of assistance in a covered program. This information shall be furnished in writing, as directed to:

(A) HUD, with respect to programs under Parts 215, 221, 235, 236, or 290 of this title;

(B) The responsible entity (as defined in §5.100) in the case of the public housing program or any Section 8 program.

(C) The owner or mortgagee, as applicable, with respect to the rent supplement, Section 221(d)(3) BMIR, Section 235 homeownership assistance, or Section 236 programs.

(ii) HUD or THHA will verify the income information directly with an assistance applicant or Participant. Such verification procedures shall not include any disclosure of income information prohibited under paragraph (b)(6) of this section.

(4) HUD and THHA shall not be required to pursue these verification procedures when the sums of money at issue are too small to raise an inference of fraud or justify the expense of independent verification and the procedures related to termination, denial, suspension, or reduction of assistance.

(5) Based on the income information received from a SWICA or Federal agency, HUD or THHA, as appropriate, will inform an owner (or mortgagee) that an assistance applicant's or Participant's eligibility for or level of assistance is uncertain and needs to be verified.

The owner (or mortgagee) shall then confirm the assistance applicant's or Participant's income information by checking the accuracy of the information with the employer or other income source, or directly with the family.

(6) Nondisclosure of Income information. Neither HUD nor THHA will disclose income information obtained from a SWICA directly to an owner (unless a THHA is the owner).

Disclosure of income information obtained from the SSA or IRS is restricted under 26 U.S.C. §6103(l)(7) and 42 U.S.C. 3544.

(c) *Opportunity to contest.*

HUD, THHA, or the owner (or mortgagee, as applicable) shall promptly notify any assistance applicant or Participant in writing of any adverse findings made on the basis of the information verified in accordance with paragraph (b) of this section.

The assistance applicant or Participant will contest the findings in the same manner as applies to other information and findings relating to eligibility factors under the applicable program.

Termination, denial, suspension, or reduction of assistance shall be carried out in accordance with requirements and procedures applicable to the individual covered program, and shall not occur until the expiration of any notice period provided by the statute or regulations governing the program.



### **§ 5.238 Criminal and civil penalties.**

Persons who violate the provisions of 42 U.S.C. 3544 or 26 U.S.C. 6103(l)(7) with respect to the use and disclosure of income information will be subject to civil or criminal penalties under 42 U.S.C. 3544(c)(3), 26 U.S.C. 7213(a), or 18 U.S.C. 1905.

### **§ 5.240 Family disclosure of income information to the responsible entity and verification.**

(a) This section applies to families that reside in dwelling units with assistance under the public housing program, the Section 8 tenant-based assistance programs, or for which project-based assistance is provided under the Section 8, Section 202, or Section 811 program.

(b) The family will promptly furnish to the responsible entity any letter or other notice by HUD to a member of the family that provides information concerning the amount or verification of family income.

(c) The responsible entity will verify the accuracy of the income information received from the family, and change the amount of the total tenant payment, tenant rent or Section 8 housing assistance payment, or terminate assistance, as appropriate, based on such information.

## **Sub-Part C—Pet Ownership for the Elderly or Persons with Disabilities**

### **General Requirements**

#### **§ 5.300 Purpose.**

(a) This sub-Part implements section 227 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701r-1) as it pertains to projects for the elderly or persons with disabilities under:

(1) The housing programs administered by the Assistant Secretary for Housing-Federal Housing Commissioner;

(2) Projects assisted under the programs contained in chapter VIII of this title 24; and

(3) The public housing program.

(b) [Reserved]

#### **§ 5.303 Exclusion for animals that assist persons with disabilities.**

(a) **This sub-Part C does not apply to animals that are used to assist persons with disabilities.**

**Project owners and THHAs will not apply or enforce any pet rules developed under this sub-Part against individuals with animals that are used to assist persons with disabilities.**

This exclusion applies to animals that reside in projects for the elderly or persons with disabilities, as well as to animals that visit these projects.

(1) A project owner will require resident animals to qualify for this exclusion. Project owners will grant this exclusion if:

(i) The tenant or prospective tenant certifies in writing that the tenant or a member of his or her family is a person with a disability;

(ii) The animal has been trained to assist persons with that specific disability; and

(iii) The animal actually assists the person with a disability.

(2) [Reserved]

(b) Nothing in this sub-Part C:

(1) Limits or impairs the rights of persons with disabilities;

(2) Authorizes project owners or THHAs to limit or impair the rights of persons with disabilities;

or

(3) Affects any authority that project owners or THHAs will have to regulate animals that assist persons with disabilities, under Federal, State, or local law.

### **§ 5.306 Definitions.**

*Common household pet* means:

(1) *For purposes of Housing programs:*

A domesticated animal, such as a dog, cat, bird, rodent (including a rabbit), fish, or turtle, that is traditionally kept in the home for pleasure rather than for commercial purposes.

Common household pet does not include reptiles (except turtles). If this definition conflicts with any applicable State or local law or regulation defining the pets that will be owned or kept in dwelling accommodations, the State or local law or regulation shall apply.

This definition shall not include animals that are used to assist persons with disabilities.

(2) *For purposes of Public Housing programs:*

THHAs will define the term “common household pet” under §5.318.

*Elderly or disabled family* means:

(1) *For purposes of Housing programs:*

An elderly person, a person with a disability, or an elderly or disabled family for purposes of the program under which a project for the elderly or persons with disabilities is assisted or has its mortgage insured.

(2) *For purposes of Public Housing programs:*

(i) An elderly person, a person with a disability, or an elderly or disabled family as defined in §5.403 in sub-Part A of this Part.

(ii) [Reserved]

*Housing programs* means:

(1) The housing programs administered by the Assistant Secretary for Housing-Federal Housing Commissioner; and

(2) The programs contained in chapter VIII of this title 24 that assist rental projects that meet the definition of project for the elderly or persons with disabilities in this sub-Part C.

*Project for the elderly or persons with disabilities* means:

(1) *For purposes of Housing programs:*

(i) A specific rental or cooperative multifamily property that, unless currently owned by HUD, is subject to a first mortgage, and:

(A) That is assisted under statutory authority identified by HUD through notice;

(B) That was designated for occupancy by elderly or disabled families

when funds for the project were reserved, or

when the commitment to insure the mortgage was issued or,

if not then so designated, that is designated for such occupancy in an effective amendment to the regulatory agreement covering the project, made pursuant to the project owner's request,

and that is assisted or insured under one of the programs identified by HUD through notice; or

(C) For which preference in tenant selection is given for all units in the project to elderly or disabled families and that is owned by HUD or assisted under one of the programs identified by HUD through notice.

(ii) This term does not include health and care facilities that have mortgage insurance under the National Housing Act. This term also does not include any of the project owner's other property that does not meet the criteria contained in any one of paragraphs (1)(i)(A) through (C) of this definition, even if the property is adjacent to or under joint or common management with such specific property.

(2) *For purposes of Public Housing programs:*

Any project assisted under title I of the United States Housing Act of 1937 (other than under section 8 or 17 of the Act), including any building within a mixed-use project, that was designated for occupancy by the elderly or persons with disabilities at its inception or,

although not so designated, for which THHA gives preference in tenant selection (with HUD approval) for all units in the project (or for a building within a mixed-use project) to elderly or disabled families.

For purposes of this Part, this term does not include projects assisted the Low-Rent Housing Homeownership Opportunity program or under title II of the United States Housing Act of 1937.

*Project owner* means an owner (including HUD, where HUD is the owner) or manager of a project for the elderly or persons with disabilities, or an agent authorized to act for an owner or manager of such housing.

*Public Housing Agency (THHA)* is defined in §5.100.

### **§ 5.309 Prohibition against discrimination.**

Except as otherwise specifically authorized under this sub-Part no project owner or THHA that owns or manages a project for the elderly or persons with disabilities will:

- (a) As a condition of tenancy or otherwise, prohibit or prevent any tenant of such housing from owning common household pets or having such pets living in the tenant's dwelling unit; or
- (b) Restrict or discriminate against any person in connection with admission to, or continued occupancy of, such housing by reason of the person's ownership of common household pets or the presence of such pets in the person's dwelling unit.

### **§ 5.312 Notice to tenants.**

(a) During the development of pet rules as described in §§5.353 or 5.380, the project owner or THHA shall serve written notice on all tenants of projects for the elderly or persons with disabilities in occupancy at the time of service, stating that:

(1) Tenants are permitted to own and keep common household pets in their dwelling units, in accordance with the pet rules (if any) promulgated under this sub-Part C;

(2) Animals that are used to assist persons with disabilities are excluded from the requirements of this sub-Part C, as provided in §5.303;

(3) Tenants will, at any time, request a copy of any current pet rule developed under this sub-Part C (as well as any current proposed rule or proposed amendment to an existing rule); and

(4) Tenants will request that their leases be amended under §5.321 to permit common household pets.

(b) The project owner or THHA shall provide to each applicant for tenancy when he or she is offered a dwelling unit in a project for the elderly or persons with disabilities, the written notice specified in paragraphs (a) (1), (2), and (3) of this section.

(c) If a THHA chooses not to promulgate pet rules, the notice shall be served within 60 days of the effective date of this Part. THHAs shall serve notice under this section in accordance with their normal service of notice procedures.

### **§ 5.315 Content of pet rules: General requirements.**

(a) *Housing programs.*

The project owner shall prescribe reasonable rules to govern the keeping of common household pets.

The pet rules will include the mandatory rules described in §5.350 and will, unless otherwise noted in this sub-Part C, include other discretionary provisions as provided in §5.318.

(b) *Public Housing programs.*

(1) THHAs will choose not to promulgate rules governing the keeping of common household pets or will include rules as provided in §5.318.

THHAs will elect to include provisions based on those in §5.350.

If they so choose, THHAs will modify the provisions in §5.350 in any manner consistent with this sub-Part C.

(2) If THHAs choose to promulgate pet rules, tenants will be permitted to own and keep pets in their units in accordance with the terms and conditions of their leases, the provisions of this sub-Part C, and any applicable State or local law or regulation governing the owning or keeping of pets in dwelling accommodations.

(3) THHAs that choose not to promulgate pet rules, shall not impose, by lease modification or otherwise, any requirement that is inconsistent with the provisions of this sub-Part C.

(c) *Use of discretion.*

(1) This sub-Part C **does not define with specificity** the limits of the project owners' or THHAs' discretion to promulgate pet rules.

Where a project owner or THHA has discretion to prescribe pet rules under this sub-Part C, the pet rules should be:

(i) Reasonably related to furthering a legitimate interest of the project owner or THHA, such as the owner's or THHA's interest in providing a decent, safe, and sanitary living environment for existing and prospective tenants and in protecting and preserving the physical condition of the project and the owner's or THHA's financial interest in it; and

(ii) Drawn narrowly to achieve the owner's or THHA's legitimate interests, without imposing unnecessary burdens and restrictions on pet owners and prospective pet owners.

(2) Where a project owner or THHA has discretion to prescribe pet rules under this sub-Part C, the owner or THHA will vary the rules' content among projects and within individual projects, based on factors such as the size, type, location, and occupancy of the project or its units, provided that the applicable rules are reasonable and do not conflict with any applicable State or local law or regulation governing the owning or keeping of pets in dwelling accommodations.

(d) *Conflict with State or local law.*

The pet rules adopted by the project owner or THHA shall not conflict with applicable State or local law or regulations. If such a conflict will exist, the State and local law or regulations shall apply.

### **§ 5.318 Discretionary pet rules.**

Pet rules promulgated by project owners and THHAs will include, but are not limited to, consideration of the following factors:

(a) *Definitions of “common household pet”*—

(1) *For Public Housing programs.*

The pet rules established by a THHA will contain a reasonable definition of a common household pet.

(2) *For Housing programs.*

Project owners wishing to define “common household pet” in their pet rules will use the Housing programs definition of the term in §5.306.

(b) *Density of tenants and pets.*

(1) (i) The pet rules established under this section will take into account tenant and pet density. The pet rules will place reasonable limitations on the number of common household pets that will be allowed in each dwelling unit. In the case of group homes, the pet rules will place reasonable limitations on the number of common household pets that will be allowed in each home.

(ii) *For Housing programs.* Under these rules, project owners will limit the number of four-legged, warm-blooded pets to one pet in each dwelling unit or group home.

(iii) Other than the limitations described in this paragraph (b)(1), the pet rules will not limit the total number of pets allowed in the project.

(2) As used in paragraph (b)(1) of this section, the term “group home” means:

(i) *For purposes of Housing programs.*

A small, communal living arrangement designed specifically for individuals who are chronically mentally ill, developmentally disabled, or physically disabled who require a planned program of continual supportive services or supervision (other than continual nursing, medical or psychiatric care).

(ii) *For purposes of Public Housing programs.*

A dwelling or dwelling unit for the exclusive residential use of elderly persons or persons with disabilities who are not capable of living completely independently and who require a planned program of continual supportive services or supervision (other than continual nursing, medical or psychiatric care).

(c) *Pet size and pet type.*

The pet rules will place reasonable limitations on the size, weight, and type of common household pets allowed in the project.

(d) *Potential financial obligations of tenants—*

(1) *Pet deposits.*

The pet rules will require tenants who own or keep pets in their units to pay a refundable pet deposit. In the case of project owners, this pet deposit shall be limited to those tenants who own or keep cats or dogs in their units.

This deposit is in addition to any other financial obligation generally imposed on tenants of the project.

The project owner or THHA will use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet in the project, including (but not limited to) the cost of repairs and replacements to, and fumigation of, the tenant's dwelling unit and, for project owners, the cost of animal care facilities under §5.363.

The project owner or THHA shall refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the project or no longer owns or keeps a pet (or a cat or dog in the case of project owners) in the dwelling unit.

*(2) Housing programs: Maximum pet deposit.*

(i) Pet deposits for the following tenants shall not exceed an amount periodically fixed by HUD through notice.

(A) Tenants whose rents are subsidized (including tenants of a HUD-owned project, whose rents were subsidized before HUD acquired it) under one of the programs identified by HUD through notice.

(B) Tenants who live in a project assisted (including tenants who live in a HUD-owned project that was assisted before HUD acquired it) under one of the programs identified by HUD through notice.

(C) For all other tenants of projects for the elderly or persons with disabilities, the pet deposit shall not exceed one month's rent at the time the pet is brought onto the premises.

(ii) In establishing the maximum amount of pet deposit under paragraph (d)(2)(i) of this section, HUD will consider factors such as:

(A) Projected, estimated expenses directly attributable to the presence of pets in the project;

(B) The ability of project owners to offset such expenses by use of security deposits or HUD-reimbursable expenses; and

(C) The low income status of tenants of projects for the elderly or persons with disabilities.

(iii) For pet deposits subject to paragraph (d)(2)(i)(A) of this section, the pet rules shall provide for gradual accumulation of the deposit by the pet owner through an initial payment not to exceed \$50 when the pet is brought onto the premises, and subsequent monthly payments not to exceed \$10 per month until the amount of the deposit is reached.

(iv) For pet deposits subject to paragraphs (d)(2)(i)(B) and (C) of this section, the pet rules will provide for gradual accumulation of the deposit by the pet owner.

(v) The project owner will (subject to the HUD-prescribed limits) increase the amount of the pet deposit by amending the house pet rules in accordance with §5.353.

(A) For pet deposits subject to paragraph (d)(2)(i)(A) of this section, the house pet rules shall provide for gradual accumulation of any such increase not to exceed \$10 per month for all deposit amounts that are being accumulated.



(B) [Reserved]

(vi) Any pet deposit that is established within the parameters set forth by paragraph (d)(2) of this section shall be deemed reasonable for purposes of this sub-Part C.

*(3) Public Housing programs: Maximum pet deposit.*

The maximum amount of pet deposit that will be charged by THHA, on a per dwelling unit basis, shall not exceed the higher of

the Total Tenant Payment (as defined in 24 CFR 913.102) or such reasonable fixed amount as THHA will require.

The pet rules will permit gradual accumulation of the pet deposit by the pet owner.

*(4) Housing programs: Waste removal charge.*

The pet rules will permit the project owner to impose a separate waste removal charge of up to five dollars (\$5) per occurrence on pet owners that fail to remove pet waste in accordance with the prescribed pet rules.

Any pet waste removal charge that is within this five dollar (\$5) limitation shall be deemed to be a reasonable amount for the purposes of this sub-Part C.

(5) The pet deposit (for Housing and Public Housing programs) and waste removal charge (for Housing programs) are **not** Part of the rent payable by the tenant.

Except as provided in paragraph (d) of this section for Housing programs and,

paragraph (d) of this section and 24 CFR 966.4(b) for Public Housing programs,

project owners or THHAs will not prescribe pet rules that impose additional financial obligations on pet owners that are designed to compensate the project owner or THHA for costs associated with the presence of pets in the project,

including (but not limited to) requiring pet owners:

(i) To obtain liability or other insurance to cover damage caused by the pet;

(ii) To agree to be strictly liable for all damages caused by the pet where this liability is not otherwise imposed by State or local law, or

(iii) To indemnify the project owner for pet-related litigation and attorney's fees.

*(e) Standards of pet care.*

The pet rules will prescribe standards of pet care and handling, but will be limited to those necessary to protect the condition of the tenant's unit and the general condition of the project premises, or to protect the health or safety of present tenants, project employees, and the public.

The pet rules will not require pet owners to have any pet's vocal cords removed.

Permitted rules will:

(1) Bar pets from specified common areas (such as lobbies, laundry rooms, and social rooms), unless the exclusion will deny a pet reasonable ingress and egress to the project or building.

(2) Require the pet owner to control noise and odor caused by a pet.

(3) Housing programs: Project owners will also:

(i) Require pet owners to have their dogs and cats spayed or neutered; and

(ii) Limit the length of time that a pet will be left unattended in a dwelling unit.

(f) *Pet licensing.*

The pet rules will require pet owners to license their pets in accordance with applicable State and local laws and regulations.

(Failure of the pet rules to contain this requirement does not relieve the pet owner of responsibility for complying with applicable State and local pet licensing requirements.)

(g) *Public Housing programs: Designated pet areas.*

(1) THHAs will designate buildings, floors of buildings, or sections of buildings as no-pet areas where pets generally will not be permitted.

Similarly, the pet rules will designate buildings, floors of buildings, or sections of buildings for residency generally by pet-owning tenants.

THHA will direct such initial tenant moves as will be necessary to establish pet and no-pet areas.

THHA will not refuse to admit (or delay admission of) an applicant for tenancy on the grounds that the applicant's admission would violate a pet or no-pet area.

THHA will adjust the pet and no-pet areas or will direct such additional moves as will be necessary (or both) to accommodate such applicants for tenancy or to meet the changing needs of existing tenants.

(2) Project owners will not designate pet areas in buildings in their pet rules.

(h) *Pets temporarily on the premises.*

The pet rules will exclude from the project pets not owned by a tenant that are to be kept temporarily on the project premises.

For the purposes of paragraph (h) of this section, pets are to be kept “temporarily” if they are to be kept in the tenant's dwelling accommodations for a period of less than 14 consecutive days and nights.

HUD, however, encourages project owners and THHAs to permit the use of a visiting pet program sponsored by a humane society, or other nonprofit organization.

### **§ 5.321 Lease provisions.**

(a) *Lease provisions.*

(1) THHAs which have established pet rules and project owners shall ensure that the leases for all tenants of projects for the elderly or persons with disabilities:

(i) State that tenants are permitted to keep common household pets in their dwelling units (subject to the provisions of this sub-Part and the pet rules);

(ii) Shall incorporate by reference the pet rules promulgated by the project owner or THHA;

(iii) Shall provide that the tenant agrees to comply with these rules; and

(iv) Shall state that violation of these rules will be grounds for removal of the pet or termination of the pet owner's tenancy (or both), in accordance with the provisions of this sub-Part and applicable regulations and State or local law.

(2) [Reserved]

(b) Where a THHA has not established pet rules, the leases of all tenants of such projects shall **not** contain any provisions prohibiting the owning or keeping of common household pets, and shall state that owning and keeping of such pets will be subject to the general obligations imposed on THHA and tenants in the lease and

any applicable State or local law or regulation governing the owning or keeping of pets in dwelling accommodations.

#### **§ 5.324 Implementation of lease provisions.**

The lease for each tenant of a project for the elderly or persons with disabilities who is admitted on or after the date on which this sub-Part C is implemented shall contain the lease provisions described in §5.321 and, if applicable,

#### **§5.360**

The lease for each tenant who occupies a unit in such a project under lease on the date of implementation of this Part shall be amended to include the provisions described in §5.321 and, if applicable, §5.360:

(a) For Housing programs:

(1) Upon renewal of the lease and in accordance with any applicable regulation; and

(2) When a Housing program tenant registers a common household pet under §5.350

(b) For Public Housing programs:

(1) Upon annual reexamination of tenant income in accordance with any applicable regulation; and

(2) When a Public Housing program tenant wishes to own or keep a common household pet in his or her unit.

#### **§ 5.327 Nuisance or threat to health or safety.**

Nothing in this sub-Part C prohibits a project owner, THHA, or an appropriate community authority from requiring the removal of any pet from a project, if

the pet's conduct or condition is duly determined to constitute, under the provisions of State or local law,

a nuisance or a threat to the health or safety of other occupants of the project or to other persons in the community where the project is located.

**Pet Ownership Requirements for Housing Programs**  
**§ 5.350 Mandatory pet rules for housing programs.**

*Mandatory rules.* The project owner will prescribe the following pet rules:

(a) *Inoculations.*

The pet rules shall require pet owners to have their pets inoculated in accordance with State and local laws.

(b) *Sanitary standards.*

(1) The pet rules shall prescribe sanitary standards to govern the disposal of pet waste. These rules will:

(i) Designate areas on the project premises for pet exercise and the deposit of pet waste;

(ii) Forbid pet owners from exercising their pets or permitting their pets to deposit waste on the project premises outside the designated areas;

(iii) Require pet owners to remove and properly dispose of all removable pet waste; and

(iv) Require pet owners to remove pets from the premises to permit the pet to exercise or deposit waste, if no area in the project is designated for such purposes.

(2) In the case of cats and other pets using litter boxes, the pet rules

will require the pet owner to change the litter (but not more than twice each week),

will require pet owners to separate pet waste from litter (but not more than once each day),

and will prescribe methods for the disposal of pet waste and used litter.

(c) *Pet restraint.*

The pet rules shall require that all cats and dogs be appropriately and effectively restrained and under the control of a responsible individual while on the common areas of the project.

(d) *Registration.*

(1) The pet rules shall require pet owners to register their pets with the project owner.

The pet owner will register the pet before it is brought onto the project premises, and will update the registration at least annually.

The project owner will coordinate the annual update with the annual reexamination of tenant income, if applicable. The registration will include:

(i) A certificate signed by a licensed veterinarian or a State or local authority empowered to inoculate animals (or designated agent of such an authority) stating that the pet has received all inoculations required by applicable State and local law;

(ii) Information sufficient to identify the pet and to demonstrate that it is a common household pet; and

(iii) The name, address, and phone number of one or more responsible Parties who will care for the pet if the pet owner dies, is incapacitated, or is otherwise unable to care for the pet.

(2) The project owner will require the pet owner to provide additional information necessary to ensure compliance with any discretionary rules prescribed under §5.318, and shall require the pet owner to sign a statement indicating that he or she has read the pet rules and agrees to comply with them.

(3) The pet rules shall permit the project owner to refuse to register a pet if:

(i) The pet is not a common household pet;

(ii) The keeping of the pet would violate any applicable house pet rule;

(iii) The pet owner fails to provide complete pet registration information or fails annually to update the pet registration; or

(iv) The project owner reasonably determines, based on the pet owner's habits and practices, that the pet owner will be unable to keep the pet in compliance with the pet rules and other lease obligations.

The pet's temperament will be considered as a factor in determining the prospective pet owner's ability to comply with the pet rules and other lease obligations.

(4) The project owner will **not** refuse to register a pet

based on a determination that the pet owner is financially unable to care for the pet or that the pet is inappropriate, based on the therapeutic value to the pet owner or the interests of the property or existing tenants.

(5) The pet rules shall require the project owner to notify the pet owner if the project owner refuses to register a pet.

The notice shall state the basis for the project owner's action and shall be served on the pet owner in accordance with the requirements of §5.353(f)(1)(i) or (ii).

The notice of refusal to register a pet will be combined with a notice of pet violation as required in §5.356.

**§ 5.353 Housing programs: Procedure for development of pet rules.**

(a) *General.* Project owners shall use the procedures specified in this section to promulgate the pet rules referred to in §§5.318 and 5.350.

*(b) Development and notice of proposed pet rules.*

Project owners shall develop proposed rules to govern the owning or keeping of common household pets in projects for the elderly or persons with disabilities.

Notice of the proposed pet rules shall be served on each tenant of the project as provided in paragraph (f) of this section.

The notice shall:

- (1) Include the text of the proposed rules;
- (2) State that tenants or tenant representatives will submit written comments on the rules; and
- (3) State that all comments will be submitted to the project owner no later than 30 days from the effective date of the notice of the proposed rules.
- (4) The notice will also announce the date, time, and place for a meeting to discuss the proposed rules (as provided in paragraph (c) of this section).

*(c) Tenant consultation.*

Tenants or tenant representatives will submit written comments on the proposed pet rules to the project owner by the date specified in the notice of proposed rules.

In addition, the owner will schedule one or more meetings with tenants during the comment period to discuss the proposed rules.

Tenants and tenant representatives will make oral comments on the proposed rules at these meetings.

The project owner will consider comments made at these meetings only if they are summarized, reduced to writing, and submitted to the project owner before the end of the comment period.

*(d) Development and notice of final pet rules.*

The project owner shall develop the final rules after reviewing tenants' written comments and written summaries of any owner-tenant meetings.

The project owner will meet with tenants and tenant representatives to attempt to resolve issues raised by the comments.

Subject to this sub-Part C, the content of the final pet rules, however, is within the sole discretion of the project owner.

The project owner shall serve on each tenant of the project, a notice of the final pet rules as provided in paragraph (f) of this section.

The notice will include the text of the final pet rules and will specify the effective date of the final pet rules.

*(e) Amendment of pet rules.*



The project owner will amend the pet rules at any time by following the procedure for the development of pet rules specified in paragraphs (b) through (d) of this section.

(f) *Service of notice.*

(1) The project owner will serve the notice required under this section by:

(i) Sending a letter by first class mail, properly stamped and addressed to the tenant at the dwelling unit, with a proper return address; or

(ii) Serving a copy of the notice on any adult answering the door at the tenant's leased dwelling unit, or if no adult responds, by placing the notice under or through the door, if possible, or else by attaching the notice to the door; or

(iii) For service of notice to tenants of a high-rise building, posting the notice in at least three conspicuous places within the building and maintaining the posted notices intact and in legible form for 30 days. For purposes of paragraph (f) of this section, a high-rise building is a structure that is equipped with an elevator and has a common lobby.

(2) For purposes of computing time periods following service of the notice, service is effective on the day that all notices are delivered or mailed, or in the case of service by posting, on the day that all notices are initially posted.

**§ 5.356 Housing programs: Pet rule violation procedures.**

(a) *Notice of pet rule violation.*

If a project owner determines on the basis of objective facts, supported by written statements, that a pet owner has violated a rule governing the owning or keeping of pets; the project owner will serve a written notice of pet rule violation on the pet owner in accordance with §5.353(f)(1)(i) or (ii).

The notice of pet rule violation will:

(1) Contain a brief statement of the factual basis for the determination and the pet rule or rules alleged to be violated;

(2) State that the pet owner has 10 days from the effective date of service of the notice to correct the violation (including, in appropriate circumstances, removal of the pet) or to make a written request for a meeting to discuss the violation;

(3) State that the pet owner is entitled to be accompanied by another person of his or her choice at the meeting; and

(4) State that the pet owner's failure to correct the violation, to request a meeting, or to appear at a requested meeting will result in initiation of procedures to terminate the pet owner's tenancy.

(b) (1) *Pet rule violation meeting.*

If the pet owner makes a timely request for a meeting to discuss an alleged pet rule violation, the project owner shall

establish a mutually agreeable time and place for the meeting

but no later than 15 days from the effective date of service of the notice of pet rule violation (unless the project owner agrees to a later date).

At the pet rule violation meeting, the pet owner and project owner shall discuss any alleged pet rule violation and attempt to correct it.

The project owner will, as a result of the meeting, give the pet owner additional time to correct the violation.

*(2) Notice for pet removal.*

If the pet owner and project owner are unable to resolve the pet rule violation at the pet rule violation meeting, or

if the project owner determines that the pet owner has failed to correct the pet rule violation within any additional time provided for this purpose under paragraph (b)(1) of this section,

the project owner will serve a written notice on the pet owner in accordance with §5.353(f)(1) (i) or (ii) (or at the meeting, if appropriate), requiring the pet owner to remove the pet.

The notice will:

(i) Contain a brief statement of the factual basis for the determination and the pet rule or rules that have been violated;

(ii) State that the pet owner will remove the pet within 10 days of the effective date of service of the notice of pet removal (or the meeting, if notice is served at the meeting); and

(iii) State that failure to remove the pet will result in initiation of procedures to terminate the pet owner's tenancy.

*(c) Initiation of procedures to remove a pet or terminate the pet owner's tenancy.*

(1) The project owner will not initiate procedures to terminate a pet owner's tenancy based on a pet rule violation, unless:

(i) The pet owner has failed to remove the pet or correct a pet rule violation within the applicable time period specified in this section (including any additional time permitted by the owner); and

(ii) The pet rule violation is sufficient to begin procedures to terminate the pet owner's tenancy under the terms of the lease and applicable regulations.

(2) The project owner will initiate procedures to remove a pet under §5.327 at any time, in accordance with the provisions of applicable State or local law.

**§ 5.359 Housing programs: Rejection of units by applicants for tenancy.**

(a) An applicant for tenancy in a project for the elderly or persons with disabilities will reject a unit offered by a project owner if the unit is in close proximity to a dwelling unit in which an existing tenant of the project owns or keeps a common household pet.

An applicant's rejection of a unit under this section shall not adversely affect his or her application for tenancy in the project, including (but not limited to) his or her position on the project waiting list or qualification for any tenant selection preference.

(b) Nothing in this sub-Part C imposes a duty on project owners to provide alternate dwelling units to existing or prospective tenants because of the proximity of common household pets to a Particular unit or the presence of such pets in the project.

### **§ 5.360 Housing programs: Additional lease provisions.**

(a) *Inspections.*

In addition to other inspections permitted under the lease, the leases for all Housing program tenants of projects for the elderly or persons with disabilities will state that the project owner will, after reasonable notice to the tenant and during reasonable hours, enter and inspect the premises.

The lease shall permit entry and inspection **only if** the project owner has received a signed, written complaint alleging (or the project owner has reasonable grounds to believe) that the conduct or condition of a pet in the dwelling unit constitutes, under applicable State or local law, a nuisance or a threat to the health or safety of the occupants of the project or other persons in the community where the project is located.

(b) *Emergencies.*

(1) If there is no State or local authority (or designated agent of such an authority) authorized under applicable State or local law to remove a pet

that becomes vicious,

displays symptoms of severe illness, or

demonstrates other behavior that constitutes an immediate threat to the health or safety of the tenancy as a whole,

the project owner will place a provision in tenant leases permitting the project owner to

enter the premises (if necessary),

remove the pet, and

take such action with respect to the pet as will be permissible under State and local law, which will include placing it in a facility that will provide care and shelter for a period not to exceed 30 days.

(2) The lease shall permit the project owner to

enter the premises and remove the pet or

take such other permissible action only if the project owner requests the pet owner to remove the pet from the project immediately, and the pet owner refuses to do so, or if the project owner is unable to contact the pet owner to make a removal request.

The lease will not contain a provision relieving the project owner from liability for wrongful removal of a pet.

The cost of the animal care facility shall be paid as provided in §5.363.

(3) The project owner will place a provision in tenant leases permitting the project owner to enter the premises, remove the pet, and place the pet in a facility that will provide care and shelter, in accordance with the provisions of §5.363.

The lease will not contain a provision relieving the project owner from liability for wrongful removal of a pet.

#### **§ 5.363 Housing programs: Protection of the pet.**

(a) If the health or safety of a pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet,

the project owner will contact the responsible Party or Parties listed in the pet registration required under §5.350(d)(1)(iii).

(b) If the responsible Party or Parties are unwilling or unable to care for the pet, or the project owner, despite reasonable efforts, has been unable to contact the responsible Party or Parties,

the project owner will contact the appropriate State or local authority (or designated agent of such an authority) and request the removal of the pet.

(c) If there is no State or local authority (or designated agent of such an authority) authorized to remove a pet under these circumstances and

the project owner has placed a provision in the lease agreement (as described in §5.360(c)(2)),

the project owner will enter the pet owner's unit,

remove the pet,

and place the pet in a facility that will provide care and shelter until the pet owner or a representative of the pet owner is able to assume responsibility for the pet, but not longer than 30 days.

(d) The cost of the animal care facility provided under this section shall be borne by the pet owner.

If the pet owner (or the pet owner's estate) is unable or unwilling to pay, the cost of the animal care facility will be paid from the pet deposit, if imposed under the pet rules.

#### **Pet Ownership Requirements for Public Housing Programs**

#### **§ 5.380 Public housing programs: Procedure for development of pet rules.**

THHAs that choose to promulgate pet rules shall consult with tenants of projects for the elderly or persons with disabilities administered by them with respect to their promulgation and subsequent amendment.

THHAs shall develop the specific procedures governing tenant consultation, but these procedures will be designed to give tenants (or, if appropriate, tenant councils) adequate opportunity to review and comment upon the pet rules before they are issued for effect.

THHAs are solely responsible for the content of final pet rules, but will give consideration to tenant comments.

THHAs shall send to the responsible HUD field office, copies of the final (or amended) pet rules, as well as summaries or copies of all tenant comments received in the course of the tenant consultation.

## **Sub-Part D—Definitions for Section 8 and Public Housing Assistance Under the United States Housing Act of 1937**

### **§ 5.400 Applicability.**

**This Part applies to Public Housing and Section 8 programs.**

### **§ 5.403 Definitions.**

*Annual contributions contract (ACC)* means the written contract between HUD and a THHA under which HUD agrees to provide funding for a program under the 1937 Act, and THHA agrees to comply with HUD requirements for the program.

*Applicant* means a person or a family that has applied for housing assistance.

*Disabled family* means a family whose head, spouse, or sole member is a person with disabilities. It will include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

*Displaced family* means a 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.

*Elderly family* means a family whose head, spouse, or sole member is a person who is at least 62 years of age. It will include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.

*Family* includes but is not limited to:

(1) A family with or without children (the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size);

(2) An elderly family;

(3) A near-elderly family;

(4) A disabled family;

(5) A displaced family;

(6) The remaining member of a tenant family; and

(7) A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

*Live-in aide* means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

(1) Is determined to be essential to the care and well-being of the persons;

(2) Is not obligated for the support of the persons; and

(3) Would not be living in the unit except to provide the necessary supportive services.

*Near-elderly family* means a family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

*Person with disabilities:*

1) Means a person who:

(i) Has a disability, as defined in 42 U.S.C. 423;

(ii) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:

(A) Is expected to be of long-continued and indefinite duration;

(B) Substantially impedes his or her ability to live independently, and

(C) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or

(iii) Has a developmental disability as defined in 42 U.S.C. 6001.

(2) Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;

(3) For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and

(4) Means “individual with handicaps”, as defined in §8.3 of this title, for purposes of reasonable accommodation and program accessibility for persons with disabilities.

## **Sub-Part E—Restrictions on Assistance to Non-citizens**

### **§ 5.500 Applicability.**

(a) *Covered programs/assistance.*

This sub-Part E implements Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a).

Section 214 prohibits HUD from making financial assistance available to persons who are not in eligible status with respect to citizenship or non-citizen immigration status.

### **This sub-Part E is applicable to financial assistance provided under:**

(1) Section 235 of the National Housing Act (12 U.S.C. 1715z) (the Section 235 Program);

(2) Section 236 of the National Housing Act (12 U.S.C. 1715z–1) (tenants paying below market rent only) (the Section 236 Program);

(3) Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) (the Rent Supplement Program); and

(4) The United States Housing Act of 1937 (42 U.S. C. 1437 *et seq.*) which covers:

(i) HUD's Public Housing Programs;

(ii) The Section 8 Housing Assistance Programs; and

(iii) The Housing Development Grant Programs (with respect to low income units only).

(b) *Covered individuals and entities*—

(1) *Covered individuals/persons and families.* The provisions of this sub-Part E apply to both applicants for assistance and persons already receiving assistance covered under this sub-Part E.

(2) *Covered entities.* The provisions of this sub-Part E apply to Public Housing Agencies (THHAs), project (or housing) owners, and mortgagees under the Section 235 Program.

The term “responsible entity” is used in this sub-Part E to refer collectively to these entities, and is further defined in §5.504.

#### **§ 5.502 Requirements concerning documents.**

For any notice or document (decision, declaration, consent form, etc.) that this sub-Part E requires the responsible entity to provide to an individual, or

requires the responsible entity to obtain the signature of an individual,

the responsible entity, where feasible, will arrange for the notice or document to be provided to the individual in a language that is understood by the individual if the individual is not proficient in English.

(See 24 CFR 8.6 of HUD's regulations for requirements concerning communications with persons with disabilities.)

#### **§ 5.504 Definitions.**

(a) The definitions *1937 Act*, *HUD*, *Public Housing Agency (THHA)*, and *Section 8* **are defined in sub-Part A of this Part.**

(b) As used in this **sub-Part E**:

*Child* means a member of the family other than the family head or spouse who is under 18 years of age.

*Citizen* means a citizen or national of the United States.

*Evidence of citizenship or eligible status* means the documents which will be submitted to evidence citizenship or eligible immigration status. (See §5.508(b).)

*Family* has the same meaning as provided in the program regulations of the relevant Section 214 covered program.



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

*Housing covered programs* means the following programs administered by the Assistant Secretary for Housing:

(1) Section 235 of the National Housing Act (12 U.S.C. 1715z) (the Section 235 Program);

(2) Section 236 of the National Housing Act (12 U.S.C. 1715z-1) (tenants paying below market rent only) (the Section 236 Program); and

(3) Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) (the Rent Supplement Program).

*INS* means the U.S. Immigration and Naturalization Service.

*Mixed family* means a family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

*National* means a person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

*Non-citizen* means a person who is neither a citizen nor national of the United States.

*Project owner* means the person or entity that owns the housing project containing the assisted dwelling unit.

*Public Housing covered programs* means the public housing programs administered by the Assistant Secretary for Public and Indian Housing under title I of the 1937 Act.

This definition does not encompass HUD's Indian Housing programs administered under title II of the 1937 Act.

Further, this term does not include those programs providing assistance under section 8 of the 1937 Act. (See definition of "Section 8 Covered Programs" in this section.)

*Responsible entity* means the person or entity responsible for administering the restrictions on providing assistance to non-citizens with ineligible immigration status.

The entity responsible for administering the restrictions on providing assistance to non-citizens with ineligible immigration status under the various covered programs is as follows:

(1) For the Section 235 Program, the mortgagee.

(2) For Public Housing, the Section 8 Rental Certificate, the Section 8 Rental Voucher, and the Section 8 Moderate Rehabilitation programs, THHA administering the program under an ACC with HUD.

(3) For all other Section 8 programs, the Section 236 Program, and the Rent Supplement Program, the owner.

*Section 8 covered programs* means all HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8-assisted housing for which loans are made under section 202 of the Housing Act of 1959.

*Section 214* means section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a).

*Section 214 covered programs* is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in §5.500.

*Tenant* means an individual or a family renting or occupying an assisted dwelling unit. For purposes of this sub-Part E, the term tenant will also be used to include a homebuyer, where appropriate.

### **§ 5.506 General provisions.**

(a) *Restrictions on assistance.*

Financial assistance under a Section 214 covered program is restricted to:

(1) *Citizens; or*

(2) *Non-citizens* who have eligible immigration status under one of the categories set forth in Section 214 (see 42 U.S.C. 1436a(a)).

(b) *Family eligibility for assistance.*

(1) A family shall not be eligible for assistance unless every member of the family residing in the unit is determined to have eligible status, as described in paragraph (a) of this section, or unless the family meets the conditions set forth in paragraph (b)(2) of this section.

(2) Despite the ineligibility of one or more family members, a mixed family will be eligible for one of the three types of assistance provided in §§5.516 and 5.518. A family without any eligible members and receiving assistance on June 19, 1995 will be eligible for temporary deferral of termination of assistance as provided in §§5.516 and 5.518.

(c) *Preferences.* Citizens of the Republic of Marshall Islands, the Federated States of Micronesia, and the Republic of Palau who are eligible for assistance under paragraph (a)(2) of this section are entitled to receive local preferences for housing assistance, except that, within Guam, such citizens who have such local preference will not be entitled to housing assistance in preference to any United States citizen or national resident therein who is otherwise eligible for such assistance.

### **§ 5.508 Submission of evidence of citizenship or eligible immigration status.**

(a) *General.* Eligibility for assistance or continued assistance under a Section 214 covered program is contingent upon a family's submission to the responsible entity of the documents described in paragraph (b) of this section for each family member.

If one or more family members do not have citizenship or eligible immigration status, the family members will exercise the election not to contend to have eligible immigration status as provided in paragraph (e) of this section, and the provisions of §§5.516 and 5.518 shall apply.

(b) *Evidence of citizenship or eligible immigration status.*

Each family member, regardless of age, will submit the following evidence to the responsible entity.

(1) For U.S. citizens or U.S. nationals, the evidence consists of a signed declaration of U.S. citizenship or U.S. nationality.

The responsible entity will request verification of the declaration by requiring presentation of a United States passport or other appropriate documentation, as specified in HUD guidance.

(2) For non-citizens who are 62 years of age or older or who will be 62 years of age or older and receiving assistance under a Section 214 covered program on September 30, 1996 or applying for assistance on or after that date, the evidence consists of:

(i) A signed declaration of eligible immigration status; and

(ii) Proof of age document.

(3) For all other non-citizens, the evidence consists of:

(i) A signed declaration of eligible immigration status;

(ii) One of the INS documents referred to in §5.510; and

(iii) A signed verification consent form.

(c) *Declaration.*

(1) For each family member who contends that he or she is a U.S. citizen or a non-citizen with eligible immigration status, the family will submit to the responsible entity a written declaration, signed under penalty of perjury, by which the family member declares whether he or she is a U.S. citizen or a non-citizen with eligible immigration status.

(i) For each adult, the declaration will be signed by the adult.

(ii) For each child, the declaration will be signed by an adult residing in the assisted dwelling unit who is responsible for the child.

(2) *For Housing covered programs:*

The written declaration will be incorporated as part of the application for housing assistance or will constitute a separate document.

(d) *Verification consent form—*

(1) *Who signs.*

Each non-citizen who declares eligible immigration status (except certain non-citizens who are 62 years of age or older as described in paragraph (b)(2) of this section) will sign a verification consent form as follows.

(i) For each adult, the form will be signed by the adult.

(ii) For each child, the form will be signed by an adult residing in the assisted dwelling unit who is responsible for the child.

*(2) Notice of release of evidence by responsible entity.*

The verification consent form shall provide that evidence of eligible immigration status will be released by the responsible entity without responsibility for the further use or transmission of the evidence by the entity receiving it, to:

- (i) HUD, as required by HUD; and
- (ii) The INS for purposes of verification of the immigration status of the individual.

*(3) Notice of release of evidence by HUD.*

The verification consent form also shall notify the individual of the possible release of evidence of eligible immigration status by HUD.

Evidence of eligible immigration status shall only be released to the INS for purposes of establishing eligibility for financial assistance and not for any other purpose.

HUD is not responsible for the further use or transmission of the evidence or other information by the INS.

*(e) Individuals who do not contend that they have eligible status.*

If one or more members of a family elect not to contend that they have eligible immigration status, and other members of the family establish their citizenship or eligible immigration status,

the family will be eligible for assistance under §§5.516 and 5.518, or §5.520, despite the fact that no declaration or documentation of eligible status is submitted for one or more members of the family.

The family, however, will identify in writing to the responsible entity, the family member (or members) who will elect not to contend that he or she has eligible immigration status.

*(f) Notification of requirements of Section 214—*

*(1) When notice is to be issued.*

Notification of the requirement to submit evidence of citizenship or eligible immigration status, as required by this section, or

to elect not to contend that one has eligible status as provided by paragraph (e) of this section, shall be given by the responsible entity as follows:

- (i) *Applicant's notice.*

The notification described in paragraph (f)(1) of this section shall be given to each applicant at the time of application for assistance.

Applicants whose applications are pending on June 19, 1995, shall be notified of the requirement to submit evidence of eligible status as soon as possible after June 19, 1995.

(ii) *Notice to tenants.*

The notification described in paragraph (f)(1) of this section shall be given to each tenant at the time of, and together with, the responsible entity's notice of regular reexamination of income, but not later than one year following June 19, 1995.

(iii) *Timing of mortgagor's notice.*

A mortgagor receiving Section 235 assistance will be provided the notification described in paragraph (f)(1) of this section and any additional requirements imposed under the Section 235 Program.

(2) *Form and content of notice.* The notice shall:

(i) State that financial assistance is contingent upon the submission and verification, as appropriate,

of evidence of citizenship or

eligible immigration status as required by paragraph (a) of this section;

(iii) Describe the type of evidence that will be submitted,

and state the time period in which that evidence will be submitted (see paragraph (g) of this section concerning when evidence will be submitted); and

(iii) State that assistance will be prorated, denied or terminated, as appropriate, upon a final determination of ineligibility after all appeals have been exhausted (see §5.514 concerning INS appeal, and informal hearing process) or,

if appeals are not pursued,

at a time to be specified in accordance with HUD requirements.

Tenants also shall be informed of how to obtain assistance under the preservation of families provisions of §§5.516 and 5.518.

(g) *When evidence of eligible status is required to be submitted.*

The responsible entity shall require evidence of eligible status to be submitted at the times specified in paragraph (g) of this section, subject to any extension granted in accordance with paragraph (h) of this section.

(1) *Applicants.* For applicants, responsible entities will ensure that evidence of eligible status is submitted not later than the date the responsible entity anticipates or has knowledge that verification of other aspects of eligibility for assistance will occur (see §5.512(a)).

(2) *Tenants.* For tenants, evidence of eligible status is required to be submitted as follows:

(i) For financial assistance under a Section 214 covered program, with the exception of Section 235 assistance payments, the required evidence shall be submitted at the first regular reexamination after June 19, 1995, in accordance with program requirements.

(ii) For financial assistance in the form of Section 235 assistance payments, the mortgagor shall submit the required evidence in accordance with requirements imposed under the Section 235 Program.

(3) *New occupants of assisted units.* For any new occupant of an assisted unit (e.g., a new family member comes to reside in the assisted unit), the required evidence shall be submitted at the first interim or regular reexamination following the person's occupancy.

(4) *Changing Participation in a HUD program.*

Whenever a family applies for admission to a Section 214 covered program, evidence of eligible status is required to be submitted in accordance with the requirements of this sub-Part unless the family already has submitted the evidence to the responsible entity for a Section 214 covered program.

(5) *One-time evidence requirement for continuous occupancy.*

For each family member, the family is required to submit evidence of eligible status only one time during continuously assisted occupancy under any Section 214 covered program.

(h) *Extensions of time to submit evidence of eligible status—*

(1) *When extension will be granted.*

The responsible entity shall extend the time, provided in paragraph (g) of this section, to submit evidence of eligible immigration status if the family member:

(i) Submits the declaration required under §5.508(a) certifying that any person for whom required evidence has not been submitted is a non-citizen with eligible immigration status; and

ii) Certifies that

the evidence needed to support a claim of eligible immigration status is temporarily unavailable,

additional time is needed to obtain and submit the evidence,

and prompt and diligent efforts will be undertaken to obtain the evidence.

(2) *Thirty-day extension period.*

Any extension of time, if granted, shall not exceed thirty (30) days.

The additional time provided should be sufficient to allow the individual the time to obtain the evidence needed.

The responsible entity's determination of the length of the extension needed shall be based on the circumstances of the individual case.

(3) *Grant or denial of extension to be in writing.*

The responsible entity's decision to grant or deny an extension as provided in paragraph (h)(1) of this section shall be issued to the family by **written** notice.

If the extension is granted, the notice shall specify the extension period granted (which shall not exceed thirty (30) days).

If the extension is denied, the notice shall explain the reasons for denial of the extension.

(i) *Failure to submit evidence or to establish eligible status.*

If the family fails to submit required evidence of eligible immigration status within the time period specified in the notice,

or any extension granted in accordance with paragraph (h) of this section,

or if the evidence is timely submitted but fails to establish eligible immigration status,

the responsible entity shall proceed to deny, prorate or terminate assistance,

or provide continued assistance or temporary deferral of termination of assistance, as appropriate, in accordance with the provisions of §§5.514, 5.516, and 5.518.

(ii) [Reserved]

### **§ 5.510 Documents of eligible immigration status.**

(a) *General.*

A responsible entity shall request and review original documents of eligible immigration status.

The responsible entity shall retain photocopies of the documents for its own records and return the original documents to the family.

(b) *Acceptable evidence of eligible immigration status.*

Acceptable evidence of eligible immigration status shall be the original of a document designated by INS as acceptable evidence of immigration status in one of the six categories mentioned in §5.506(a) for the specific immigration status claimed by the individual.

### **§ 5.512 Verification of eligible immigration status.**

(a) *General.*

Except as described in paragraph (b) of this section and §5.514, no individual or family applying for assistance will receive such assistance prior to the verification of the eligibility of at least the individual or one family member.

Verification of eligibility consistent with §5.514 occurs when the individual or family members have submitted documentation to the responsible entity in accordance with §5.508.

(b) *THHA election to provide assistance before verification.*

A THHA that is a responsible entity under this sub-Part will elect to provide assistance to a family before the verification of the eligibility of the individual or one family member.

(c) *Primary verification—*

(1) *Automated verification system.*

Primary verification of the immigration status of the person is conducted by the responsible entity through the INS automated system (INS Systematic Alien Verification for Entitlements (SAVE)).

The INS SAVE system provides access to names, file numbers and admission numbers of non-citizens.

(2) *Failure of primary verification to confirm eligible immigration status.*

If the INS SAVE system does not verify eligible immigration status, secondary verification will be performed.

(d) *Secondary verification—*

(1) *Manual search of INS records.*

Secondary verification is a manual search by the INS of its records to determine an individual's immigration status.

The responsible entity will request secondary verification, within 10 days of receiving the results of the primary verification,

if the primary verification system does not confirm eligible immigration status, or

if the primary verification system verifies immigration status that is ineligible for assistance under a Section 214 covered program.

(2) *Secondary verification initiated by responsible entity.*

Secondary verification is initiated by the responsible entity forwarding photocopies of the original INS documents required for the immigration status declared (front and back), attached to the INS document verification request form G-845S (Document Verification Request), or such other form specified by the INS to a designated INS office for review. (Form G-845S is available from the local INS Office.)

(3) *Failure of secondary verification to confirm eligible immigration status.*

If the secondary verification does not confirm eligible immigration status, the responsible entity shall issue to the family the notice described in §5.514(d), which includes notification of the right to appeal to the INS of the INS finding on immigration status (see §5.514(d)(4)).

(e) *Exemption from liability for INS verification.*

The responsible entity shall not be liable for any action, delay, or failure of the INS in conducting the automated or manual verification.



## **§ 5.514 Delay, denial, reduction or termination of assistance.**

### *(a) General.*

Assistance to a family will not be delayed, denied, reduced or terminated because of the immigration status of a family member except as provided in this section.

### *(b) Restrictions on delay, denial, reduction or termination of assistance.*

#### *(1) Restrictions on reduction, denial or termination of assistance for applicants and tenants.*

Assistance to an applicant or tenant shall not be delayed, denied, reduced, or terminated, on the basis of ineligible immigration status of a family member if:

(i) The primary and secondary verification of any immigration documents that were timely submitted has not been completed;

(ii) The family member for whom required evidence has not been submitted has moved from the assisted dwelling unit;

(iii) The family member who is determined not to be in an eligible immigration status following INS verification has moved from the assisted dwelling unit;

(iv) The INS appeals process under §5.514(e) has not been concluded;

(v) Assistance is prorated in accordance with §5.520; or

(vi) Assistance for a mixed family is continued in accordance with §§5.516 and 5.518;

or

(vii) Deferral of termination of assistance is granted in accordance with §§5.516 and 5.518.

#### *(2) Restrictions on delay, denial, reduction or termination of assistance pending fair hearing for tenants.*

In addition to the factors listed in paragraph (b)(1) of this section, assistance to a tenant cannot be delayed, denied, reduced or terminated until the completion of the informal hearing described in paragraph (f) of this section.

### *(c) Events causing denial or termination of assistance.*

#### *(1) General.*

Assistance to an applicant shall be denied, and a tenant's assistance shall be terminated, in accordance with the procedures of this section, upon the occurrence of any of the following events:

(i) Evidence of citizenship (i.e., the declaration) and eligible immigration status is not submitted by the date specified in §5.508(g) or by the expiration of any extension granted in accordance with §5.508(h);

(ii) Evidence of citizenship and eligible immigration status is timely submitted, but INS primary and secondary verification does not verify eligible immigration status of a family member; and

(A) The family does not pursue INS appeal or informal hearing rights as provided in this section; or

(B) INS appeal and informal hearing rights are pursued, but the final appeal or hearing decisions are decided against the family member; or

(iii) The responsible entity determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the public or assisted housing unit of the family member. Such termination shall be for a period of not less than 24 months.

This provision does not apply to a family if the ineligibility of the ineligible individual was considered in calculating any pro-ration of assistance provided for the family.

(2) *Termination of assisted occupancy.*

For termination of assisted occupancy, see paragraph (i) of this section.

(d) *Notice of denial or termination of assistance.*

The notice of denial or termination of assistance shall advise the family:

(1) That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance;

(2) That the family will be eligible for pro-ration of assistance as provided under §5.520;

(3) In the case of a tenant, the criteria and procedures for obtaining relief under the provisions for preservation of families in §§5.514 and 5.518;

(4) That the family has a right to request an appeal to the INS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal in accordance with the procedures of paragraph (e) of this section;

(5) That the family has a right to request an informal hearing with the responsible entity either upon completion of the INS appeal or in lieu of the INS appeal as provided in paragraph (f) of this section;

(6) For applicants, the notice shall advise that assistance will not be delayed until the conclusion of the INS appeal process, but assistance will be delayed during the pendency of the informal hearing process.

(e) *Appeal to the INS.*

(1) *Submission of request for appeal.*

Upon receipt of notification by the responsible entity that INS secondary verification failed to confirm eligible immigration status, the responsible entity shall notify the family of the results of the INS verification, and the family shall have 30 days from the date of the responsible entity's notification, to request an appeal of the INS results.

The request for appeal shall be made by the family communicating that request in writing directly to the INS.

The family will provide the responsible entity with a copy of the written request for appeal and proof of mailing.

*(2) Documentation to be submitted as Part of appeal to INS.*

The family shall forward to the designated INS office any additional documentation or written explanation in support of the appeal.

This material will include a copy of the INS document verification request form G-845S (used to process the secondary verification request) or such other form specified by the INS, and a cover letter indicating that the family is requesting an appeal of the INS immigration status verification results.

*(3) Decision by INS—*

*(i) When decision will be issued.*

The INS will issue to the family, with a copy to the responsible entity, a decision within 30 days of its receipt of documentation concerning the family's appeal of the verification of immigration status.

If, for any reason, the INS is unable to issue a decision within the 30 day time period, the INS will inform the family and responsible entity of the reasons for the delay.

*(ii) Notification of INS decision and of informal hearing procedures.*

When the responsible entity receives a copy of the INS decision, the responsible entity shall notify the family of its right to request an informal hearing on the responsible entity's ineligibility determination in accordance with the procedures of paragraph (f) of this section.

*(4) No delay, denial, reduction, or termination of assistance until completion of INS appeal process; direct appeal to INS.*

Pending the completion of the INS appeal under this section, assistance will not be delayed, denied, reduced or terminated on the basis of immigration status.

*(f) Informal hearing.*

*(1) When request for hearing is to be made.*

After notification of the INS decision on appeal, or in lieu of request of appeal to the INS, the family will request that the responsible entity provide a hearing.

This request will be made either within 30 days of receipt of the notice described in paragraph (d) of this section, or

within 30 days of receipt of the INS appeal decision issued in accordance with paragraph (e) of this section.

*(2) Informal hearing procedures—*

(i) *Tenants assisted under a Section 8 covered program:*

For tenants assisted under a Section 8 covered program, the procedures for the hearing before the responsible entity are set forth in:

(A) *For Section 8 Moderate Rehabilitation assistance:* 24 CFR Part 882;

(B) *For Section 8 tenant-based assistance:* 24 CFR Part 982; or

(C) *For Section 8 project-based certificate program:* 24 CFR Part 983.

(ii) *Tenants assisted under any other Section 8 covered program or a Public Housing covered program:*

For tenants assisted under a Section 8 covered program not listed in paragraph (f)(3)(i) of this section or a Public Housing covered program, the procedures for the hearing before the responsible entity are set forth in 24 CFR Part 966.

(iii) *Families under Housing covered programs and applicants for assistance under all covered programs.*

For all families under Housing covered programs (applicants as well as tenants already receiving assistance) and for applicants for assistance under all covered programs, the procedures for the informal hearing before the responsible entity are as follows:

(A) *Hearing before an impartial individual.*

The family shall be provided a hearing before any person(s) designated by the responsible entity (including an officer or employee of the responsible entity),

other than a person who made or approved the decision under review, and

other than a person who is a subordinate of the person who made or approved the decision;

(B) *Examination of evidence.*

The family shall be provided the opportunity to examine and copy at the individual's expense, at a reasonable time in advance of the hearing, any documents in the possession of the responsible entity pertaining to the family's eligibility status, or in the possession of the INS (as permitted by INS requirements), including any records and regulations that will be relevant to the hearing;

(C) *Presentation of evidence and arguments in support of eligible status.*

The family shall be provided the opportunity to present evidence and arguments in support of eligible status.

Evidence will be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings;

(D) *Controvert evidence of the responsible entity.*

The family shall be provided the opportunity to controvert evidence relied upon by the responsible entity and to confront and cross-examine all witnesses on whose testimony or information the responsible entity relies;

(E) *Representation.*

The family shall be entitled to be represented by an attorney, or other designee, at the family's expense, and to have such person make statements on the family's behalf;

(F) *Interpretive services.*

The family shall be entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or responsible entity, as will be agreed upon by the two Parties to the proceeding; and

(G) *Hearing to be recorded.*

The family shall be entitled to have the hearing recorded by audiotape (a transcript of the hearing will, but is not required to, be provided by the responsible entity).

(3) *Hearing decision.*

The responsible entity shall provide the family with a **written final** decision,

based solely on the facts presented at the hearing,

within 14 days of the date of the informal hearing.

The decision shall state the basis for the decision.

(g) *Judicial relief.*

A decision against a family member, issued in accordance with paragraphs (e) or (f) of this section, does not preclude the family from exercising the right, that will otherwise be available, to seek redress directly through judicial procedures.

(h) *Retention of documents.*

The responsible entity shall retain for a minimum of **5 years** the following documents that will have been submitted to the responsible entity by the family, or provided to the responsible entity as Part of the INS appeal or the informal hearing process:

- (1) The application for financial assistance;
- (2) The form completed by the family for income reexamination;
- (3) Photocopies of any original documents (front and back), including original INS documents;
- (4) The signed verification consent form;
- (5) The INS verification results;
- (6) The request for an INS appeal;

- (7) The final INS determination;
- (8) The request for an informal hearing; and
- (9) The final informal hearing decision.

(i) *Termination of assisted occupancy.*

(1) Under Housing covered programs, and in the Section 8 covered programs other than the Section 8 Rental Certificate, Rental Voucher, and Moderate Rehabilitation programs, assisted occupancy is terminated by:

(i) If permitted under the lease, the responsible entity notifying the tenant that because of the termination of assisted occupancy the tenant is required to pay the HUD-approved market rent for the dwelling unit.

(ii) The responsible entity and tenant entering into a new lease without financial assistance.

(iii) The responsible entity evicting the tenant.

While the tenant continues in occupancy of the unit, the responsible entity will continue to receive assistance payments if

action to terminate the tenancy under an assisted lease is promptly initiated and diligently pursued,

in accordance with the terms of the lease,

and if eviction of the tenant is undertaken by judicial action pursuant to State and local law.

Action by the responsible entity to terminate the tenancy and to evict the tenant will be in accordance with applicable HUD regulations and other HUD requirements.

For any jurisdiction, HUD will prescribe a maximum period during which assistance payments will be continued during eviction proceedings and will prescribe other standards of reasonable diligence for the prosecution of eviction proceedings.

(2) In the Section 8 Rental Certificate, Rental Voucher, and Moderate Rehabilitation programs, assisted occupancy is terminated by terminating assistance payments. (See provisions of this section concerning termination of assistance.)

THHA shall not make any additional assistance payments to the owner after the required procedures specified in this section have been completed.

In addition, THHA **shall not** approve a lease, enter into an assistance contract, or process a portability move for the family after those procedures have been completed.

[61 FR 13616, Mar. 27, 1996, as amended at 61 FR 60539, Nov. 29, 1996; 64 FR 25731, Will 12, 1999]

**§ 5.516 Availability of preservation assistance to mixed families and other families.**

(a) *Assistance available for tenant mixed families—*

(1) *General.*

Preservation assistance is available to tenant mixed families, following completion of the appeals and informal hearing procedures provided in §5.514.

There are three types of preservation assistance:

- (i) Continued assistance (see paragraph (a) of §5.518);
- (ii) Temporary deferral of termination of assistance (see paragraph (b) of §5.518); or
- (iii) Prorated assistance (see §5.520, a mixed family will be provided prorated assistance if the family so requests).

(2) *Availability of assistance—*

(i) *For Housing covered programs:*

One of the three types of assistance described is available to tenant mixed families assisted under a National Housing Act or 1965 HUD Act covered program, depending upon the family's eligibility for such assistance.

Continued assistance will be provided to a mixed family that meets the conditions for eligibility for continued assistance.

(ii) *For Section 8 or Public Housing covered programs.*

One of the three types of assistance described will be available to tenant mixed families assisted under a Section 8 or Public Housing covered program.

(b) *Assistance available for applicant mixed families.*

Prorated assistance is also available for mixed families applying for assistance as provided in §5.520.

(c) *Assistance available to other families in occupancy.*

Temporary deferral of termination of assistance will be available to families receiving assistance under a Section 214 covered program on June 19, 1995, and who have no members with eligible immigration status, as set forth in paragraphs (c)(1) and (2) of this section.

(1) *For Housing covered programs:*

Temporary deferral of termination of assistance is available to families assisted under a Housing covered program.

(2) *For Section 8 or Public Housing covered programs:*

The responsible entity will make temporary deferral of termination of assistance to families assisted under a Section 8 or Public Housing covered program.

(d) *Section 8 covered programs: Discretion afforded to provide certain family preservation assistance—*

(1) *Project owners.*

With respect to assistance under a Section 8 Act covered program administered by a project owner, HUD has the discretion to determine under what circumstances families are to be provided one of the two statutory forms of assistance for preservation of the family (continued assistance or temporary deferral of assistance).

HUD is exercising its discretion by specifying the standards in this section under which a project owner will provide one of these two types of assistance to a family.

However, project owners and THHAs will offer prorated assistance to eligible mixed families.

(2) *THHAs.*

THHA, rather than HUD, has the discretion to determine the circumstances under which a family will be offered one of the two statutory forms of assistance (continued assistance or temporary deferral of termination of assistance).

THHA will establish its own policy and criteria to follow in making its decision.

In establishing the criteria for granting continued assistance or temporary deferral of termination of assistance, THHA will incorporate the statutory criteria, which are set forth in paragraphs (a) and (b) of §5.518.

However, THHA will offer prorated assistance to eligible families.

**§ 5.518 Types of preservation assistance available to mixed families and other families.**

(a) *Continued assistance.*

(1) *General.*

A mixed family will receive continued housing assistance if all of the following conditions are met (a mixed family assisted under a Housing covered program will be provided continued assistance if the family meets the following conditions):

(i) The family was receiving assistance under a Section 214 covered program on June 19, 1995;

(ii) The family's head of household or spouse has eligible immigration status as described in §5.506; and

(iii) The family does not include any person (who does not have eligible immigration status) other than the head of household, any spouse of the head of household, any parents of the head of household, any parents of the spouse, or any children of the head of household or spouse.

(2) *Pro-ration of continued assistance.*

A family entitled to continued assistance before November 29, 1996 is entitled to continued assistance as described in paragraph (a) of this section.



A family entitled to continued assistance after November 29, 1996 shall receive prorated assistance as described in §5.520.

*(b) Temporary deferral of termination of assistance—*

*(1) Eligibility for this type of assistance.*

If a mixed family qualifies for prorated assistance (and does not qualify for continued assistance), but decides not to accept prorated assistance, or

if a family has no members with eligible immigration status,

the family will be eligible for temporary deferral of termination of assistance if

necessary to permit the family additional time for the orderly transition of those family members with ineligible status, and any other family members involved, to other affordable housing.

Other affordable housing is used in the context of transition of an ineligible family from a rent level that reflects HUD assistance to a rent level that is unassisted.

The term refers to housing that is not substandard,

that is of appropriate size for the family and

that can be rented for an amount not exceeding the amount that the family pays for rent, including utilities, plus 25 percent.

*(2) Housing covered programs: Conditions for granting temporary deferral of termination of assistance.*

The responsible entity shall grant a temporary deferral of termination of assistance to a mixed family if the family is assisted under a Housing covered program and one of the following conditions is met:

(i) The family demonstrates that reasonable efforts to find other affordable housing of appropriate size have been unsuccessful (for purposes of this section, reasonable efforts include seeking information from, and pursuing leads obtained from the State housing agency, the city government, local newspapers, rental agencies and the owner);

(ii) The vacancy rate for affordable housing of appropriate size is below five percent in the housing market for the area in which the project is located; or

(iii) The consolidated plan, as described in 24 CFR Part 91 and if applicable to the covered program, indicates that the local jurisdiction's housing market lacks sufficient affordable housing opportunities for households having a size and income similar to the family seeking the deferral.

*(3) Time limit on deferral period.*

If temporary deferral of termination of assistance is granted, the deferral period shall be for an initial period not to exceed six months.

The initial period will be renewed for additional periods of six months, but the aggregate deferral period for deferrals provided after November 29, 1996 shall not exceed a period of eighteen months.

The aggregate deferral period for deferrals granted prior to November 29, 1996 shall not exceed 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.

*(4) Notification requirements for beginning of each deferral period*

At the beginning of each deferral period, the responsible entity will inform the family of its ineligibility for financial assistance and offer the family information concerning, and referrals to assist in finding, other affordable housing.

*(5) Determination of availability of affordable housing at end of each deferral period.*

(i) Before the end of each deferral period, the responsible entity will satisfy the applicable requirements of either paragraph (b)(5)(i)(A) or (B) of this section.

Specifically, the responsible entity will:

*(A) For Housing covered programs:*

Make a determination that one of the two conditions specified in paragraph (b)(2) of this section continues to be met (note: affordable housing will be determined to be available if the vacancy rate is five percent or greater),and

the owner's knowledge and the tenant's evidence indicate that other affordable housing is available; or

*(B) For Section 8 or Public Housing covered programs:*

Make a determination of the availability of affordable housing of appropriate size based on evidence of conditions which,

taken together,

demonstrate an inadequate supply of affordable housing

for the area in which the project is located,

in the consolidated plan (if applicable, as described in 24 CFR Part 91),

within the responsible entity's own knowledge of the availability of affordable housing,

based on evidence of the tenant family's efforts to locate such housing.

(ii) The responsible entity will also:

(A) Notify the tenant family in writing, at least 60 days in advance of the expiration of the deferral period, that termination will be deferred again (provided that the granting of another deferral will not result in aggregate deferral periods that exceeds the maximum deferral period).

This time period does 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, and a determination was made that other affordable housing is not available; *or*

(B) Notify the tenant family in writing,

at least 60 days in advance of the expiration of the deferral period,

that termination of financial assistance will not be deferred because either granting another deferral will result in aggregate deferral periods that exceed the maximum deferral period (unless the family includes a refugee under section 207 of the Immigration and Nationality Act or an individual seeking asylum under section 208 of that Act), or

a determination has been made that other affordable housing is available.

(c) *Option to select pro-ration of assistance at end of deferral period.*

A family who is eligible for, and receives temporary deferral of termination of assistance, will request, and the responsible entity shall provide pro-ration of assistance at the end of the deferral period if the family has made a good faith effort during the deferral period to locate other affordable housing.

(d) *Notification of decision on family preservation assistance.*

A responsible entity shall notify the family of its decision concerning the family's qualification for family preservation assistance.

If the family is ineligible for family preservation assistance, the notification shall state the reasons, which will be based on relevant factors.

For tenant families, the notice also shall inform the family of any applicable appeal rights.

#### **§ 5.520 Pro-ration of assistance.**

(a) *Applicability.*

**This section applies to a mixed family other than a family receiving continued assistance, or other than a family who is eligible for and requests and receives temporary deferral of termination of assistance.**

An eligible mixed family who requests prorated assistance will be provided prorated assistance.

(b) *Method of prorating assistance for Housing covered programs—*

(1) *Pro-ration under Rent Supplement Program.*

If the household Participates in the Rent Supplement Program, the rent supplement paid on the household's behalf shall be

the rent supplement the household would otherwise be entitled to,

multiplied by a fraction,

the denominator of which is the number of people in the household and the numerator of which is the number of eligible persons in the household;

(2) *Pro-ration under Section 235 Program.*

If the household Participates in the Section 235 Program, the interest reduction payments paid on the household's behalf shall be

the payments the household would otherwise be entitled to,

multiplied by a fraction,

the denominator of which is the number of people in the household and the numerator of which is the number of eligible persons in the household;

*(3) Pro-ration under Section 236 Program without the benefit of additional assistance.*

If the household Participates in the Section 236 Program without the benefit of any additional assistance, the household's rent shall be

increased above the rent the household would otherwise pay

by an amount equal to the difference between the market rate rent for the unit and the rent the household would otherwise pay

multiplied by a fraction,

the denominator of which is the number of people in the household and the numerator of which is the number of ineligible persons in the household;

*(4) Pro-ration under Section 236 Program with the benefit of additional assistance.*

If the household Participates in the Section 236 Program with the benefit of additional assistance under the rent supplement, rental assistance payment or Section 8 programs, the household's rent shall be

increased above the rent the household would otherwise pay by:

(i) An amount equal to the difference between the market rate rent for the unit and the basic rent for the unit

multiplied by a fraction,

the denominator of which is the number of people in the household, and the numerator of which is the number of ineligible persons in the household, plus;

(ii) An amount equal to the rent supplement, housing assistance payment or rental assistance payment the household would otherwise be entitled to

multiplied by a fraction,

the denominator of which is the number of people in the household and the numerator of which is the number of ineligible persons in the household.

*(c) Method of prorating assistance for Section 8 covered programs—*

*(1) Section 8 assistance other than assistance provided for a tenancy under the Section 8 Rental Voucher Program or for an over-FMR tenancy in the Section 8 Rental Certificate Program.*

For Section 8 assistance other than assistance for a tenancy under the voucher program or an over-FMR tenancy under the certificate program, THHA will prorate the family's assistance as follows:

(i) *Step 1.* Determine gross rent for the unit. (Gross rent is contract rent plus any allowance for tenant paid utilities).

(ii) *Step 2.* Determine total tenant payment in accordance with section 5.613(a). (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)

(iii) *Step 3.* Subtract amount determined in paragraph (c)(1)(ii), (Step 2), from amount determined in paragraph (c)(1)(i), (Step 1).

(iv) *Step 4.* Multiply the amount determined in paragraph (c)(1)(iii), (Step 3) by a fraction for which:

(A) The numerator is the number of family members who have established eligible immigration status; and

(B) The denominator is the total number of family members.

(v) *Prorated housing assistance.* The amount determined in paragraph (c)(1)(iv), (Step 4) is the prorated housing assistance payment for a mixed family.

(vi) *No effect on contract rent.*

Pro-ration of the housing assistance payment does not affect contract rent to the owner.

The family will pay as rent the portion of contract rent not covered by the prorated housing assistance payment.

(2) *Assistance for a Section 8 voucher tenancy or over-FMR tenancy.*

For a tenancy under the voucher program or for an over-FMR tenancy under the certificate program, THHA will prorate the family's assistance as follows:

(i) *Step 1.* Determine the amount of the pre-pro-ration housing assistance payment. (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)

(ii) *Step 2.* Multiply the amount determined in paragraph (c)(2)(i), (Step 1) by a fraction for which:

(A) The numerator is the number of family members who have established eligible immigration status; and

(B) The denominator is the total number of family members.

(iii) *Prorated housing assistance.* The amount determined in paragraph (c)(2)(ii), (Step 2) is the prorated housing assistance payment for a mixed family.

(iv) *No effect on rent to owner.*

Pro-ration of the housing assistance payment does not affect rent to owner.

The family will pay the portion of rent to owner not covered by the prorated housing assistance payment.

(d) *Method of prorating assistance for Public Housing covered programs.*

THHA shall prorate the family's assistance by:

(1) *Step 1.* Determining total tenant payment in accordance with 24 CFR 913.107(a). (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)

(2) *Step 2.* Subtracting the total tenant payment from a HUD-supplied “public housing maximum rent” applicable to the unit or THHA.

(This “maximum rent” shall be determined by HUD using the 95th percentile rent for THHA.)

The result is the maximum subsidy for which the family could qualify if all members were eligible (“family maximum subsidy”).

(3) *Step 3.* Dividing the family maximum subsidy by the number of persons in the family (all persons) to determine the maximum subsidy per each family member who has citizenship or eligible immigration status (“eligible family member”).

The subsidy per eligible family member is the “member maximum subsidy”.

(4) *Step 4.* Multiplying the member maximum subsidy by the number of family members who have citizenship or eligible immigration status (“eligible family members”).

(5) *Step 5.* The product of steps 1 through 4, as set forth in paragraph (d)(2) of this section is the amount of subsidy for which the family is eligible (“eligible subsidy”).

The family's rent is the “public housing maximum rent” minus the amount of the eligible subsidy.

**§ 5.522 Prohibition of assistance to non-citizen students.**

(a) *General.*

The provisions of §§5.516 and 5.518 permitting continued assistance or temporary deferral of termination of assistance for certain families do not apply to any person who is determined to be a non-citizen student as in paragraph (c)(2)(A) of Section 214 (42 U.S.C. 1436a(c)(2)(A)).

The family of a non-citizen student will be eligible for prorated assistance, as provided in paragraph (b)(2) of this section.

(b) *Family of non-citizen students.*

(1) The prohibition on providing assistance to a non-citizen student as described in paragraph (a) of this section extends to the non-citizen spouse of the non-citizen student and minor children accompanying the student or following to join the student.

(2) The prohibition on providing assistance to a non-citizen student does not extend to the citizen spouse of the non-citizen student and the children of the citizen spouse and non-citizen student.

**§ 5.524 Compliance with nondiscrimination requirements.**

The responsible entity shall administer the restrictions on use of assisted housing by non-citizens with ineligible immigration status imposed by this Part in conformity with all applicable nondiscrimination and

equal opportunity requirements, including, but not limited to, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–5) and the implementing regulations in 24 CFR Part 1, section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations in 24 CFR Part 8, the Fair Housing Act (42 U.S.C. 3601–3619) and the implementing regulations in 24 CFR Part 100.

**§ 5.526 Protection from liability for responsible entities and State and local government agencies and officials.**

(a) *Protection from liability for responsible entities.*

Responsible entities are protected from liability as set forth in Section 214(e) (42 U.S.C 1436a(e)).

(b) *Protection from liability for State and local government agencies and officials.*

State and local government agencies and officials shall not be liable for the design or implementation of the verification system described in §5.512, as long as the implementation by the State and local government agency or official is in accordance with prescribed HUD rules and requirements.

**§ 5.528 Liability of ineligible tenants for reimbursement of benefits.**

Where a tenant has received the benefit of HUD financial assistance to which the tenant was not entitled because the tenant intentionally misrepresented eligible status, the ineligible tenant is responsible for reimbursing HUD for the assistance improperly paid.

If the amount of the assistance is substantial, the responsible entity is encouraged to refer the case to the HUD Inspector General's office for further investigation.

Possible criminal prosecution will follow based on the False Statements Act (18 U.S.C. 1001 and 1010).



## **Sub-Part F—Section 8 and Public Housing, and Other HUD Assisted Housing Serving Persons with Disabilities:**

### **Family Income and Family Payment;**

### **Occupancy Requirements for Section 8 Project-Based Assistance.**

#### **§ 5.601 Purpose and applicability.**

This sub-Part states HUD requirements on the following subjects:

(a) Determining annual and adjusted income of families who apply for or receive assistance in the Section 8 (tenant-based and project-based) and public housing programs;

(b) Determining payments by and utility reimbursements to families assisted in these programs;

(c) Additional occupancy requirements that apply to the Section 8 project-based assistance programs. These additional requirements concern:

(1) Income-eligibility and income-targeting when a Section 8 owner admits families to a Section 8 project or unit;

(2) Owner selection preferences; and

(3) Owner reexamination of family income and composition;

(d) Determining adjusted income, as provided in §5.611(a) and (b), for families who apply for or receive assistance under the following programs:

HOME Investment Partnerships Program (24 CFR Part 92);

Rent Supplement Payments Program (24 CFR Part 200, sub-Part W);

Rental Assistance Payments Program (24 CFR Part 236, sub-Part D);

Housing Opportunities for Persons with AIDS (24 CFR Part 574);

Shelter Plus Care Program (24 CFR Part 582);

Supportive Housing Program (McKinney Act Homeless Assistance) (24 CFR Part 583);

Section 202 Supportive Housing Program for the Elderly (24 CFR 891, sub-Part B);

Section 202 Direct Loans for Housing for the Elderly and Persons with Disabilities (24 CFR Part 891, sub-Part E)

and the Section 811 Supportive Housing for Persons with Disabilities (24 CFR Part 891, sub-Part C).

Unless specified in the regulations for each of the programs listed in paragraph (d) of this section or in another regulatory section of this Part 5, sub-Part F, the regulations in Part 5, sub-Part F, generally are not applicable to these programs; and

(e) Determining earned income disregard for persons with disabilities, as provided in §5.617, for the following programs:

HOME Investment Partnerships Program (24 CFR Part 92);

Housing Opportunities for Persons with AIDS (24 CFR Part 574);

Supportive Housing Program (McKinney Act Homeless Assistance) (24 CFR Part 583);

and the Housing Choice Voucher Program (24 CFR Part 982).

### **§ 5.603 Definitions.**

As used in this sub-Part:

(a) *Terms found elsewhere in Part 5—*

(1) *Sub-Part A.* The terms *1937 Act*, *elderly person*, *public housing*, *public housing agency (THHA)*, *responsible entity* and *Section 8* are defined in §5.100.

(2) *Sub-Part D.* The terms “disabled family”, “elderly family”, “family”, “live-in aide”, and “person with disabilities” are defined in §5.403.

(b) The following terms shall have the meanings set forth below:

*Adjusted income.* See §5.611.

*Annual income.* See §5.609.

*Child care expenses.*

Amounts anticipated to be paid by the family

for the care of children under 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 actively seek employment,

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.

In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

*Dependent.*

A member of the family (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.

*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.

*Economic self-sufficiency program.*

Any program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work for such families.

These programs include programs for job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a Participant for work (including a substance abuse or mental health treatment program), or other work activities.

*Extremely low income family.*

A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD will establish income ceilings higher or lower than 30 percent of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

*Full-time student.*

A person who is attending school or vocational training on a full-time basis.

*Imputed welfare income.* See §5.615.

*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, except that HUD will establish income ceilings higher or lower than 80 percent of the median income for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family incomes.

*Medical expenses.*

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.

*Monthly adjusted income.* One twelfth of adjusted income.

*Monthly income.* One twelfth of annual income.

*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 homeownership programs.

The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) 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 under §5.609.

(3) In determining net family assets, THHAs or owners, as applicable, shall include

the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale)

during the two 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 tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under §5.609, the term “net family assets” does not include the value of a home currently being purchased with assistance under Part 982, sub-Part M of this title.

This exclusion is limited to the first 10 years after the purchase date of the home.

*Owner* has the meaning provided in the relevant program regulations.

As used in this sub-Part, where appropriate, the term “owner” shall also include a “borrower” as defined in Part 891 of this title.

*Responsible entity.*

For §5.611,

in addition to the definition of “responsible entity” in §5.100, and for §5.617,

in addition to only that part of the definition of “responsible entity” in §5.100 which addresses the Section 8 program covered by §5.617 (public housing is not covered by §5.617),

“responsible entity” means:

(1) For the HOME Investment Partnerships Program, the Participating jurisdiction, as defined in 24 CFR 92.2;

(2) For the Rent Supplement Payments Program, the owner of the multifamily project;

(3) For the Rental Assistance Payments Program, the owner of the Section 236 project;

(4) For the Housing Opportunities for Persons with AIDS (HOPWA) program, the applicable “State” or “unit of general local government” or “nonprofit organization” as these terms are defined in 24 CFR 574.3, that administers the HOPWA Program;

(5) For the Shelter Plus Care Program, the “Recipient” as defined in 24 CFR 582.5;

(6) For the Supportive Housing Program, the “recipient” as defined in 24 CFR 583.5;

(7) For the Section 202 Supportive Housing Program for the Elderly, the “Owner” as defined in 24 CFR 891.205;

(8) For the Section 202 Direct Loans for Housing for the Elderly and Persons with Disabilities), the “Borrower” as defined in 24 CFR 891.505; and

(9) For the Section 811 Supportive Housing Program for Persons with Disabilities, the “owner” as defined in 24 CFR 891.305.

#### *Tenant rent.*

The amount payable monthly by the family as rent to the unit owner (Section 8 owner or THHA in public housing). (This term is not used in the Section 8 voucher program.)

*Total tenant payment.* See §5.613.

#### *Utility allowance.*

If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit,

an amount equal to an estimate made or approved by a THHA or HUD will be used for

the monthly cost 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 reimbursement.*

The amount, if any, by which the utility allowance for a unit, if applicable, exceeds the total tenant payment for the family occupying the unit.

**(This definition is not used in the Section 8 voucher program, or for a public housing family that is paying a flat rent.)**

*Very low income family.*

A family whose annual income does not exceed 50 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD will establish income ceilings higher or lower than 50 percent of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

*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 (including assistance provided under the Temporary Assistance for Needy Families (TANF) program, as that term is defined under the implementing regulations issued by the Department of Health and Human Services at 45 CFR 260.31).

*Work activities.* See the definition at section 407(d) of the Social Security Act (42 U.S.C. 607(d)).

**Family Income**  
**§ 5.609 Annual income.**

(a) *Annual income* means all amounts, monetary or not, which:

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this section.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) Annual income includes, but is not limited to:

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) 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 will 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;

(3) Interest, dividends, and other net income of any kind from real or personal property.

Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income.

An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section.

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;

(4) The full amount of periodic amounts 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 in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) *Welfare assistance payments.*

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that 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:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) 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.**

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section).

(c) Annual income does not include the following:

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in §5.403;

(6) The full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8) (i) Amounts received under training programs funded by HUD;

(ii) 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);

(iii) 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;

(iv) Amounts received under a resident service stipend.

A resident service stipend is

a modest amount (not to exceed \$200 per month)



received by a resident for performing a service for THHA or owner,  
on a Part-time basis,  
that enhances the quality of life in the development.

Such services will include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of THHA's governing board.

No resident will receive more than one such stipend during the same period of time;

(v) 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 will 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;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) 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;

(11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of \$480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) 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;

(16) 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; or

(17) 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 any program to which the exclusions set forth in 24 CFR 5.609(c) apply.

A notice will be published in the Federal Register and distributed to THHAs and housing owners identifying the benefits that qualify for this exclusion.

Updates will be published and distributed when necessary.

(d) *Annualization of income.*

**If it is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income),**

**or THHA believes that past income is the best available indicator of expected future income,**

THHA will annualize the income anticipated for a shorter period,

subject to a re-determination at the end of the shorter period.

[61 FR 54498, Oct, 18, 1996, as amended at 65 FR 16716, Mar. 29, 2000; 67 FR 47432, July 18, 2002]

### **§ 5.611 Adjusted income.**

Adjusted income means annual income (as determined by the responsible entity, defined in §5.100 and §5.603) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

(a) *Mandatory deductions.*

In determining adjusted income, the responsible entity will deduct the following amounts from annual income:

- (1) \$480 for each dependent;
- (2) \$400 for any elderly family or disabled family;
- (3) The sum of the following, to the extent the sum exceeds three percent of annual income:

- (i) Un-reimbursed medical expenses of any elderly family or disabled family; and
- (ii) Un-reimbursed reasonable attendant care and auxiliary apparatus expenses

for each member of the family who is a person with disabilities,

to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed.

This deduction will not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and

- (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

(b) *Additional deductions.*

- (1) For public housing, a THHA will adopt additional deductions from annual income.

THHA will establish a written policy for such deductions.

- (2) For the HUD programs listed in §5.601(d), the responsible entity shall calculate such other deductions as required and permitted by the applicable program regulations.

**§ 5.613 Public housing program and Section 8 tenant-based assistance program: THHA cooperation with welfare agency.**

**(a) This section applies to the public housing program and the Section 8 tenant-based assistance program.**

(b) THHA will make best efforts to enter into cooperation agreements with welfare agencies under which such agencies agree:

(1) To target public assistance, benefits and services to families receiving assistance in the public housing program and the Section 8 tenant-based assistance program to achieve self-sufficiency;

(2) To provide written verification to THHA concerning welfare benefits for families applying for or receiving assistance in these housing assistance programs.

**§ 5.615 Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.**

(a) *Applicability.*

**This section applies to covered families who reside in public housing (Part 960 of this title) or receive Section 8 tenant-based assistance (Part 982 of this title).**

(b) *Definitions.* The following definitions apply for purposes of this section:

*Covered families.*

Families who receive welfare assistance or other public assistance benefits (“welfare benefits”) from a State or other public agency (“welfare agency”) under a program for which Federal, State, or local law requires that a member of the family will Participate in an economic self-sufficiency program as a condition for such assistance.

*Economic self-sufficiency program.* See definition at §5.603.

*Imputed welfare income.*

The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless **included** in the family's annual income for purposes of determining rent.

*Specified welfare benefit reduction.*

(1) A reduction of welfare benefits by the welfare agency,

in whole or in Part,

for a family member, as determined by the welfare agency,

because of fraud by a family member in connection with the welfare program; or

because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to Participate in an economic self-sufficiency program.

(2) “Specified welfare benefit reduction” does **not** include a reduction or termination of welfare benefits by the welfare agency:

- (i) at expiration of a lifetime or other time limit on the payment of welfare benefits;
- (ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or
- (iii) because a family member has not complied with other welfare agency requirements.

(c) *Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to THHA by the welfare agency), plus the total amount of other annual income as determined in accordance with §5.609.

(2) At the request of THHA, the welfare agency will inform THHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform THHA of any subsequent changes in the term or amount of such specified welfare benefit reduction.

THHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at THHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to THHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed.

When such additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income is reduced to zero.

(5) THHA will not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) *Review of THHA decision.*

(1) *Public housing.*

If a public housing tenant claims that THHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and

if THHA denies the family's request to modify such amount,

THHA shall give the tenant written notice of such denial, with a **brief** explanation of the basis for THHA determination of the amount of imputed welfare income.

THHA notice shall also state that if the tenant does not agree with THHA determination, the tenant will request a grievance hearing in accordance with Part 966, sub-Part B of this title to review THHA determination.

The tenant is not required to pay an escrow deposit pursuant to §966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on THHA determination.

(2) *Section 8 Participant.*

A participant in the Section 8 tenant-based assistance program will request an **informal** hearing,

in accordance with §982.555 of this title,

to review THHA determination of the amount of imputed welfare income that will be included in the family's annual income in accordance with this section.

If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and

if THHA denies the family's request to modify such amount,

THHA shall give the family written notice of such denial, with a **brief** explanation of the basis for THHA determination of the amount of imputed welfare income.

Such notice shall also state that if the family does not agree with THHA determination, the family will request an **informal** hearing on the determination under THHA hearing procedure.

(e) *THHA relation with welfare agency.*

(1) THHA will ask welfare agencies to inform THHA of

any specified welfare benefits reduction for a family member,

the reason for such reduction, the term of any such reduction, and

any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction.

If the welfare agency determines a specified welfare benefits reduction for a family member, and gives THHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) THHA **is responsible** for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to THHA.

However, THHA **is not responsible** for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family will seek appeal of such determinations through the welfare agency's normal due process procedures.

THHA shall be entitled to rely on the welfare agency notice to THHA of the welfare agency's determination of a specified welfare benefits reduction.

**§ 5.617 Self-sufficiency incentives for persons with disabilities—  
Disallowance of increase in annual income.**

(a) *Applicable programs.*

The disallowance of increase in annual income provided by this section is applicable only to the following programs:

HOME Investment Partnerships Program (24 CFR Part 92);

Housing Opportunities for Persons with AIDS (24 CFR Part 574);

Supportive Housing Program (24 CFR Part 583);

and the Housing Choice Voucher Program (24 CFR Part 982).

(b) *Definitions.* The following definitions apply for purposes of this section.

*Disallowance.* Exclusion from annual income.

*Previously unemployed* includes

a person with disabilities who has earned,

in the twelve months previous to employment,

no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

*Qualified family.*

A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during Participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases,

as a result of new employment or

increased earnings of a family member who is a person with disabilities,

during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act,

as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs.

The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance—provided that the total amount over a six-month period is at least \$500.

(c) *Disallowance of increase in annual income—*

(1) *Initial twelve month exclusion.*

During the cumulative twelve month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment,

the responsible entity will exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) *Second twelve month exclusion and THHAsE-in.*

During the second cumulative twelve month period after the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment,

the responsible entity will exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) *Maximum four year disallowance.*

The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) is limited to a lifetime 48 month period.

The disallowance only applies

for a maximum of twelve months for disallowance under paragraph (c)(1) and

a maximum of twelve months for disallowance under paragraph (c)(2),

during the 48 month period starting from the initial exclusion under paragraph (c)(1) of this section.

(d) *Inapplicability to admission.*

The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that will be applicable).

**Family Payment**

**§ 5.628 Total tenant payment.**

(a) *Determining total tenant payment (TTP).*

Total tenant payment is the highest of the following amounts, rounded to the nearest dollar:

(1) 30 percent of the family's monthly adjusted income;

(2) 10 percent of the family's monthly income;



(3) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of those payments which is so designated; or

(4) The minimum rent, as determined in accordance with §5.630.

(b) *Determining TTP if family's welfare assistance is ratably reduced.*

**If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under paragraph (a)(3) of this section is the amount resulting from one application of the percentage.**

### **§ 5.630 Minimum rent.**

(a) *Minimum rent.*

(1) THHA will charge a family no less than a minimum monthly rent established by the responsible entity, except as described in paragraph (b) of this section.

(2) For the public housing program and the section 8 moderate rehabilitation, and certificate or voucher programs, THHA will establish a minimum rent of up to \$50.

(3) For other section 8 programs, the minimum rent is \$25.

(b) *Financial hardship exemption from minimum rent.*

(1) *When is family exempt from minimum rent?*

The responsible entity will grant an exemption from payment of minimum rent if the family is unable to pay the minimum rent because of financial hardship, as described in the responsible entity's written policies.

Financial hardship includes these situations:

(i) When the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is a non-citizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Act of 1996;

(ii) When the family would be evicted because it is unable to pay the minimum rent;

(iii) When the income of the family has decreased because of changed circumstances, including loss of employment;

(iv) When a death has occurred in the family; and

(v) Other circumstances determined by the responsible entity or HUD.

(2) *What happens if family requests a hardship exemption?*

(i) *Public housing.*

(A) If a family requests a financial hardship exemption, THHA will suspend the minimum rent requirement days beginning the month following the family's request for a hardship exemption, and

(B) promptly determine whether a qualifying hardship exists and whether it is temporary or long term.

(C) THHA will not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the family's request for a hardship exemption.

(D) If THHA determines that a qualifying financial hardship is temporary, THHA will reinstate the minimum rent from the beginning of the suspension of the minimum rent.

THHA will offer the family a reasonable repayment agreement, on terms and conditions established by THHA, for the amount of back minimum rent owed by the family.

*(ii) All section 8 programs.*

(A) If a family requests a financial hardship exemption, the responsible entity will suspend the minimum rent requirement beginning the month following the family's request for a hardship exemption until the responsible entity determines whether there is a qualifying financial hardship, and whether such hardship is temporary or long term.

(B) The responsible entity will promptly determine whether a qualifying hardship exists and whether it is temporary or long term.

(C) If the responsible entity determines that a qualifying financial hardship is temporary, t

THHA will not impose the minimum rent during the 90-day period beginning the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the responsible entity will reinstate the minimum rent from the beginning of the suspension.

The family will be offered a reasonable repayment agreement, on terms and conditions established by the responsible entity, for the amount of back rent owed by the family.

*(iii) All programs.*

(A) If the responsible entity determines there is no qualifying financial hardship exemption, the responsible entity will

reinstate the minimum rent, including back rent owed from the beginning of the suspension.

The family will pay the back rent on terms and conditions established by the responsible entity.

(B) If the responsible entity determines a qualifying financial hardship is long term, the responsible entity will

exempt the family from the minimum rent requirements so long as such hardship continues.

Such exemption shall apply from the beginning of the month following the family's request for a hardship exemption until the end of the qualifying financial hardship.

(C) The financial hardship exemption only applies to payment of the minimum rent (as determined pursuant to §5.628(a)(4) and §5.630), and not to the other elements used to calculate the total tenant payment (as determined pursuant to §5.628(a)(1), (a)(2) and (a)(3)).

*(3) Public housing: Grievance hearing concerning THHA denial of request for hardship exemption.*

If a public housing family requests a hearing under THHA grievance procedure, to review THHA's determination denying or limiting the family's claim to a financial hardship exemption, the family is not required to pay any escrow deposit in order to obtain a grievance hearing on such issues.

### **§ 5.632 Utility reimbursements.**

(a) *Applicability.* This section is applicable to:

(1) The Section 8 programs other than the Section 8 voucher program (for distribution of a voucher housing assistance payment that exceeds rent to owner, see §982.514(b) of this title);

(2) A public housing family paying an income-based rent (see §960.253 of this title). (Utility reimbursement is not paid for a public housing family that is paying a flat rent.)

(b) *Payment of utility reimbursement.*

(1) The responsible entity pays a utility reimbursement if the utility allowance (for tenant-paid utilities) exceeds the amount of the total tenant payment.

(2) In the public housing program (where the family is paying an income-based rent), the Section 8 moderate rehabilitation program and the Section 8 certificate or voucher program, THHA will pay the utility reimbursement either to the family or directly to the utility supplier to pay the utility bill on behalf of the family.

If THHA elects to pay the utility supplier, THHA will notify the family of the amount paid to the utility supplier.

(3) In the other Section 8 programs, the owner will pay the utility reimbursement either:

(i) To the family, or

(ii) With consent of the family, to the utility supplier to pay the utility bill on behalf of the family.

### **§ 5.634 Tenant rent.**

(a) *Section 8 programs.*

For Section 8 programs other than the Section 8 voucher program, tenant rent is total tenant payment minus any utility allowance.

(b) *Public housing.* See §960.253 of this title for the determination of tenant rent.



## Section 8 Project-Based Assistance: Occupancy Requirements

### § 5.653 Section 8 project-based assistance programs: Admission—Income-eligibility and income-targeting.

#### (a) *Applicability.*

**This section describes requirements concerning income-eligibility and income-targeting that apply to the Section 8 project-based assistance programs (i. e. Garfield Gardens), except for the moderate rehabilitation and the project-based certificate or voucher programs.**

#### (b) *Who is eligible?*

##### (1) *Basic eligibility.*

An applicant will meet all eligibility requirements in order to receive housing assistance.

At a minimum, the applicant will be a family, as defined in §5.403,

and will be income-eligible, as described in this section.

Such eligible applicants include single persons.

##### (2) *Low income limit.*

No family other than a low income family is eligible for admission to the Section 8 project-based assistance programs.

**(This paragraph (b) does not apply to the Section 8 project-based voucher program under Part 983 of this title.)**

#### (c) *Targeting to extremely low income families.*

For each project assisted under a contract for project-based assistance, of the dwelling units that become available for occupancy in any fiscal year that are assisted under the contract,

**not less than 40 percent** shall be available for leasing only by families that are extremely low income families at the time of admission.

#### (d) *Limitation on admission of non-very low income families.*

##### (1) *Admission to units available before October 1, 1981.*

Not more than 25 percent of the Section 8 project-based dwelling units that were available for occupancy under Section 8 Housing Assistance Payments Contracts effective before October 1, 1981 and that are leased on or after that date shall be available for leasing by low income families other than very low income families. HUD reserves the right to limit the admission of low income families other than very low income families to these units.

##### (2) *Admission to units available on or after October 1, 1981.*

Not more than 15 percent of the Section 8 project-based dwelling units that initially become available for occupancy under Section 8 Housing Assistance Payments (HAP) Contracts on or after October 1, 1981 shall be available for leasing by low income families other than families that are very

low income families at the time of admission to the Section 8 program. Except with the prior approval of HUD under paragraphs (d)(3) and (d)(4) of this section, the owner will only lease such units to very low income families.

*(3) Request for exception.*

A request by an owner for approval of admission of low income families other than very low income families to section 8 project-based units will state the basis for requesting the exception and provide supporting data. Bases for exceptions that will be considered include the following:

(i) Need for admission of a broader range of tenants to preserve the financial or management viability of a project because there is an insufficient number of potential applicants who are very low income families;

(ii) Commitment of an owner to attaining occupancy by families with a broad range of incomes;

(iii) Project supervision by a State Housing Finance Agency having a policy of occupancy by families with a broad range of incomes supported by evidence that the Agency is pursuing this goal throughout its assisted projects in the community, or a project with financing through Section 11(b) of the 1937 Act (42 U.S.C. 1437i) or under Section 103 of the Internal Revenue Code (26 U.S.C. 103); and

(iv) Low-income families that otherwise would be displaced from a Section 8 project.

*(4) Action on request for exception.*

Whether to grant any request for exception is a matter committed by law to HUD's discretion, and no implication is intended to be created that HUD will seek to grant approvals up to the maximum limits permitted by statute,

nor is any presumption of an entitlement to an exception created by the specification of certain grounds for exception that HUD will consider.

HUD will review exceptions granted to owners at regular intervals.

HUD will withdraw permission to exercise those exceptions for program applicants at any time that exceptions are not being used or after a periodic review, based on the findings of the review.

*(e) Income used for eligibility and targeting.*

Family annual income (see §5.609) is used both for determination of income-eligibility and for income-targeting under this section.

*(f) Reporting.*

The Section 8 owner will comply with HUD-prescribed reporting requirements, including income reporting requirements that will permit HUD to maintain the data necessary to monitor compliance with income-eligibility and income-targeting requirements.

**§ 5.655 Section 8 project-based assistance programs: Owner preferences in selection for a project or unit.**

(a) *Applicability.*

**This section applies to the section 8 project-based assistance programs.**

**The section describes requirements concerning the Section 8 owner's selection of residents to occupy a project or unit, except for the moderate rehabilitation and the project-based certificate or voucher programs.**

(b) *Selection.*

(1) *Selection for owner's project or unit.*

Selection for occupancy of a project or unit is the function of the Section 8 owner.

However, selection is subject to the income-eligibility and income-targeting requirements in §5.653.

(2) *Tenant selection plan.*

The owner will adopt a written tenant selection plan in accordance with HUD requirements.

(3) *Amount of income.*

The owner will not select a family for occupancy of a project or unit in an order different from the order on the owner's waiting list for the purpose of selecting a relatively higher income family.

However, an owner will select a family for occupancy of a project or unit based on its income in order to satisfy the targeting requirements of §5.653(c).

(4) *Selection for Particular unit.*

In selecting a family to occupy a Particular unit, the owner will match family characteristics with the type of unit available, for example, number of bedrooms.

If a unit has special accessibility features for persons with disabilities, the owner will first offer the unit to families which include persons with disabilities who require such features (see §§8.27 and 100.202 of this title).

(5) *Housing assistance limitation for single persons.*

A single person who is not an elderly or displaced person, a person with disabilities, or the remaining member of a resident family will not be provided a housing unit with two or more bedrooms.

(c) *Particular owner preferences.*

The owner will inform all applicants about available preferences and will give applicants an opportunity to show that they qualify for available preferences.

(1) *Residency requirements or preferences.*

- (i) Residency requirements are prohibited.

Although the owner is not prohibited from adopting a residency preference, the owner will only adopt or implement residency preferences in accordance with non-discrimination and equal opportunity requirements listed at §5.105(a).

(ii) A residency preference is a preference for admission of persons who reside in a specified geographic area (“residency preference area”).

(iii) An owner's residency preference will be approved by HUD in one of the following methods:

(A) Prior approval of the housing market area in the Affirmative Fair Housing Marketing plan (in accordance with §108.25 of this title) as a residency preference area;

(B) Prior approval of the residency preference area in THHA plan of the jurisdiction in which the project is located;

(C) Modification of the Affirmative Fair Housing Marketing Plan, in accordance with §108.25 of this title,

(iv) Use of a residency preference will not have the purpose or effect of delaying or otherwise denying admission to a project or unit based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant family.

(v) A residency preference will not be based on how long an applicant has resided or worked in a residency preference area.

(vi) Applicants who are working or who have been notified that they are hired to work in a residency preference area will be treated as residents of the residency preference area.

The owner will treat graduates of, or active participants in, education and training programs in a residency preference area as residents of the residency preference area if the education or training program is designed to prepare individuals for the job market.

(2) *Preference for working families.*

(i) The owner will adopt a preference for admission of working families (families where the head, spouse or sole member is employed).

However, an applicant shall be given the benefit of the working family preference if the head and spouse, or sole member, is age 62 or older, or is a person with disabilities.

(ii) If the owner adopts a preference for admission of working families, the owner will not give a preference based on the amount of earned income.

(3) *Preference for person with disabilities.*

The owner will adopt a preference for admission of families that include a person with disabilities.



However, the owner will not adopt a preference for admission of persons with a specific disability.

*(4) Preference for victims of domestic violence.*

The owner should consider whether to adopt a preference for admission of families that include victims of domestic violence.

*(5) Preference for single persons who are elderly, displaced, homeless or persons with disabilities over other single persons.*

The owner will adopt a preference for admission of single persons who are age 62 or older, displaced, homeless, or persons with disabilities over other single persons.

**§ 5.657 Section 8 project-based assistance programs: Reexamination of family income and composition.**

*(a) Applicability.*

**This section states requirements for reexamination of family income and composition in the Section 8 project-based assistance programs, except for the moderate rehabilitation and the project-based certificate or voucher programs.**

*(b) Regular reexamination.*

The owner will conduct a reexamination and re-determination of family income and composition at least annually.

*(c) Interim reexaminations.*

A family will request an interim reexamination of family income because of any changes since the last examination.

The owner will make the interim reexamination within a reasonable time after the family request.

The owner will adopt policies prescribing when and under what conditions the family will report a change in family income or composition.

**§ 5.659 Family information and verification.**

*(a) Applicability.*

**This section states requirements for reexamination of family income and composition in the Section 8 project-based assistance programs, except for the moderate rehabilitation program and the project-based certificate or voucher programs.**

*(b) Family obligation to supply information.*

(1) The family will supply any information that HUD or the owner determines is necessary in administration of the Section 8 program, including submission of required evidence of citizenship or eligible immigration status (as provided by Part 5, sub-Part E of this title). "Information" includes any requested certification, release or other documentation.

(2) The family will supply any information requested by the owner or HUD for use in a regularly scheduled reexamination or an interim reexamination of family income and composition in accordance with HUD requirements.

(3) For requirements concerning the following, see Part 5, sub-Part B of this title:

(i) Family verification and disclosure of social security numbers;

(ii) Family execution and submission of consent forms for obtaining wage and claim information from State Wage Information Collection Agencies (SWICAs).

(4) Any information supplied by the family will be true and complete.

(c) *Family release and consent.*

(1) As a condition of admission to or continued occupancy of a unit with Section 8 assistance, the owner will

require the family head, and such other family members as the owner designates,

to execute a HUD-approved release and consent form (including any release and consent as required under §5.230 of this title) authorizing any depository or private source of income, or any Federal, State or local agency,

to furnish or release to the owner or HUD such information as the owner or HUD determines to be necessary.

(2) The use or disclosure of information obtained from a family or from another source pursuant to this release and consent shall be limited to purposes directly connected with administration of the Section 8 program.

(d) *Owner responsibility for verification.*

The owner will

**obtain and document in the family file third Party verification of the following factors, or will document in the file why third Party verification was not available:**

(1) Reported family annual income;

(2) The value of assets;

(3) Expenses related to deductions from annual income; and

(4) Other factors that affect the determination of adjusted income.

**§ 5.661 Section 8 project-based assistance programs: Approval for police or other security personnel to live in project.**

(a) *Applicability.*

This section describes when a Section 8 owner will lease a Section 8 unit to police or other security personnel with continued Section 8 assistance for the unit.

This section applies to the Section 8 project-based assistance programs.

(b) *Terms.*

(1) *Security personnel* means:

(i) A police officer, or

(ii) A qualified security professional, with adequate training and experience to provide security services for project residents.

(2) *Police officer* means a person employed on a full-time basis as a duly licensed professional police officer by a Federal, State or local government or by any agency of these governments.

(3) *Security* includes the protection of project residents, including resident project management from criminal or other activity that is a threat to person or property, or that arouses fears of such threat.

(c) *Owner application.*

(1) The owner will submit a written application to the contract administrator (THHA or HUD) for approval to lease an available unit in a Section 8 project to security personnel who would not otherwise be eligible for Section 8 assistance, for the purpose of increasing security for Section 8 families residing in the project.

(2) The owner's application will include the following information:

(i) A description of criminal activities in the project and the surrounding community, and the effect of criminal activity on the security of project residents.

(ii) Qualifications of security personnel who will reside in the project, and the period of residence by such personnel. How owner proposes to check backgrounds and qualifications of any security personnel who will reside in the project.

(iii) Full disclosure of any family relationship between the owner and any security personnel. For this purpose, "owner" includes a principal or other interested Party.

(iv) How residence by security personnel in a project unit will increase security for Section 8 assisted families residing in the project.

(v) The amount payable monthly as rent to the unit owner by security personnel residing in the project (including a description of how this amount is determined), and the amount of any other compensation by the owner to such resident security personnel.

(vi) The terms of occupancy by such security personnel.

The lease by owner to the approved security personnel will provide that occupancy of the unit is authorized only while the security personnel is satisfactorily performing any agreed responsibilities and functions for project security.

(vii) Other information as requested by the contract administrator.

(d) *Action by contract administrator.*

(1) The contract administrator shall have discretion to approve or disapprove owner's application, and to impose conditions for approval of occupancy by security personnel in a section 8 project unit.

(2) Notice of approval by the contract administrator shall specify the term of such approved occupancy.

Such approval will be withdrawn at the discretion of the contract administrator.

(For example, if the contract administrator determines that such occupancy is not providing adequate security benefits as proposed in the owner's application; or that security benefits from such occupancy are not a sufficient return for program costs)

(e) *Housing assistance payment and rent.*

(1) During approved occupancy by security personnel as provided in this section, the amount of the monthly housing assistance payment to the owner shall be equal to

the contract rent (as determined in accordance with the HAP contract and HUD requirements)

minus the amount (as approved by the contract administrator) of rent payable monthly as rent to the unit owner by such security personnel.

The owner shall bear the risk of collecting such rent from such security personnel, and the amount of the housing assistance payment shall not be increased because of non-payment by such security personnel.

The owner shall not be entitled to receive any vacancy payment for the period following occupancy by such security personnel.

(2) In approving the amount of monthly rent payable by security personnel for occupancy of a contract unit, the contract administrator will

consider whether security services to be performed are an adequate return for housing assistance payments on the unit, or

whether the cost of security services should be borne by the owner from other project income.

This section contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

## **Sub-Part G—Physical Condition Standards and Inspection Requirements**

### **§ 5.701 Applicability.**

(a) **This sub-Part applies to housing assisted under the HUD programs listed in 24 CFR 200.853(a).**

(b) **This sub-Part applies to housing with mortgages insured or held by HUD, or housing that is receiving assistance from HUD, under the programs listed in 24 CFR 200.853(b).**

**(c) This sub-Part also applies to Public Housing (housing receiving assistance under the U.S. Housing Act of 1937, other than under section 8 of the Act).**

**(d) For purposes of this sub-Part, the term “HUD housing” means the types of housing listed in paragraphs (a), (b), and (c) of this section.**

### **§ 5.703 Physical condition standards for HUD housing that is decent, safe, sanitary and in good repair**

HUD housing will be decent, safe, sanitary and in good repair.

Owners of housing described in §5.701(a),

mortgagors of housing described in §5.701(b),

and THHAs

and other entities approved by HUD owning housing described in §5.701(c)

will maintain such housing in a manner that meets the physical condition standards set forth in this section in order to be considered decent, safe, sanitary and in good repair.

These standards address the major areas of the HUD housing: the site; the building exterior; the building systems; the dwelling units; the common areas; and health and safety considerations.

(a) *Site.*

The site components, such as fencing and retaining walls, grounds, lighting, mailboxes/project signs, parking lots/driveways, play areas and equipment, refuse disposal, roads, storm drainage and walkways will be free of health and safety hazards and be in good repair.

The site will not be subject to material adverse conditions, such as abandoned vehicles, dangerous walks or steps, poor drainage, septic tank back-ups, sewer hazards, excess accumulations of trash, vermin or rodent infestation or fire hazards.

(b) *Building exterior.*

Each building on the site will be structurally sound, secure, habitable, and in good repair.

Each building's doors, fire escapes, foundations, lighting, roofs, walls, and windows, where applicable, will be free of health and safety hazards, operable, and in good repair.

(c) *Building systems.*

Each building's domestic water, electrical system, elevators, emergency power, fire protection, HVAC, and sanitary system will be free of health and safety hazards, functionally adequate, operable, and in good repair.

(d) *Dwelling units.*

(1) Each dwelling unit within a building will be structurally sound, habitable, and in good repair.

All areas and aspects of the dwelling unit (for example, the unit's bathroom, call-for-aid (if applicable), ceiling, doors, electrical systems, floors, hot water heater, HVAC (where individual units are provided), kitchen, lighting, outlets/switches, patio/porch/balcony, smoke detectors, stairs, walls, and windows) will be free of health and safety hazards, functionally adequate, operable, and in good repair.

(2) Where applicable, the dwelling unit will have hot and cold running water, including an adequate source of potable water (note for example that single room occupancy units need not contain water facilities).

(3) If the dwelling unit includes its own sanitary facility, it will be in proper operating condition, usable in privacy, and adequate for personal hygiene and the disposal of human waste.

(4) The dwelling unit will include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each level of the unit.

*(e) Common areas.*

The common areas will be structurally sound, secure, and functionally adequate for the purposes intended.

The basement/garage/carport, restrooms, closets, utility, mechanical, community rooms, day care, halls/corridors, stairs, kitchens, laundry rooms, office, porch, patio, balcony, and trash collection areas, if applicable, will be free of health and safety hazards, operable, and in good repair.

All common area ceilings, doors, floors, HVAC, lighting, outlets/switches, smoke detectors, stairs, walls, and windows, to the extent applicable, will be free of health and safety hazards, operable, and in good repair.

These standards for common areas apply, to a varying extent, to all HUD housing, but will be particularly relevant to congregate housing, independent group homes/residences, and single room occupancy units, in which the individual dwelling units (sleeping areas) do not contain kitchen and/or bathroom facilities.

*(f) Health and safety concerns.*

All areas and components of the housing will be free of health and safety hazards.

These areas include, but are not limited to, air quality, electrical hazards, elevators, emergency/fire exits, flammable materials, garbage and debris, handrail hazards, infestation, and lead-based paint.

For example, the buildings will have fire exits that are not blocked and have hand rails that are undamaged and have no other observable deficiencies.

The housing will have no evidence of infestation by rats, mice, or other vermin, or of garbage and debris. The housing will have no evidence of electrical hazards, natural hazards, or fire hazards.

The dwelling units and common areas will have proper ventilation and be free of mold, odor (e.g., propane, natural gas, methane gas), or other observable deficiencies.

The housing will comply with all requirements related to the evaluation and reduction of lead-based paint hazards and have available proper certifications of such (see 24 CFR Part 35).

*(g) Compliance with State and local codes.*

**The physical condition standards in this section do not supersede or preempt State and local codes for building and maintenance with which HUD housing will comply.**

**HUD housing will continue to adhere to these codes.**

### **§ 5.705 Uniform physical inspection requirements.**

Any entity responsible for conducting a physical inspection of HUD housing, to determine compliance with this sub-Part, will inspect such HUD housing annually in accordance with HUD-prescribed physical inspection procedures.

The inspection will be conducted annually unless the program regulations governing the housing provide otherwise or unless HUD has provided otherwise by notice.

## **Sub-Part H—Uniform Financial Reporting Standards**

### **§ 5.801 Uniform financial reporting standards.**

(a) *Applicability.* This sub-Part H implements uniform financial reporting standards for:

(1) Public housing agencies (THHAs) receiving assistance under sections 5, 9, or 14 of the 1937 Act (42 U.S.C. 1437c, 1437g, and 1437l) (Public Housing);

(2) THHAs as contract administrators for any Section 8 project-based or tenant-based housing assistance payments program, which includes assistance under the following programs:

(i) Section 8 project-based housing assistance payments programs, including, but not limited to, the Section 8 New Construction, Substantial Rehabilitation, Loan Management Set-Aside, Property Disposition, and Moderate Rehabilitation (including the Single Room Occupancy program for homeless individuals);

(ii) Section 8 Project-Based Certificate programs;

(iii) Any program providing Section 8 project-based renewal contracts; and

(iv) Section 8 tenant-based assistance under the Section 8 Certificate and Voucher program.

(3) Owners of housing assisted under any Section 8 project-based housing assistance payments program:

(i) Including, but not limited to, the Section 8 New Construction, Substantial Rehabilitation, Loan Management Set-Aside, and Property Disposition programs;

(ii) Excluding the Section 8 Moderate Rehabilitation Program (which includes the Single Room Occupancy program for homeless individuals) and the Section 8 Project-Based Certificate Program;

(4) Owners of multifamily projects receiving direct or indirect assistance from HUD, or with mortgages insured, coinsured, or held by HUD, including but not limited to housing under the following HUD programs:

(i) Section 202 Program of Supportive Housing for the Elderly;

(ii) Section 811 Program of Supportive Housing for Persons with Disabilities;

(iii) Section 202 loan program for projects for the elderly and handicapped (including 202/8 projects and 202/162 projects);



(iv) Section 207 of the National Housing Act (NHA) (12 U.S.C. 1701 et seq.) (Rental Housing Insurance);

(v) Section 213 of the NHA (Cooperative Housing Insurance);

(vi) Section 220 of the NHA (Rehabilitation and Neighborhood Conservation Housing Insurance);

(vii) Section 221(d) (3) and (5) of the NHA (Housing for Moderate Income and Displaced Families);

(viii) Section 221(d)(4) of the NHA (Housing for Moderate Income and Displaced Families);

(ix) Section 231 of the NHA (Housing for Elderly Persons);

(x) Section 232 of the NHA (Mortgage Insurance for Nursing Homes, Intermediate Care Facilities, Board and Care Homes);

(xi) Section 234(d) of the NHA (Rental) (Mortgage Insurance for Condominiums);

(xii) Section 236 of the NHA (Rental and Cooperative Housing for Lower Income Families);

(xiii) Section 241 of the NHA (Supplemental Loans for Multifamily Projects); and

(5) HUD-approved Title I and Title II non-supervised lenders, non-supervised mortgagees, and loan correspondents.

(b) *Submission of financial information.*

Entities (or individuals) to which this sub-Part is applicable will provide to HUD, on an annual basis, such financial information as required by HUD.

**This financial information will be:**

(1) Prepared in accordance with Generally Accepted Accounting Principles as further defined by HUD in supplementary guidance;

(2) Submitted electronically to HUD through the internet, or

in such other electronic format designated by HUD, or

in such non-electronic format as HUD will allow if the burden or cost of electronic reporting is determined by HUD to be excessive; and

(3) Submitted in such form and substance as prescribed by HUD.

(c) *Annual financial report filing dates.*

(1) For entities listed in paragraphs (a)(1) and (2) of this section, the financial information to be submitted to HUD in accordance with paragraph (b) of this section, will

be submitted to HUD annually, no later than 60 days after the end of the fiscal year of the reporting period, and as otherwise provided by law (for public housing agencies, see also 24 CFR 903.33).

(2) For entities listed in paragraphs (a)(3) and (4) of this section, the financial information to be submitted to HUD in accordance with paragraph (b) of this section, will

be submitted to HUD annually, no later than 90 days after the end of the fiscal year of the reporting period, and as otherwise provided by law.

(3) For those entities listed in paragraph (a)(5) of this section, the financial information to be submitted to HUD in accordance with paragraph (b) of this section will

be submitted to HUD annually, no later than 90 days after the end of the fiscal year (or within an extended time if an extension is granted at the sole discretion of the Secretary).

An extension request will be received no earlier than 45 days and no later than 15 days prior to the submission deadline.

*(d) Reporting compliance dates.*

Entities (or individuals) that are subject to the reporting requirements in this section will commence compliance with these requirements as follows:

(1) For THHAs listed in paragraphs (a)(1) and (a)(2) of this section, the requirements of this section will begin with those THHAs with fiscal years ending September 30, 1999 and later.

Un-audited financial statements will be required 60 days after THHA's fiscal year end,

and audited financial statements will then be required no later than **9 months** after THHA's fiscal year end, in accordance with the Single Audit Act and OMB Circular A-133 (See 24 CFR 84.26).

A THHA with a fiscal year ending September 30, 1999 that elects to submit its un-audited financial report earlier than the due date of November 30, 1999 will submit its report as required in this section.

On or after September 30, 1998, but prior to November 30, 1999 (except for a THHA with its fiscal year ending September 30, 1999), THHAs will submit their financial reports in accordance with this section.

(2) For entities listed in paragraphs (a)(3) and (a)(4) of this section, the requirements of this section will begin with those entities with fiscal years ending December 31, 1998 and later.

Entities listed in paragraphs (a)(3) and (a)(4) of this section with fiscal years ending December 31, 1998 that elect to submit their reports earlier than the due date will submit their financial reports as required in this section.

On or after September 30, 1998 but prior to January 1, 1999, these entities will submit their financial reports in accordance with this section.

(3) The requirements of this section apply to the entities listed in paragraph (a)(5) of this section with fiscal years ending on or after September 30, 2002.

Audited financial statements submitted by lenders with fiscal years ending before September 30, 2002, will either be submitted in paper or electronically at the lenders' option.

Audited financial statements submitted by lenders with fiscal years ending on or after September 30, 2002, will be submitted electronically.

(e) *Limitation on changing fiscal years.*

To allow for a period of consistent assessment of the financial reports submitted to HUD under this sub-Part Part, THHAs listed in paragraphs (a)(1) and (a)(2) of this section will not be allowed to change their fiscal years for their first three full fiscal years following October 1, 1998.

(f) *Responsibility for submission of financial report.*

The responsibility for submission of the financial report due to HUD under this section rests with the individuals and entities listed in paragraph (a) of this section.

## **Sub-Part I—Preventing Crime in Federally Assisted Housing—**

### **Denying Admission and Terminating Tenancy for Criminal Activity or Alcohol Abuse**

#### **General**

#### **§ 5.850 Which subsidized housing is covered by this sub-Part?**

- (a) If you are the owner of federally assisted housing, your federally assisted housing is covered, except as provided in paragraph (b) or (c) of this section.
- (b) If you are operating public housing, this sub-Part does not apply, but similar provisions applicable to public housing units are found in Parts 960 and 966 of this title.

If you administer tenant-based assistance under Section 8 or you are the owner of housing assisted with tenant-based assistance under Section 8, this sub-Part does not apply to you, but similar provisions that do apply are located in Part 982 of this title.

- (c) If you own or administer housing assisted by the Rural Housing Administration under section 514 or section 515 of the Housing Act of 1949, this sub-Part does not apply to you.

#### **§ 5.851 What authority do I have to screen applicants and to evict tenants?**

- (a) *Screening applicants.*

You are authorized to screen applicants for the programs covered by this Part.

The provisions of this sub-Part implement statutory directives that either *require* or *permit* you to take action to deny admission to applicants under certain circumstances in accordance with established standards, as described in this sub-Part.

The provisions of this sub-Part do not constrain your authority to screen out applicants who you determined are unsuitable under your standards for admission.

(b) *Terminating tenancy.*

You are authorized to terminate tenancy of tenants, in accordance with your leases and landlord-tenant law for the programs covered by this Part.

The provisions of this sub-Part implement statutory directives that either require or permit you to terminate tenancy under certain circumstances, as provided in 42 U.S.C. 1437f, 1437n, and 13662, in accordance with established standards, as described in this sub-Part.

You retain authority to terminate tenancy on any basis that is otherwise authorized.

**§ 5.852 What discretion do I have in screening and eviction actions?**

(a) *General.*

If the law and regulation permit you to take an action but do not require action to be taken, you will take or not take the action in accordance with your standards for admission and eviction.

Consistent with the application of your admission and eviction standards, you will consider all of the circumstances relevant to a Particular admission or eviction case, such as:

- (1) The seriousness of the offending action;
- (2) The effect on the community of denial or termination or the failure of the responsible entity to take such action;
- (3) The extent of Participation by the leaseholder in the offending action;
- (4) The effect of denial of admission or termination of tenancy on household members not involved in the offending action;
- (5) The demand for assisted housing by families who will adhere to lease responsibilities;
- (6) The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action; and
- (7) The effect of the responsible entity's action on the integrity of the program.

(b) *Exclusion of culpable household member.*

You will require an applicant (or tenant) to exclude a household member in order to be admitted to the housing program (or continue to reside in the assisted unit), where that household member has Participated in or been culpable for action or failure to act that warrants denial (or termination).

(c) *Consideration of rehabilitation.*

(1) In determining whether to deny admission or terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, you will 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, you will require

the applicant or tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

(2) If rehabilitation is **not** an element of the eligibility determination (see §5.854(a)(1) for the case where it will be considered), you will choose **not to consider** whether the person has been rehabilitated.

(d) *Length of period of mandatory prohibition on admission.*

If a statute requires that you prohibit admission of persons for a prescribed period of time after some disqualifying behavior or event, you will apply that prohibition for a longer period of time.

(e) *Nondiscrimination limitation.*

Your admission and eviction actions will be consistent with fair housing and equal opportunity provisions of §5.105.

### **§ 5.853 Definitions**

(a) *Terms found elsewhere.*

The following terms are defined in sub-Part A of this Part: *1937 Act, covered person, drug, drug-related criminal activity, federally assisted housing, guest, household, HUD, other person under the tenant's control, premises, public housing, public housing agency (THHA), Section 8, violent criminal activity.*

(b) *Additional terms* used in this Part are as follows.

*Currently engaging in.*

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.

*Owner.* The owner of federally assisted housing.

*Responsible entity.*

For the Section 8 project-based certificate or project-based voucher program (Part 983 of this title) and the Section 8 moderate rehabilitation program (Part 882 of this title), *responsible entity* means THHA administering the program under an Annual Contributions Contract with HUD.

For all other federally assisted housing, the responsible entity means the owner of the housing.

### **Denying Admissions**

#### **§ 5.854 When will I prohibit admission of individuals who have engaged in drug-related criminal activity?**

(a) You **will** prohibit admission to your federally assisted housing of an applicant for three years from the date of eviction if any household member has been evicted from federally assisted housing for drug-related criminal activity.

However, you will admit the household if:

- (1) The evicted household member who engaged in drug-related criminal activity has successfully completed an approved supervised drug rehabilitation program; or
- (2) The circumstances leading to the eviction no longer exist (for example, the criminal household member has died or is imprisoned).

(b) You **will** establish standards that prohibit admission of a household to federally assisted housing if:

- (1) You determine that any household member is currently engaging in illegal use of a drug; or
- (2) You determine that you have reasonable cause to believe that a household member's illegal use or a pattern of illegal use of a drug will interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

### **§ 5.855 When am I specifically authorized to prohibit admission of individuals who have engaged in criminal activity?**

(a) You will prohibit admission of a household to federally assisted housing under your standards if you determine that any household member is currently engaging in, or has engaged in during a reasonable time before the admission decision:

- (1) Drug-related criminal activity;
- (2) Violent criminal activity;
- (3) Other criminal activity that would threaten the health, safety, or right to peaceful enjoyment of the premises by other residents; or
- (4) Other criminal activity that would threaten the health or safety of THHA or owner or any employee, contractor, subcontractor or agent of THHA or owner who is involved in the housing operations.

(b) You will establish a period before the admission decision during which an applicant will not have engaged in the activities specified in paragraph (a) of this section (*reasonable time*).

(c) If you previously denied admission to an applicant because of a determination concerning a member of the household under paragraph (a) of this section, you will

reconsider the applicant if you have sufficient evidence that the members of the household are not currently engaged in, and have not engaged in,

such criminal activity during a reasonable period, **determined by you**, before the admission decision.

(1) You would have *sufficient evidence* if the household member submitted a certification that she or he is not currently engaged in and has not engaged in such criminal activity during the specified period and provided supporting information from such sources as a probation officer, a landlord, neighbors, social service agency workers and criminal records, which you verified.

(See sub-Part J of this Part for one method of checking criminal records.)

(2) For purposes of this section, a household member is *currently engaged in* the criminal activity if the person has engaged in the behavior recently enough to justify a reasonable belief that the behavior is current.

### **§ 5.856 When will I prohibit admission of sex offenders?**

You will establish standards that prohibit admission to federally assisted housing 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, you will perform necessary criminal history background checks in the State where the housing is located and in other States where the household members are known to have resided. (See §5.905.)

### **§ 5.857 When will I prohibit admission of alcohol abusers?**

You will establish standards that prohibit admission to federally assisted housing if you determine you have reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

## **Terminating Tenancy**

### **§ 5.858 What authority do I have to evict drug criminals?**

The lease will provide that drug-related criminal activity engaged 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 under the tenant's control, is grounds for you to terminate tenancy.

In addition, the lease will allow you to evict a family when you determine that a household member is illegally using a drug or when you determine that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

### **§ 5.859 When am I specifically authorized to evict other criminals?**

(a) *Threat to other residents.*

The lease *will* provide that the owner will terminate tenancy for any of the following types of criminal activity by a covered person:

(1) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises); or

(2) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises.

(b) *Fugitive felon or parole violator.*

The lease *will* provide that you will terminate the tenancy during the term of the lease if a tenant is:

(1) Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or

(2) Violating a condition of probation or parole imposed under Federal or State law.

### **§ 5.860 When am I specifically authorized to evict alcohol abusers?**

The lease will provide that you will terminate the tenancy if you determine that a household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

### **§ 5.861 What evidence of criminal activity will I have to evict?**

You will terminate tenancy and evict the tenant through judicial action for criminal activity by a covered person in accordance with this sub-Part if you determine that the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying a criminal conviction standard of proof of the activity.

## **Sub-Part J—Access to Criminal Records and Information**

### **§ 5.901 To what criminal records and searches does this sub-Part apply?**

#### **(a) General criminal records searches.**

This sub-Part applies to criminal conviction background checks by THHAs that administer the Section 8 and public housing programs when they obtain criminal conviction records, under the authority of section 6(q) of the 1937 Act (42 U.S.C. 1437d(q)), from a law enforcement agency **to prevent admission of criminals to public housing and Section 8 housing and to assist in lease enforcement and eviction.**

#### **(b) Sex offender registration records searches.**

This sub-Part applies to THHAs that administer the Section 8 and public housing programs when they obtain sex offender registration information from State and local agencies, under the authority of 42 U.S.C. 13663,

**to prevent admission of dangerous sex offenders to federally assisted housing.**

#### **(c) Excluded records searches.**

The provisions of this sub-Part **do not apply** to criminal conviction information or sex offender information searches by a THHA or others of information from law enforcement agencies or other sources other than as provided under this sub-Part.

### **§ 5.902 Definitions.**

#### **(a) Terms found elsewhere.**

The following terms used in this sub-Part are defined in sub-Part A of this Part: *1937 Act, drug, federally assisted housing, household, HUD, public housing, public housing agency (THHA), Section 8.*

#### **(b) Additional terms used in this sub-Part are as follows:**

**Adult.** A person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State, or tribal law.

**Covered housing.** Public housing, project-based assistance under section 8 (including new construction and substantial rehabilitation projects), and tenant-based assistance under section 8.



*Law enforcement agency.* The National Crime Information Center (NCIC), police departments and other law enforcement agencies that hold criminal conviction records.

*Owner.* The owner of federally assisted housing.

*Responsible entity.*

For the public housing program,

the Section 8 tenant-based assistance program (Part 982 of this title),

the Section 8 project-based certificate or project-based voucher program (Part 983 of this title),

and the Section 8 moderate rehabilitation program (Part 882 of this title),

*responsible entity* means THHA administering the program under an Annual Contributions Contract with HUD.

For all other Section 8 programs, responsible entity means the Section 8 owner.

### **§ 5.903 What special authority is there to obtain access to criminal records?**

(a) *Authority.*

If you are a THHA that administers the Section 8 program and/or the public housing program, this section authorizes you to obtain criminal conviction records from a law enforcement agency, as defined in §5.902.

You will use the criminal conviction records that you obtain from a law enforcement agency under the authority of this section to screen applicants for admission to covered housing programs and for lease enforcement or eviction of families residing in public housing or receiving Section 8 project-based assistance.

(b) *Consent for release of criminal conviction records.*

(1) In order to obtain access to records under this section, as a responsible entity you will require every applicant family to submit a consent form signed by each adult household member.

(2) By execution of the consent form, an adult household member consents that:

(i) Any law enforcement agency will release criminal conviction records concerning the household member to a THHA in accordance with this section;

(ii) THHA will receive the criminal conviction records from a law enforcement agency, and will use the records in accordance with this section.

(c) *Procedure for THHA.*

(1) When the law enforcement agency receives your request, the law enforcement agency will promptly release to you a certified copy of any criminal conviction records concerning the household member in the possession or control of the law enforcement agency. NCIC records will be provided in accordance with NCIC procedures.

(2) The law enforcement agency will charge you a reasonable fee for releasing criminal conviction records.

(d) *Owner access to criminal records—*

(1) *General.*

(i) If an owner submits a request to THHA for criminal records concerning an adult member of an applicant or resident household, in accordance with the provisions of paragraph (d) of this section, THHA will request the criminal conviction records from the appropriate law enforcement agency or agencies, as determined by THHA.

(ii) If THHA receives criminal conviction records requested by an owner,

THHA will determine whether criminal action by a household member, as shown by such criminal conviction records, will be a basis for applicant screening, lease enforcement or eviction, as applicable in accordance with HUD regulations and the owner criteria.

THHA will notify the owner whether THHA has received criminal conviction records concerning the household member, and of its determination whether such criminal conviction records will be a basis for applicant screening, lease enforcement or eviction.

However, except as provided in paragraph (e)(2)(ii) of this section, THHA will not disclose the household member's criminal conviction record or the content of that record to the owner.

(2) *Screening.*

If you are an owner of covered housing,

you will request that THHA in the jurisdiction of the property obtain criminal conviction records of an adult household member from a law enforcement agency on your behalf for the purpose of screening applicants.

(i) Your request will include a copy of the consent form, signed by the household member.

(ii) Your request will include your standards for prohibiting admission of drug criminals in accordance with §5.854, and for prohibiting admission of other criminals in accordance with §5.855.

(3) *Eviction or lease enforcement.*

If you are an owner of a unit with Section 8 project-based assistance,

you will request that THHA in the location of the project obtain criminal conviction records of a household member from an appropriate law enforcement agency on your behalf in connection with lease enforcement or eviction.

(i) Your request will include a copy of the consent form, signed by the household member.

(ii) If you intend to use THHA determination regarding any such criminal conviction records in connection with eviction, your request will include your standards for evicting drug criminals in accordance with §5.857, and for evicting other criminals in accordance with §5.858.

(iii) If you intend to use THHA determination regarding any such criminal conviction records for lease enforcement other than eviction, your request will include your standards for lease enforcement because of criminal activity by members of a household.

(4) *Fees.*

If an owner requests a THHA to obtain criminal conviction records in accordance with this section, THHA will charge the owner reasonable fees for making the request on behalf of the owner and for taking other actions for the owner.

THHA will require the owner to

reimburse costs incurred by THHA, including reimbursement of any fees charged to THHA by the law enforcement agency,

THHA's own related staff and administrative costs.

The owner will not pass along to the applicant or tenant the costs of a criminal records check.

(e) *Permitted use and disclosure of criminal conviction records received by THHA—*

(1) *Use of records.*

Criminal conviction records received by a THHA from a law enforcement agency in accordance with this section will only be used for the following purposes:

(i) *Applicant screening.*

(A) THHA screening of applicants for admission to public housing (Part 960 of this title);

(B) THHA screening of applicants for admission to the Housing Choice Voucher Program (section 8 tenant-based assistance) (Part 982 of this title);

(C) THHA screening of applicants for admission to the Section 8 moderate rehabilitation program (Part 882 of this title); or the Section 8 project-based certificate or project-based voucher program (Part 983 of this title); or

(D) THHA screening concerning criminal conviction of applicants for admission to Section 8 project-based assistance, at the request of the owner.

(For requirements governing use of criminal conviction records obtained by a THHA at the request of a Section 8 owner under this section, see paragraph (d) of this section.)

(ii) *Lease enforcement and eviction.*

(A) THHA enforcement of public housing leases and THHA eviction of public housing residents;

(B) Enforcement of leases by a Section 8 project owner and eviction of residents by a Section 8 project owner.

(However, criminal conviction records received by a THHA from a law enforcement agency under this section will not be used for lease enforcement or eviction of residents receiving Section 8 tenant-based assistance.)

(2) *THHA disclosure of records.*

(i) A THHA will disclose the criminal conviction records which THHA receives from a law enforcement agency only as follows:

(A) To officers or employees of THHA, or to authorized representatives of THHA who have a job-related need to have access to the information.

For example, if THHA is seeking to evict a public housing tenant on the basis of criminal activity as shown in criminal conviction records provided by a law enforcement agency, the records will be disclosed to THHA employees performing functions related to the eviction, or to a THHA hearing officer conducting an administrative grievance hearing concerning the proposed eviction.

(B) To the owner for use in connection with judicial eviction proceedings by the owner to the extent necessary in connection with a judicial eviction proceeding. For example, criminal conviction records will be included in pleadings or other papers filed in an eviction action, will be disclosed to Parties to the action or the court, and will be filed in court or offered as evidence.

(ii) This disclosure will be made only if the following conditions are satisfied:

(A) If THHA has determined that criminal activity by the household member as shown by such records received from a law enforcement agency will be a basis for eviction from a Section 8 unit; and

(B) If the owner certifies in writing that it will use the criminal conviction records only for the purpose and only to the extent necessary to seek eviction in a judicial proceeding of a Section 8 tenant based on the criminal activity by the household member that is described in the criminal conviction records.

(iii) THHA will rely on an owner's certification that the criminal record is necessary to proceed with a judicial eviction to evict the tenant based on criminal activity of the identified household member, as shown in the criminal conviction record.

(iv) Upon disclosure as necessary in connection with judicial eviction proceedings, THHA is not responsible for controlling access to or knowledge of such records after such disclosure.

(f) *Opportunity to dispute.*

If a THHA obtains criminal record information from a State or local agency under this section showing that a household member has been convicted of a crime relevant to applicant screening, lease enforcement or eviction, THHA

will notify the household of the proposed action to be based on the information and

will provide the subject of the record and the applicant or tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information.

This opportunity will be provided before a denial of admission, eviction or lease enforcement action on the basis of such information.

(g) *Records management.*

Consistent with the limitations on disclosure of records in paragraph (e) of this section, THHA will establish and implement a system of records management that ensures that any criminal record received by THHA from a law enforcement agency is:

(1) Maintained confidentially;

(2) Not misused or improperly disseminated; and

(3) Destroyed, once the purpose(s) for which the record was requested has been accomplished, including expiration of the period for filing a challenge to THHA action without institution of a challenge or final disposition of any such litigation.

(h) *Penalties for improper release of information—*

(1) *Criminal penalty.* Conviction for a misdemeanor and imposition of a penalty of not more than \$5,000 is the potential for:

(i) Any person, including an officer, employee, or authorized representative of any THHA or of any project owner, who knowingly and willfully requests or obtains any information concerning an applicant for, or tenant of, covered housing assistance under the authority of this section under false pretenses; or

(ii) Any person, including an officer, employee, or authorized representative of any THHA or a project owner, who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive the information.

(2) *Civil liability.*

(i) A THHA will be held liable to any applicant for, or tenant of, covered housing assistance affected by either of the following:

(A) A negligent or knowing disclosure of criminal records information obtained under the authority of this section about such person by an officer, employee, or authorized representative of THHA if the disclosure is not authorized by this section; or

(B) Any other negligent or knowing action that is inconsistent with this section.

(ii) An applicant for, or tenant of, covered housing assistance will seek relief against a THHA in these circumstances by bringing a civil action for damages and such other relief as will be appropriate against THHA responsible for such unauthorized action.

The United States district court in which the affected applicant or tenant resides, in which the unauthorized action occurred, or in which the officer, employee, or representative alleged to be responsible resides, has jurisdiction.

Appropriate relief will include reasonable attorney's fees and other litigation costs.

## **§ 5.905 What special authority is there to obtain access to sex offender registration information?**

(a) *THHA obligation to obtain sex offender registration information.*

(1) A THHA that administers a Section 8 or public housing program under an Annual Contributions Contract with HUD will

carry out background checks necessary to determine whether a member of a household applying for admission to any federally assisted housing program is subject to a lifetime sex offender registration requirement under a State sex offender registration program.

This check will be carried out with respect to the State in which the housing is located and with respect to States where members of the applicant household are known to have resided.

(2) If THHA requests such information from any State or local agency responsible for the collection or maintenance of such information, the State or local agency will promptly provide THHA such information in its possession or control.

(3) The State or local agency will charge a reasonable fee for providing the information.

(b) *Owner's request for sex offender registration information—*

(1) *General.* An owner of federally assisted housing that is located in the jurisdiction of a THHA that administers a Section 8 or public housing program under an Annual Contributions Contract with HUD will request that THHA obtain information necessary to determine whether a household member is subject to a lifetime registration requirement under a State sex offender registration requirement.

(2) *Procedure.*

If the request is made in accordance with the provisions of paragraph (b) of this section:

(i) THHA will request the information from a State or local agency;

(ii) The State or local agency will promptly provide THHA such information in its possession or control;

(iii) THHA will determine whether such information will be a basis for applicant screening, lease enforcement or eviction, based on the criteria used by the owner as specified in the owner's request, and inform the owner of the determination.

(iv) THHA will notify the owner of its determination whether sex offender registration information received by THHA under this section concerning a household member will be a basis for applicant screening, lease enforcement or eviction in accordance with HUD requirements and the criteria used by the owner.

(3) *Contents of request.*

As the owner, your request will specify whether you are asking THHA to obtain the sex offender registration information concerning the household member for applicant screening, for lease enforcement, or for eviction and include the following information:

(i) Addresses or other information about where members of the household are known to have lived.

(ii) If you intend to use THHA determination regarding any such sex offender registration information for applicant screening, your request will include your standards in accordance with §5.855(c) for prohibiting admission of persons subject to a lifetime sex offender registration requirement.

(iii) If you intend to use THHA determination regarding any such sex offender registration information for eviction, your request will include your standards for evicting persons subject to a lifetime registration requirement in accordance with §5.858.

(iv) If you intend to use THHA determination regarding any such sex offender registration information for lease enforcement other than eviction, your request will include your standards for lease enforcement because of criminal activity by members of a household.

*(4) THHA disclosure of records.*

THHA will not disclose to the owner any sex offender registration information obtained by THHA under this section.

*(5) Fees.*

If an owner asks a THHA to obtain sex offender registration information concerning a household member in accordance with this section, THHA will charge the owner reasonable fees for making the request on behalf of the owner and for taking other actions for the owner.

THHA will require the owner to reimburse costs incurred by THHA, including reimbursement of any fees charged to THHA by a State or local agency for releasing the information, THHA's own related staff and administrative costs.

The owner will not pass along to the applicant or tenant the costs of a sex offender registration records check.

*(c) Records management.*

(1) THHA will establish and implement a system of records management that ensures that any sex offender registration information record received by THHA from a State or local agency under this section is:

(i) Maintained confidentially;

(ii) Not misused or improperly disseminated; and

(iii) Destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to THHA action without institution of a challenge or final disposition of any such litigation.

(2) The records management requirements do not apply to information that is public information, or is obtained by a THHA other than under this section.

*(d) Opportunity to dispute.*



If a THHA obtains sex offender registration information from a State or local agency under paragraph (a) of this section showing that a household member is subject to a lifetime sex offender registration requirement, THHA will

notify the household of the proposed action to be based on the information and will

provide the subject of the record, and the applicant or tenant, with a copy of such information, and an opportunity to dispute the accuracy and relevance of the information.

This opportunity will be provided before a denial of admission, eviction or lease enforcement action on the basis of such information.

## **Sub-Part K—Application Submission Requirements**

### **§ 5.1001 Applicability.**

This sub-Part applies to all applicants for HUD grants, cooperative agreements, capital fund or operating fund subsidy, capital advance, or other assistance under HUD programs, including grant programs that are classified by OMB as including formula grant programs or activities, but excluding FHA insurance and loan guarantees that are not associated with a grant program or grant award.

### **§ 5.1003 Use of a universal identifier for organizations applying for HUD grants.**

(a) Every application for a new or renewal of a grant, cooperative agreement, capital fund or operating fund subsidy, capital advance, or other assistance, including an application or plan under a grant program that is classified by OMB as including formula grant programs, will include a Data Universal Numbering System (DUNS) number for the applicant.

**THHA DUNS =050349430**

**THHADC DUNS =148838217**

(b) (1) Applicants or groups of applicants under a consortium arrangement will have a DUNS number for the organization that is submitting the application for federal assistance as the lead applicant on behalf of the other applicants. If each organization is submitting a separate application as Part of a group of applications, then each organization will include its DUNS number with its application submission.

(2) If an organization is submitting an application as a sponsor or on behalf of other applicants, and the other entities will be receiving funds directly from HUD, then the applicant or sponsor will submit an application for funding that includes the DUNS number of each applicant that would receive funds directly from HUD.

(3) If an organization is managing funds for a group of organizations, a DUNS number will be submitted for the managing organization, if it is drawing down funds directly from HUD.

(4) If an organization is drawing down funds directly from HUD and subsequently turning the funds over to a management organization, then the management organization will obtain a DUNS number and submit the number to HUD.

(c) Individuals who would personally receive a grant or other assistance from HUD, independent from any business or nonprofit organization with which they will operate or participate, are exempt from this requirement.

(d) In cases where individuals apply for funding, but the funding will be awarded to an institution or other entity on the individual's behalf, the institution or entity will obtain a DUNS number and the individual will submit the institution's DUNS number with the application.

(e) Unless an exemption is granted by OMB, HUD will not consider an application as complete until a valid DUNS number is provided by the applicant. For classes of grants and grantees subject to this Part, exceptions to this rule will be submitted to OMB for approval in accordance with procedures prescribed by the Department.