

HOUSING AUTHORITY OF THE CITY OF TERRE HAUTE, INDIANA

5 Year Plan for Fiscal Years 2001 - 2005 Annual Plan for Fiscal Year 2002

**PHA Plan
Agency Identification**

PHAName: TERREHAUTE

PHANumber: IN021

PHAFiscalYearBeginning: (10/2002)

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 (including attachments) 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)

5-YEAR PLAN
PHAF ISCAL YEARS 2001 -2005
[24CFRPart903.5]

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 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 target sets such as: numbers of families served or PHAS scores achieved.) PHAs should identify these measures in the space 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 one effort 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 effort 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

X 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:
- X 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

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

Objectives:

- Increase the number and percentage of employed persons in assisted families:
- X 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

X PHA Goal: Ensure equal opportunity and affirmatively further fair housing

Objectives:

- X 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:
- X 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)

AnnualPHAPlan
PHAFiscalYear2001
[24CFRPart903.7]

i. AnnualPlanType:

SelectwhichtypeofAnnualPlanthePHAwillsubmit.

StandardPlan

StreamlinedPlan:

- HighPerformingPHA**
- SmallAgency(<250PublicHousingUnits)**
- AdministeringSection8Only**

TroubledAgencyPlan

ii. ExecutiveSummaryoftheAnnualPHAPlan

[24CFRPart903.79(r)]

Providea briefoverviewoftheinformationintheAnnualPlan,includinghighlightsofmajorinitiativesanddiscretionarypoliciesthePHAhasincludedintheAnnualPlan.

NOEXECUTIVESUMMARYWASDEEMEDNECESSARY.

Annual Plan Table of Contents

[24CFR Part 903.79(r)]

Provide a table of contents for the Annual Plan, including attachments, and a list of supporting documents available for public inspection.

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Annual Plan

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- ii. Table of Contents
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 - 5. Operations and Management Policies
 - 6. Grievance Procedures
 - 7. Capital Improvement Needs
 - 8. Demolition and Disposition
 - 9. Designation of Housing
 - 10. Conversion of Public Housing
 - 11. Homeownership
 - 12. Community Service Programs
 - 13. Crime and Safety
 - 14. Pets (Inactive for January 1 PHAs)
 - 15. Civil Rights Certifications (included with PHA Plan Certifications)
 - 16. Audit
 - 17. Asset Management
 - 18. Other Information

Attachments

Indicate which attachments are provided by selecting all that apply. Provide the attachment's name (A, B, etc.) in the space to the left of the name of the attachment. Note: If the attachment is provided as a **SEPARATE** file submission from the PHA Plans file, provide the filename in parentheses in the space to the right of the title.

Required Attachments:

- Admissions Policy for Deconcentration**
- FY2000 Capital Fund Program Annual Statement**
- Most recent board -approved operating budget (Required Attachment for PHAs that are troubled or at risk of being designated troubled ONLY)

Optional Attachments:

- PHA Management Organizational Chart**
- FY2000 Capital Fund Program 5 Year Action Plan**
- Public Housing Drug Elimination Program (PHDEP) Plan**
- Comments of Resident Advisory Board or Boards (must be attached if not included in PHA Plan text)**
- Other (List below, providing each attachment name)

Supporting Documents Available for Review

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.

List of Supporting Documents Available for Review		
Applicable & On Display	Supporting Document	Applicable Plan Component
X	PHA Plan Certifications of Compliance with the PHA Plans and Related Regulations	5 Year and Annual Plans
X	State/Local Government Certification of Consistency with the Consolidated Plan	5 Year and Annual Plans

List of Supporting Documents Available for Review		
Applicable & On Display	Supporting Document	Applicable Plan Component
X	Fair Housing using Documentation: 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
x	Consolidated Plan for the jurisdiction/s in which the PHA is located (which includes the Analysis of Impediments to Fair Housing Choice (AI)) and any additional backup data to support statement of housing needs in the jurisdiction	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), which includes the Tenant Selection and Assignment Plan [TSAP]	Annual Plan: Eligibility, Selection, and Admissions Policies
X	Section 8 Administrative Plan	Annual Plan: Eligibility, Selection, and Admissions Policies
X	Public Housing Deconcentration and Income Mixing Documentation: 1. PHA Board certification of compliance with deconcentration requirements (section 16(a) of the US Housing Act of 1937, as implemented in the 2/18/99 <i>Quality Housing and Work Responsibility Act Initial Guidance; Notice</i> and any further HUD guidance) and 2. Documentation of the required deconcentration and income mixing analysis	Annual Plan: Eligibility, Selection, and Admissions Policies
x	Public housing rent determination policies, including the methodology for setting public housing flat rents X check here if included in the public housing A&O Policy	Annual Plan: Rent Determination
x	Schedule of flat rents offered at each public housing development X check here if included in the public housing A&O Policy	Annual Plan: Rent Determination
x	Section 8 rent determination (payment standard) policies X 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	Public housing grievance procedures X check here if included in the public housing A&O Policy	Annual Plan: Grievance Procedures
x	Section 8 informal review and hearing procedures X check here if included in Section 8 Administrative Plan	Annual Plan: Grievance Procedures

List of Supporting Documents Available for Review		
Applicable & On Display	Supporting Document	Applicable Plan Component
X	The HUD -approved Capital Fund/Comprehensive Grant Program Annual Statement (HUD 52837) for the active grant year	Annual Plan: Capital Needs
	Most recent CIAP Budget/Progress Report (HUD 52825) for any active CIAP grant	Annual Plan: Capital Needs
X	Most recent, approved 5 Year Action Plan for the Capital Fund/Comprehensive Grant Program, if not included as an attachment (provided at PHA option)	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
	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	Annual Plan: Conversion of Public Housing
	Approved or submitted public housing home ownership programs/plans	Annual Plan: Homeownership
	Policies governing any Section 8 Homeownership program <input type="checkbox"/> check here if included in the Section 8 Administrative Plan	Annual Plan: Homeownership
X	Any cooperative agreement between the PHA and the TANF agency	Annual Plan: Community Service & Self-Sufficiency
	FSS Action Plan/s for public housing and/or Section 8	Annual Plan: Community Service & Self-Sufficiency
	Most recent self-sufficiency (ED/SS, TOP or ROSS or other resident services grant) grant program reports	Annual Plan: Community Service & Self-Sufficiency
	The most recent Public Housing Drug Elimination Program (PHDEP) semi-annual performance report for any open grant and most recently submitted PHDEP application (PHDEP Plan)	Annual Plan: Safety and Crime Prevention
X	The most recent fiscal year audit of the PHA conducted under section 5(h)(2) of the U.S. Housing Act of 1937 (42 U.S.C. 1437c(h)), the result of that audit and the PHA's response to any findings	Annual Plan: Annual Audit
	Troubled PHAs: MOA/Recovery Plan	Troubled PHAs
	Others supporting documents (optional) (list individually; use as many lines as necessary)	(specify as needed)

1.StatementofHousingNeeds

[24CFRPart903.79(a)]

A.HousingNeedsofFamiliesintheJurisdiction/sServedbythePHA

BasedupontheinformationcontainedintheConsolidatedPlan/sapplicabletothejurisdiction,and/orotherdataavailabletothePHA, provideastatementofthehousingneedsinthejurisdictionbycompletingthefollowingtable.Inthe“Overall”Needscolumn,provide theestimatednumberofrenterfamiliesthathavehousingneeds.Fortheremainingcharacteristics,ratetheimpactofthatfactoron thehousingneedsforeachfamilytype,from1to5,with1being“noimpact”and5being“severeimpact.”UseN/Atoindicatethat noinformationisavailableuponwhichthePHAcanmakethisassessment.

HousingNeedsofFamiliesintheJurisdiction byFamilyType							
FamilyType	Overa ll	Affor d- ability	Suppl y	Qualit y	Acces s- ibility	Size	Loca- tion
Income<=30%of AMI	2562	5	4	3	1	1	1
Income>30%but <=50%ofAMI	1882	5	4	3	1	1	1
Income>50%but <80%ofAMI	1482	5	4	3	1	1	1
Elderly	1424	5	5	3	1	1	1
Familieswith Disabilities	n/a						
WHITENONHISPA NIC	5106	5	4	3	1	1	1
BLACKNONHISPA NIC	652	5	4	3	1	1	1
HISPANIC	25	5	4	3	1	1	1
Race/Ethnicity							

WhatsourcesofinformationdidthePHAusetoconductthisanalysis?(Checkallthatapply;allmaterials mustbemadeavailablefor publicinspection.)

- ConsolidatedPlanoftheJurisdiction/s
Indicateyear:
- U.S.Censusdata:theComprehensiveHousingAffordabilityStrategy(“CHAS”)dataset**
- AmericanHousingSurveydata
Indicateyear:
- Otherhousingmarketstudy
Indicateyear:
- Othersources:(listandindicateyearofinformation)

B. 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 Waiting List			
Waiting list type: (select one)			
<input type="checkbox"/> Section 8 tenant -based assistance			
<input type="checkbox"/> Public Housing			
X Combined Section 8 and Public Housing			
<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			25%
Extremely low income (<=30% AMI)			
Very low income (>30% but <=50% AMI)			
Low income (>50% but <80% AMI)			
Families with children			
Elderly families			
Families with Disabilities			
Race/ethnicity			
Race/ethnicity			
Race/ethnicity			
Race/ethnicity			
Characteristics by Bedroom Size (Public Housing Only)			
1BR			25%
2BR			25%
3BR			25%
4BR			25%
5BR			
5+BR			
Is the waiting list closed (select one)? X Yes			
If yes:			
How long has it been closed (# of months)? 12			
Does the PHA expect to reopen the list in the P H A Plan year? X No			
Does the PHA permit specific categories of families onto the waiting list, even if generally closed? X No			

C. Strategy for Addressing Needs

Provide a brief description of the PHA's strategy for addressing the housing needs of families in the jurisdiction and on the waiting list **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

- Employ effective maintenance and management policies to minimize the number of public housing units off -line**
- 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 -uprates 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 -uprates by marketing the program to owners, particularly those outside of areas of minority and poverty concentration
- Maintain or increase section 8 lease -uprates 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

- 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 voucher 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 voucher 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)

Statement of Financial Resources

[24CFR Part 903.79(b)]

List 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.

Financial Resources: Planned Sources and Uses		
Sources	Planned \$	Planned Uses
1. Federal Grants (FY 2000 grants)		
a) Public Housing Operating Fund	1,700,000	
b) Public Housing Capital Fund	1,943,379	
c) HOPEVI Revitalization		
d) HOPEVI Demolition		
e) Annual Contributions for Section 8 Tenant-Based Assistance	2,500,000	
f) Public Housing Drug Elimination Program (including any Technical Assistance funds)		
g) Resident Opportunity and Self-Sufficiency Grants		
h) Community Development Block Grant		
i) HOME		
Other Federal Grants (list below)		
2. Prior Year Federal Grants (unobligated funds only) (list below)		
3. Public Housing Dwelling Rental Income	1,400,000	
4. Other income (list below)		
4. Non-federal sources (list below)		
IMPACT PROGRAM	200,000	
Total resources	7,743,379	

3.PHAPoliciesGoverningEligibility,Selection,andAdmissions

[24CFRPart903.79(c)]

SEEATTACHMENTA

A.PublicHousing

Exemptions:PHAsthatdonotadministerpublichousingarenotrequiredto completesubcomponent3A.

(1)Eligibility

a.WhendoesthePHAverifyeligibilityforadmissiontopublichousingusing?(selectallthatapply)

- Whenfamiliesarewithinacertainnumberofbeingofferedaunit:(statenumber)
- Whenfamiliesarewithinacertaintimeofbeingofferedaunit:(statetime)**
- Other:(describe)

b.Whichnon-income(screening)factorsdoesthePHAusetoestablisheligibilityforadmissiontopublichousing(selectallthat apply)?

- CriminalorDrug-relatedactivity**
- Rentalhistory**
- Housekeeping**
- Other(describe)

- c.XYes** DoesthePHArequestcriminalrecordsfromlocallawenforcementagenciesforscreeningpurposes?
- d.XNo** : DoesthePHArequestcriminalrecordsfromStatelawenforcementagenciesforscreeningpurposes?
- e.XNo** : DoesthePHAaccessFBIcriminalrecordsfromtheFBIforscreeningpurposes?(eitherdirectlyor throughanNCIC-authorizedsource)

(2)WaitingListOrganization

a.WhichmethodsdoesthePHAplantousetoorganizeit'spublichousingwaitinglist(selectallthatapply)

- Community-widelist**
- Sub-jurisdictionallists
- Site-basedwaitinglists
- Other(describe)

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

- PHAmainadministrativeoffice**
- PHAdevelopment/sitemanagementoffice
- Other(listbelow)

c.IfthePHAplanstooperateoneormoresite-basedwaitinglistsinthecomingyear,answereachofthefollowingquestions;ifnot, skiptosubsection **(3)Assignment**

1.Howmanysite-basedwaitinglists will thePHAoperateinthecomingyear? **0**

- 2. Yes No:AreanyorallofthePHA'ssite-basedwaitinglistsnewfortheupcomingyear(that is,theyarenotpartofa previously-HUD-approvedsitebasedwaitinglistplan)?
Ifyes,howmanylists?
- 3. Yes No:Mayfamiliesbeonmorethanonelistsimultaneously
Ifyes,howmanylists?

4.Wherecaninterestedpersonsobtainmoreinformationaboutandsignuptobeonthesite-basedwaitinglists(selectallthat apply)?

- PHAmainadministrativeoffice
- AllPHAdevelopmentmanagementoffices
- Managementofficesatdevelopmentswithsite-basedwaitinglists
- Atthedevelopmenttowhichtheywouldliketoapply
- Other(listbelow)

(3)Assignment

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

- a.**
- One
 - Two
 - Three or More

b. Yes : 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:

X No: Does the PHA plan to exceed the federal targeting requirements by targeting more than 40% of all new admission to public housing to families at or below 30% of median area income?

b. Transfer policies:

In what circumstances will transfer 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)

Preferences

1. **Yes** 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**
- Household that contribute to meeting income goals (broad range of incomes)
- Household 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 admission 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 points 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:

- 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)

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

Not applicable: the pool of applicant families ensure 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)

- The PHA - resident lease**
- 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
- Anytime family composition changes**
- At family request for revision
- Other (list)

De-concentration and Income Mixing

a. **No:** Does the PHA have any general occupancy (family) public housing developments covered by the concentration 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 as follows:

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

c. If the answer to b was yes, what changes were adopted? (select all that apply)

- Adoption of site -based waiting lists
If selected, list targeted developments below:
- Employing wait in glist “skipping” to achieve deconcentration of poverty or income mixing goals at targeted developments
If selected, list targeted developments below:
- Employing new admission preferences at targeted developments
If selected, list targeted developments below:
- Other (list policies and developments targeted below)

d. X No: Did the PHA adopt any changes to **other** policies based on the results of the required analysis of the need for deconcentration of poverty and income mixing?

e. If the answer to d was yes, how would you describe these changes? (select all that apply)

- Additional affirmative marketing
- Actions to improve the marketability of certain developments
- Adoption or adjustment of ceiling rents for certain developments
- Adoption of rent incentives to encourage deconcentration of poverty and income -mixing
- Other (list below)

f. Based on the results of the required analysis, in which developments will the PHA make special efforts to attract or retain higher income families? (select all that apply)

X Not applicable: results of analysis did not indicate need for such efforts

List (any applicable) developments below:

g. Based on the results of the required analysis, in which developments will the PHA make special efforts to assure access for lower income families? (select all that apply)

X Not applicable: results of analysis did not indicate need for such efforts

List (any applicable) developments below:

B. Section 8

Exemptions: PHA 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 and until completely merged into the voucher program, certificates).** **-based section 8 assistance program (vouchers,**

1) Eligibility

a. What is the extent of screening conducted by the PHA? (select all that apply)

- Criminal 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 below)
- Other (list below)

b. X Yes : Does the PHA request criminal records from local law enforcement agencies for screening purposes?

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

d. 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 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. X 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

X 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. X Yes : 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 points 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

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

Victims of domestic violence

Substandard housing

Homelessness

High rent burden

Other preferences (select all that apply)

2 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

2 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 the equal preference status, how are applicants selected? (select one)

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
- Not applicable: the pool of applicant families ensure 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 admission to any special purpose section 8 program administered by the PHA contained? (select all that apply)

- 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?

- Through published notices**
- Other (list below)

4. PHA Rent Determination Policies SEE ATTACHMENT A
[24CFR Part 903.79(d)]

A. Public Housing

Exemptions: PHA 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)

The PHA will not employ any discretionary rent -setting policies for income based rent in public housing. Income based rents are set at the higher of 30% of adjusted monthly income, 10% of unadjusted monthly income, the welfare rent, or minimum rent (less HUD mandatory deductions and exclusions). (If selected, skip to sub-component (2))

---or---

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. X 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% than adjusted income

1. X 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 increase 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)
- 95th 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 determination:

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
- Anytime the family experiences an income increase**
- Anytime a family experiences an income increase above a threshold amount or percentage: (if selected, specify threshold) _____
- Other (list below)

g. 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

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

- This section 8 rent reasonableness study of comparable housing**
- Survey of rents listed in local newspaper
- Survey of similar unassisted units in the neighborhood**
- Other (list/describe below)

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
- 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 burden 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. X No: Has the PHA adopted any discretionary minimum rent hardship exemption policies? (if yes, list below)

5. Operations and Management SEE ATTACHMENT A

[24CFR Part 903.79(e)]

Exemptions from Component 5: High performing and small PHAs are not required to complete this section. Section 8 only PHAs must complete parts A, B, and C(2)

A. PHA Management Structure

Describe the PHA's management structure and organization.

(select one)

An organization chart showing the PHA's management structure and organization is attached.

A brief description of the management structure and organization of the PHA follows:

B. HUD Programs Under PHA Management

List Federal programs administered by the PHA, number of families served at the beginning of the upcoming fiscal year, and expected turnover in each. (Use "NA" to indicate that the PHA does not operate any of the programs listed below.)

Program Name	Units or Families Served at Year Beginning	Expected Turnover
Public Housing	867	25%
Section 8 Vouchers	826	25%
Section 8 Certificates		
Section 8 Mod Rehab		
Special Purpose Section 8 Certificates/Vouchers (list individually)		
Public Housing Drug Elimination Program (PHDEP)		
Other Federal Programs (list individually)		

C. Management and Maintenance Policies

List the PHA's public housing management and maintenance policy documents, manuals and handbooks that contain the Agency's rules, standards, and policies that govern maintenance and management of public housing, including a description of any measures necessary for the prevention or eradication of pest infestation (which includes cockroach infestation) and the policies governing Section 8 management.

(1) Public Housing Maintenance and Management: (list below)

Located in the Administrative Plan

(2) Section 8 Management: (list below)

Located in the Administrative Plan

(SEE ATTACHMENT A)

PHAGrievanceProcedures

[24CFRPart903.79(f)]

Exemptionsfromcomponent6:HighperformingPHAsarenotrequiredtocompletecomponent6.Section8 -OnlyPHAsareexempt
fromsub -component6A.

A. PublicHousing

1.X No :HasthePHAestablishedanywrittengrievanceproceduresinadditiontofederalrequirementsfoundat24
CFRPart966,SubpartB,forresidentsofpublichousing?

Ifyes,listadditionstofederalrequirementsbelow:

2.WhichPHAofficeshouldresidentSORapplicantstopublichousingcontacttoinitiatethePHAgrievanceprocess?(selectallthat
apply)

- PHAmainadministrativeoffice**
- PHAdevelopmentmanagementoffices
- Other(listbelow)

B.Section8Tenant -BasedAssistance

1.XNo: HasthePHAestablishedinformalreviewproceduresforapplicantstotheSection8tenant -basedassistance
programandinformalhearingproceduresforfamiliesassistedbytheSection8tenant -basedassistance
programinadditiontofederalrequirementsfoundat24CFR982?

Ifyes,listadditionstofederalrequirementsbelow:

2.WhichPHAofficeshouldapplicantSORassistedfamiliescontacttoinitiatetheinformalreviewandinformalhearingprocesses?
(selectallthatappl y)

- PHAmainadministrativeoffice**
- Other(listbelow)

7. Capital Improvement Needs

[24CFR Part 903.79(g)]

Exemptions from Component 7: Section 8 only PHAs are not required to complete this component and may skip to Component 8.

A. Capital Fund Activities

Exemptions from sub -component 7A: PHA that will not participate in the Capital Fund Program may skip to component 7B. All other PHAs must complete 7A as instructed.

(1) Capital Fund Program Annual Statement

Using parts I, II, and III of the Annual Statement for the Capital Fund Program (CFP), identify capital activities the PHA is proposing for the upcoming year to ensure long -term physical and social viability of its public housing developments. This statement can be completed by using the CFP Annual Statement tables provided in the table library at the end of the PHA Plan template **OR**, at the PHA's option, by completing and attaching a properly updated HUD -52837.

Select one:

The Capital Fund Program Annual Statement is provided as an attachment to the PHA Plan at Attachment (state name)
-or-

The Capital Fund Program Annual Statement is provided below: (if selected, copy the CFP Annual Statement from the Table Library and insert there)

CAPITAL FUND PROGRAM TABLES START HERE

Annual Statement/Performance and Evaluation Report Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF) Part I: Summary					
PHAName: TERREHAUTE, INDIANA		Grant Type and Number CFP -IN36P021 Capital Fund Program Grant No :50102 Replacement Housing Factor Grant No:		Federal FY of Grant: 2002	
<input checked="" type="checkbox"/> Original Annual Statement <input type="checkbox"/> Reserve for Disasters/Emergencies <input type="checkbox"/> Revised Annual Statement (revision no:)					
<input type="checkbox"/> Performance and Evaluation Report for Period Ending: <input type="checkbox"/> Final Performance and Evaluation Report					
Line No.	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	150,000		150,000	
4	1410 Administration	50,000		50,000	
5	1411 Audit				
6	1415 Liquidated Damages				
7	1430 Fees and Costs	65,000		65,000	
8	1440 Site Acquisition				
9	1450 Site Improvement	400,000		400,000	
10	1460 Dwelling Structures	778,379		778,379	
11	1465.1 Dwelling Equipment — Nonexpendable				
12	1470 Non -dwelling Structures	400,000		400,000	
13	1475 Non -dwelling Equipment	100,000		100,000	
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	Amount of Annual Grant: (sum of lines 2 –20)	1,943,379		1,943,379	
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				
26	Amount of line 21 Related to Energy Conservation Measures				

Annual Statement/Performance and Evaluation Report
Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF)
Part II: Supporting Pages

PHAName: HOUSING AUTHORITY OF THE CITY OF TERRE HAUTE, INDIANA	Grant Type and Number CFPIN36P021 Capital Fund Program Grant No: 50102 Replacement Housing Factor Grant No:	Federal FY of Grant: 2002
--	---	---------------------------

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
				Original	Revised	Funds Obligated	Funds Expended	
ALL	BUILDING/UNIT REHABILITATION	1460		778,379		778,379		
003/004A	ELECTRICAL UPGRADE	1450		325,000		325,000		COMPLETE
003/004A/005A	SITE IMPROVEMENT	1450		75,000		175,000		COMPLETE
ALL	NON-DWELLING STRUCTURES	1470		400,000		400,000		COMPLETE
ALL	MANAGEMENT IMPROVEMENTS	1408		150,000		150,000		COMPLETE
ALL	ADMINISTRATION	1410		50,000		35,000		COMPLETE

**Annual Statement/Performance and Evaluation Report
 Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF)
 Part III: Implementation Schedule**

PHAName: TERR EHAUTE,IN	Grant Type and Number CFPIN36P021 Capital Fund Program No: 50102 Replacement Housing Factor No:	Federal FY of Grant: 2002
--------------------------------	--	----------------------------------

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	
ALL	09/30/02		09/30/02	09/30/02			

CapitalFundProgramFive -YearActionPlan
 PartI:Summary

PHAName TERREHAUTE, INDIANA				XOriginal5 -YearPlan <input type="checkbox"/> RevisionNo:	
Development Number/Name/HA-Wide	Year2	WorkStatementforYear2 FFYGrant: PHAFY:	WorkStatementforYear3 FFYGrant:2003 PHAFY:2003	WorkStatementforYear4 FFYGrant:2004 PHAFY:2004	WorkStatem entforYear5 FFYGrant:2005 PHAFY:2005
ALL	Annual Statement		1,400,000	1,400,000	1,400,000
ALL			176,406	176,406	176,406
CFPFundsListed for5 -yearplanning			1,576,406	1,576,406	1,576,406
ReplacementHousing FactorFunds					

CapitalFundProgramFive -YearActionPlan
PartII:SupportingPages —WorkActivities

Activitiesfor Year1	ActivitiesforYear: <u>2002</u> <u> </u> FFYGrant:2002 PHAFY: 2002			ActivitiesforYear: <u>2003</u> <u> </u> FFYGrant:2003 PHAFY:2003		
	Development Name/Number	MajorWork Categories	EstimatedCost	Development Name/Number	MajorWork Categories	EstimatedCost
See Annual Statement	<i>003/004A</i>	<i>ELECTRIC UPGRADE</i>	325,000	<i>003/004A</i>	<i>ELECRICUPGRADE</i>	325,000
	<i>ALL</i>	BUILDING/UNIT REHABILITATION	1,618,379	<i>ALL</i>	BUILDING/UNIT REHABILITATION	1,251,406
TotalCFPEstimatedCost			1,943,379			\$1,576,406

Capital Fund Program Five - Year Action Plan
 Part II: Supporting Pages — Work Activities

Activities for Year: 2004 FFY Grant: 2004 PHAFY: 2004			Activities for Year: 2005 FFY Grant: 2005 PHAFY: 2005		
Development Name/Number	Major Work Categories	Estimated Cost	Development Name/Number	Major Work Categories	Estimated Cost
<i>003/004A</i>	<i>ELECTRIC UPGRADE</i>	325,000	<i>003/004A</i>	<i>ELECTRIC UPGRADE</i>	325,000
ALL	<i>BUILDING/UNIT UPGRADE</i>	1,251,406	ALL	<i>BUILDING/UNIT UPGRADE</i>	1,251,406
Total CFPEstimated Cost		\$1,576,406			\$1,576,406

B.HOPEVIandPublicHousingDevelopmentandReplacementActivities(Non -CapitalFund)

Applicability of sub -component 7B: All PHAs administering public housing. Identify any approved HOPEVI and/or public housing development or replacement activities not described in the Capital Fund Program Annual Statement.

XNo: a) Has the PHA received a HOPEVI revitalization grant? (if no, skip to question c; if yes, provide responses to question b for each grant, copying and completing as many times as necessary)
b) Status of HOPEVI revitalization grant (complete one set of questions for each grant)

1. Development name:

2. Development (project) number:

3. Status of grant: (select the statement that best describes the current status)

- Revitalization Plan under development
- Revitalization Plans submitted, pending approval
- Revitalization Plan approved
- Activities pursuant to an approved Revitalization Plan underway

XNo: c) Does the PHA plan to apply for a HOPEVI revitalization grant in the Plan year?
If yes, list development name/s below:

XNo d) Will the PHA be engaging in any mixed -financed development activities for public housing in the Plan year?
If yes, list developments or activities below:

XNo: e) 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:

DemolitionandDisposition

[24CFRPart903.79(h)]

Applicabilityofcomponent8:Section8onlyPHAsarenotrequiredtocompletethissection.

1.XNo : DoesthePHAplantoconductanydemolitionordispositionactivities(pursuanttosection18oftheU.S. HousingActof1937(42U.S.C.1437p))intheplanFiscalYe ar?(If“No”,skiptocomponent9;if“yes”, completeoneactivitydescriptionforeachdevelopment.)

2.ActivityDescription

XNo: HasthePHAprovidedtheactivitiesdescriptioninformationinthe **optional**PublicHousingAsset ManagementTable?(If“yes”,skiptocomponent9.If“No”,completetheActivityDescriptiontable below.)

Demolition/DispositionActivityDescription	
1a.Developmentname:	
1b.Development(project)number:	
2.Activitytype:Demolition	<input type="checkbox"/>
Disposition	<input type="checkbox"/>
3.Applicationstatus(selectone)	
Approved	<input type="checkbox"/>
Submitted,pendingapproval	<input type="checkbox"/>
Plannedapplication	<input type="checkbox"/>
4.Dateapplicationapproved,submitted,orplannedforsubmission:	<u>(DD/MM/YY)</u>
5.Numberofunitsaffected:	
6.Coverageofaction(selectone)	
<input type="checkbox"/> Partofthedevelopment	
<input type="checkbox"/> Totaldevelopment	
7.Timelineforactivity:	
a.Actualorprojectedstartdateofactivity:	
b.Projectendeddateof activity:	

9. DesignationofPublicHousingforOccupancybyElderlyFamiliesorFamilieswithDisabilitiesorElderlyFamiliesand FamilieswithDisabilities

[24CFRPart903.79(i)]

ExemptionsfromComponent9;Section8onlyPHAsarenotrequiredtocompletethissection.

1.XNo: HasthePHAdesignatedorappliedforapprovaltodesignateordoessthePHAplantoapplytodesignate anypublichousingforoccupancyonlybytheelderlyfamiliesoronlybyfamilieswithdisabilities,orby elderlyfamiliesandfamilieswithdisabilitiesorwillapplyfordesignationforoccupancybyonlyelderly familiesoronlyfamilieswithdisabilities,orbyelderlyfamiliesandfamilieswithdisabilitiesasprovidedby section7oftheU.S.HousingActof1937(42U.S.C.1437e)intheupcomingfiscalyear? (If“No”,skipto component10.If“yes”,completeoneactivitydescriptionforeachdevelopment,unlesssthePHAiseligible tocompleteastreamlinedsubmission;PHAscompletingstreamlinedsubmissi onsmayskipto component 10.)

2.ActivityDescription

Yes No: Has the PHA provided all required activity description information for this component in the **optional** Public Housing Asset Management Table? If "yes", skip to component 10. If "No", complete the Activity Description table below.

Designation of Public Housing Activity Description	
1a. Development name:	
1b. Development (project) number:	
2. Designation type:	
Occupancy by only the elderly <input type="checkbox"/>	
Occupancy by families with disabilities <input type="checkbox"/>	
Occupancy by only elderly families and families with disabilities <input type="checkbox"/>	
3. Application status (select one)	
Approved; included in the PHA's Designation Plan <input type="checkbox"/>	
Submitted, pending approval <input type="checkbox"/>	
Planned application <input type="checkbox"/>	
4. Date this designation approved, submitted, or planned for submission: (DD/MM/YY)	
5. If approved, will this designation constitute a (select one)	
<input type="checkbox"/> New Designation Plan	
<input type="checkbox"/> Revision of a previously -approved Designation Plan?	
6. Number of units affected:	
7. Coverage of action (select one)	
<input type="checkbox"/> Part of the development	
<input type="checkbox"/> Total development	

Conversion of Public Housing to Tenant -Based Assistance

[24 CFR Part 903.79(j)]

Exemptions from Component 10; Section 8 only PHAs are not required to complete this section.

A. Assessment of Reasonable Revitalization Pursuant to Section 202 of the HUD FY 1996 HUD Appropriations Act

1. X No: Have any of the PHA's developments or portions of developments been identified by HUD or the PHA as covered under section 202 of the HUD FY 1996 HUD Appropriations Act? (If "No", skip to component 11; if "yes", complete one activity description for each identified development, unless eligible to complete a streamlined submission. PHAs completing streamlined submissions may skip to component 11.)

2. Activity Description

XY Yes: Has the PHA provided all required activity description information for this component in the **optional** Public Housing Asset Management Table? If "yes", skip to component 11. If "No", complete the Activity Description table below.

Conversion of Public Housing Activity Description	
1a. Development name:	
1b. Development (project) number:	
2. What is the status of the required assessment?	
<input type="checkbox"/> Assessment underway	
<input type="checkbox"/> Assessment results submitted to HUD	
<input type="checkbox"/> Assessment results approved by HUD (if marked, proceed to next question)	
<input type="checkbox"/> Other (explain below)	
3. <input type="checkbox"/> Yes <input type="checkbox"/> No: Is a Conversion Plan required? (If yes, go to block 4; if no, go to block 5.)	
4. Status of Conversion Plan (select the statement that best describes the current status)	
<input type="checkbox"/> Conversion Plan in development	
<input type="checkbox"/> Conversion Plan submitted to HUD on: (DD/MM/YYYY)	
<input type="checkbox"/> Conversion Plan approved by HUD on: (DD/MM/YYYY)	
<input type="checkbox"/> Activities pursuant to HUD -approved Conversion Plan underway	

5. Description of how requirements of Section 202 are being satisfied by means other than conversion (select one)

- Units addressed in a pending or approved demolition application (date submitted or approved: _____)
- Units addressed in a pending or approved HOPE VI demolition application (date submitted or approved: _____)
- Units addressed in a pending or approved HOPE VI Revitalization Plan (date submitted or approved: _____)
- Requirements no longer applicable: vacancy rates are less than 10 percent
- Requirements no longer applicable: site now has less than 300 units
- Other: (describe below)

B. Reserved for Conversions pursuant to Section 22 of the U.S. Housing Act of 1937

C. Reserved for Conversions pursuant to Section 33 of the U.S. Housing Act of 1937

11.HomeownershipProgramsAdministeredbythePHA

[24CFRPart903.79(k)]

A.PublicHousing

ExemptionsfromComponent11A:Section8onlyPHAsarenorequiredtocomplete11A.

1.XNo: DoesthePHAadministeranyhomeownershipprogramsadministeredbythePHAunderanapproved section5(h)homeownershipprogram(42U.S.C.1437c(h)),oranapprovedHOPE Iprogram(42U.S.C. 1437aaa)orhasthePHAappliedorplantoapplytoadministeranyhomeownershipprogramsundersection 5(h),theHOPEIprogram,orsection32oftheU.S.HousingActof1937(42U.S.C.1437z -4).(If“No”, skiptocomponent11B;if“yes”,completeoneactivitydescriptionforeachapplicableprogram/plan,unless eligibletocompleteastreamlinedsubmissiondueto **smallPHA** or **highperformingPHA** status.PHAs completestreamlinedsubmissionsmayskiptocomponent11B.)

2.ActivityDescription

Yes No: HasthePHAprovidedallrequiredactivitydescriptioninformationforthiscomponentinthe **optional** PublicHousingAssessmentManagementTable?(If“yes”,skiptocomponent12.If“no”,completetheActivity Descriptiontablebelow.)

PublicHousingHomeownershipActivityDescription (Completeoneforeachdevelopmentaffected)	
1a.Developmentname:	
1b.Development(project)number:	
2.FederalProgramauthority:	<input type="checkbox"/> HOPEI <input type="checkbox"/> 5(h) <input type="checkbox"/> TurnkeyIII <input type="checkbox"/> Section32oftheUSHAof1937(effective10/1/99)
3.Applicationstatus:(selectone)	<input type="checkbox"/> Approved;includedinthePHA’sHomeownershipPlan/Program <input type="checkbox"/> Submitted,pendingapproval <input type="checkbox"/> Plannedapplication
4.DateHomeownershipPlan/Programapproved,submitted,orplannedforsubmission:	<u>(DD/MM/YYYY)</u>
5. Numberofunitsaffected:	
6.Coverageofaction:(selectone)	<input type="checkbox"/> Partofthedevelopment <input type="checkbox"/> Totaldevelopment

B.Section8TenantBasedAssistance

1.XNo: DoesthePHAplantoadministeraSection8HomeownershipprogrampursuanttoSection8(y)ofthe U.S.H.A.of1937,asimplementedby24CFRpart982?(If“no”,skiptocomponent12;if“yes”,describe eachprogramusingthetablebelow(copyandcompletequestionsforeachprogramidentified),unless the PHAiseligibletocompleteastreamlinedsubmissionduetohighperformerstatus. **Highperforming PHAs**mayskiptocomponent12.)

2.ProgramDescription:

a.SizeofProgram

Yes No: WillthePHAlimitthenumberoffamiliesparticipatinginthesection8homeownershipoption?

Iftheanswertothequestionabovewasyes,whichstatementbestdescribesthenumberofparticipants?(selectone)

- 25orfewerparticipants
- 26 -50participants
- 51to100participants
- morethan100participants

b.PHA -establishedeligibilitycriteria

Yes No: Will the PHA's program have eligibility criteria for participation in addition to HUD criteria?
If yes, list criteria below:

nitsSection8HomeownershipOptionprogramin

PHA Community Service and Self -sufficiency Programs

[24CFR Part 903.79(1)]

Exemptions from Component 12: High performing and small PHAs are not required to complete this component. Section 8 PHAs are not required to complete sub -component C. -Only

A. PHA Coordination with the Welfare (TANF) Agency

1. Cooperative agreements:

XYes Has the PHA entered into a cooperative agreement with the TANF Agency, to share information and/or target supportive services (as contemplated by section 12(d)(7) of the Housing Act of 1937)?

If yes, what was the date that agreement was signed? 06/30/00

2. Other coordination efforts between the PHA and TANF agency (select all that apply)

- Client referrals**
- Information sharing regarding mutual clients (for rent determinations and otherwise)**
- Coordinate the provision of specific social and self -sufficiency services and programsto eligible families**
- Jointly administer programs
- Partner to administer a HUD Welfare -to-Work voucher program
- Joint administration of other demonstration program
- Other (describe)

B. Services and programs offered to residents and participants

(1) General

a. Self -Sufficiency Policies

Which, if any of the following discretionary policies will the PHA employ to enhance the economic and social self -sufficiency of assisted families in the following areas? (select all that apply)

- Public housing rent determination policies**
- Public housing admissions policies**
- Section 8 admissions policies**
- Preference in admission to section 8 for certain public housing families
- Preferences for families working or engaging in training or education programs for non -housing programs operated or coordinated by the PHA**
- Preference/eligibility for public housing home ownership option participation
- Preference/eligibility for section 8 home ownership option participation
- Other policies (list below)

b. Economic and Social self -sufficiency programs

XYes Does the PHA coordinate, promote or provide any programsto enhance the economic and social self -sufficiency of residents? (If "yes", complete the following table; if "no" skip to sub -component 2, Family Self Sufficiency Programs. The position of the table may be altered to facilitate its use.)

Services and Programs				
Program Name & Description (including location, if appropriate)	Estimated Size	Allocation Method (waiting list/random selection/specific criteria/other)	Access (development office/ PHA main office/ other provider name)	Eligibility (public housing or section 8 participants or both)
<i>FSS</i>	<i>100</i>	<i>OTHER</i>	<i>FSS OFFICE</i>	<i>BOTH</i>

(2) Family Self Sufficiency program/s

a. Participation Description

Family Self Sufficiency (FSS) Participation		
Program	Required Number of Participants (start of FY 2000 Estimate)	Actual Number of Participants (As of: DD/MM/YY)
Public Housing		
Section 8		

b. Yes No: If the PHA is not maintaining the minimum program size required by HUD, does the most recent FSS Action Plan address the steps the PHA plan to take to achieve at least the minimum program size? If no, list steps the PHA will take below:

C. Welfare Benefit Reductions

1. The PHA is complying with the statutory requirements of section 12(d) of the U.S. Housing Act of 1937 (relating to the treatment of income changes resulting from welfare program requirements) by: (select all that apply)

Adopting appropriate changes to the PHA's public housing rent determination policies and train staff to carry out those policies

Informing residents of new policy on admission and reexamination

Actively notifying residents of new policy at times in addition to admission and reexamination.

Establishing or pursuing a cooperative agreement with all appropriate TANF agencies regarding the exchange of information and coordination of services

Establishing a protocol for exchange of information with all appropriate TANF agencies

Other: (list below)

D. Reserved for Community Service Requirement pursuant to section 12(c) of the U.S. Housing Act of 1937

THHA is an administering agency for the State of Indiana TANF program. As such, all active residents that qualify for TANF are subject to its community service requirements, which are the same as those required by QWHRA.

Residents subject to those requirements will self-monitor their obligations and present management fulfillment documentation at annual recertification. Non-compliance will result in a one-time workout agreement that will be structured according to each family's particular situation.

13.PHASafetyandCrimePreventionMeasures

[24CFRPart903.79(m)]

ExemptionsfromComponent13:HighperformingandsmallPHAsnotparticipatinginPHDEPand Section8OnlyPHAsmayskipto component15.HighPerformingandsmallPHAs thatareparticipatinginPHDEPandaresubmittingaPHDEPPlanwiththisPHA Planmayskiptosub -componentD.

A.Needformeasurestoensurethesafetyofpublichousingresidents

1.Describetheneedformeasurestoensurethesafetyofpublichousingresidents(selectallthatapply)

- Highincidenceofviolentand/or drug -relatedcrimeinsomeorall ofthePHA'sdevelopments**
- Highincidenceofviolent and/or drug -relatedcrimeintheareassurroundingoradjacenttothePHA'sdevelopments
- Residentsfearfulfortheirsafetyand/orthesafetyoftheirchildren
- Observedlower -levelcrime,vandalismand/or graffiti**
- Peopleonwaitinglistunwillingtomoveintooneormoredevelopmentsduetoperceivedand/oractuallevelsofviolent and/or drug -relatedcrime
- Other(describ below)

2.WhatinformationordatadidthePHAusedtodeterminetheneedforPHAactionstoimprovesafetyofresidents(selectallthat apply).

- Safetyandsecuritysurveyofresidents
- Analysisofcrimestatisticsovertimeforcrimescommitted“inandaround”publichousingauthority**
- Analysisofcosttrendsovertimeforrepairofvandalismandremovalofgraffiti
- Residentreports**
- PHAemployeereports**
- Policereports**
- Demonstrable,quantifiablesuccesswithpreviousorongoinganticrime/antidrugprograms**
- Other(descr ibebelow)

3.Whichdevelopmentsaremostaffected?(listbelow)

**LOCKPORTROAD MARGARETAVENUE
MCMILLANSQUARE**

B.CrimeandDrugPreventionactivitiesthePHAhasundertakenorplanstoundertakeinthenextPHAfiscalyear

1.ListthecrimepreventionactivitiesthePHAhasundertakenorplanstoundertake:(selectallthatapply)

- Contractingwithoutsideand/orresidentorganizationsforthe provisionofcrime -and/or drug -preventionactivities
- CrimePreven tionThroughEnvironmentalDesign
- Activitiestargetedtoat -riskyouth,adults,orseniors
- VolunteerResidentPatrol/BlockWatchersProgram
- Other(describ below)

2.Whichdevelopmentsaremostaffected?(listbelow)

**LOCKPORTROAD MARGARETAVENUE
MCMILLANSQUARE**

C.CoordinationbetweenPHAandthepolice

1.DescribethecoordinationbetweenthePHAandtheappropriatepoliceprecinctsfor carryingoutcrimepreventionmeasuresand activities:(sel ectallthatapply)

- Police involvement in development, implementation, and/or ongoing evaluation of drug elimination plan
 - Police provide crime data to housing authority staff for analysis and action
 - X** **Police have established a physical presence on housing authority property (e.g., community policing office, officer in residence)**
 - Police regularly testify in and otherwise support eviction cases
 - Police regularly meet with the PHA management and residents
 - Agreement between PHA and local law enforcement agency for provision of above -baseline law enforcement services
 - Other activities (list below)
2. Which developments are most affected? (list below)

14. RESERVED FOR PET POLICY

[24CFRPart903.79(n)]

SEE ATTACHMENT A

15. Civil Rights Certifications

[24CFRPart903.79(o)]

Civil rights certifications are included in the PHA Plan Certifications of Compliance with the PHA Plans and Related Regulations.

16. Fiscal Audit

[24CFRPart903.79(p)]

- 1. **X Yes** : Is the PHA required to have an audit conducted under section 5(h)(2) of the U.S. Housing Act of 1937 (42 U.S.C. 1437c(h))?(If no, skip to component 17.)
- 2. **X Yes** : Was the most recent fiscal audit submitted to HUD?
- 3. **X No** : Were there any findings as the result of that audit?
- 4. **X No** : If there were any findings, do any remain unresolved?
If yes, how many unresolved findings remain? _____
- 5. **X No** : Have responses to any unresolved findings been submitted to HUD?
If not, when are they due (state below)?

17. PHA Asset Management

[24CFRPart903.79(q)]

Exemptions from component 17: Section 8 Only PHAs are not required to complete this component. High performing and small PHAs are not required to complete this component.

1. **X No** : Is the PHA engaging in any activities that will contribute to the long-term asset management of its public housing stock, including how the Agency will plan for long-term operating, capital investment, rehabilitation, modernization, disposition, and other needs that have **not** been addressed elsewhere in this PHA Plan?

2. What types of asset management activities will the PHA undertake?(select all that apply)

X Not applicable

- Private management
- Development-based accounting
- Comprehensive stock assessment
- Other: (list below)

3. **X No** : Has the PHA included descriptions of asset management activities in the **optional** Public Housing Asset Management Table?

18. Other Information

[24CFRPart903.79(r)]

A. Resident Advisory Board Recommendations

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

2. If yes, the comments are: (if comments were received, the PHA **MUST** select one)

- Attached at Attachment (Filename)
- Provided below:

3. 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)

B. Description of Election process for Residents on the PHA Board

1. X No: Does the PHA meet the exemption criteria provided section 2(b)(2) of the U.S. Housing Act of 1937? (If no, continue to question 2; if yes, skip to sub -component C.)

2. X No: Was the resident who serves on the PHA Board elected by the residents? (If yes, continue to question 3; if no, skip to sub -component C.)

3. Description of Resident Election Process

a. 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
X Other: (describe) APPOINTED BY THE MAYOR

b. Eligible candidates: (select one)

- Any recipient of PHA assistance
X 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)

c. Eligible voters: (select all that apply)

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

C. Statement of Consistency with the Consolidated Plan

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

1. Consolidated Plan jurisdiction: (provide name here) CITY OF TERRE HAUTE

2. 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)

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

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

D. Other Information Required by HUD

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

Attachments

Use this section to provide any additional attachments referenced in the Plans.

ATTACHMENT A	IN021a01	ADMINISTRATIVE PLAN
ATTACHMENT C	IN021c01	CERTIFICATIONS

MISSION STATEMENT PROGRESS REPORT

We are doing the best we can with what we have!

VOLUNTARY CONVERSIONS

Initial assessments are ongoing but this is a stupid idea with no money behind it therefore it is totally unfeasible.

PET POLICY

It is in compliance with the statute!

COMMUNITY SERVICE

This has been addressed earlier in the template and is subject to the availability of funds!

Optional Public Housing Asset Management Table

See Technical Guidance for instructions on the use of this table, including information to be provided.

Public Housing Asset Management								
Development Identification		Activity Description						
Name, Number, and Location	Number and Type of units	Capital Fund Program Parts II and III <i>Component 7a</i>	Development Activities <i>Component 7b</i>	Demolition/disposition <i>Component 8</i>	Designated housing <i>Component 9</i>	Conversion <i>Component 10</i>	Home-ownership <i>Component 11a</i>	Other (describe) <i>Component 17</i>
		<i>NOT APPLICABLE</i>						

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

I, Judy Anderson the Mayor of the City of Terre Haute certify
that the Five Year and Annual PHA Plan of the Terre Haute Housing Authority is
consistent with the Consolidated Plan of the City of Terre Haute prepared
pursuant to 24 CFR Part 91.

Signed/Dated by Appropriate State or Local Official

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
Certification by State and Local Official of PHA Plans Consistency with the Consolidated Plan to Accompany the HUD-50075
OMB Approval No. 2577-0226
Expires 03/31/2002
(7/99)

THHA
RESIDENT ADVISORY BOARD

August 21, 2002

USDHUD
Indiana State Office
Public Housing Division
151 North Delaware
Indianapolis, IN 47803-0086

RE: 2002 Annual Plan 2001-20055 - Year Plan

Dear Sir or Madam,

This letter shall confirm that the Resident Advisory Board has reviewed the subject Plans, discussed them with the management of the Authority and that the enclosed Plans submissions contain all of the agreed upon input from the Resident Advisory Board.

Members:

DOROTHY ASHTON

THERESA PRINCE

CAROL HARBOUR

MARY LOU CURTIS

SANDRA BEALMEAR

LEOLA PADGETT

WILMA MORGAN

PHA Certifications of Compliance with the PHA Plans and Related Regulations

Board Resolution 2001-13

Acting on behalf of the Board of Commissioners of the Public Housing Agency (PHA) listed below, as its Chairman or other authorized PHA official if there is no Board of Commissioners, I approve the submission of the 5 -Year Plan and Annual Plan for PHA fiscal year beginning October 1, 2001, hereinafter referred to as the Plan of which this document is a part and make the following certifications and agreements with the Department of Housing Development (HUD) in connection with the submission of the Plan and implementation thereof:

1. The Plan is consistent with the applicable comprehensive housing affordability strategy (or any plan incorporating such strategy) for the jurisdiction in which the PHA is located.
2. The Plan contains a certification by the appropriate State or local official that the Plan is consistent with the applicable Consolidated Plan, which includes a certification that requires the preparation of an Analysis of Impediments to Fair Housing Choice, for the PHA's jurisdiction and a description of the manner in which the PHA Plan is consistent with the applicable Consolidated Plan.
3. The PHA has established a Resident Advisory Board or Boards, the membership of which represents the residents assisted by the PHA, consulted with this Board or Boards in developing the Plan, and considered the recommendations of the Board or Boards (24 CFR 903.13). The PHA has included in the Plan submission a copy of the recommendations made by the Resident Advisory Board or Boards and a description of the manner in which the Plan addresses these recommendations.
4. The PHA made the proposed Plan and all information relevant to the public hearing available for public inspection at least 45 days before the hearing, published a notice that a hearing would be held and conducted a hearing to discuss the Plan and invited public comment.
5. The PHA will carry out the Plan in conformity with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990.
6. The PHA will affirmatively further fair housing by examining their programs or proposed programs, identify any impediments to fair housing choice within those programs, address those impediments in a reasonable fashion in view of the resources available and work with local jurisdiction to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement and maintain records reflecting these analyses and actions.
7. The PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975.
8. The PHA will comply with the Architectural Barriers Act of 1968 and 24 CFR Part 41, Policies and Procedures for the Enforcement of Standards and Requirements for Accessibility by the Physically Handicapped.
9. The PHA will comply with the requirements of section 3 of the Housing and Urban Development Act of 1968, Employment Opportunities for Low -or Very -Low Income Persons, and with its implementing regulation at 24 CFR Part 135.
10. The PHA has submitted with the Plan certification with regard to a drug free workplace required by 24 CFR Part 24, Subpart F.
11. The PHA has submitted with the Plan certification with regard to compliance with restrictions on lobbying required by 24 CFR Part 87, together with disclosure forms if required by this Part, and with restrictions on payments to influence Federal Transactions, in accordance with the Byrd Amendment and implementing regulations at 49 CFR Part 24.

12. For PHA Plan that includes a PHDEPP Plan as specified in 24CFR761.21: The PHDEPP Plan is consistent with and conform to the "Plan Requirements" and "Grantee Performance Requirements" as specified in 24CFR761.21 and 761.23 respectively and the PHA will maintain and have available for review/inspection (at all times), records or documentation of the following:

- ?? Baseline law enforcement services for public housing developments assisted under the PHDEP plan;
- ?? Consortium agreement/s between the PHA participating in the consortium and a copy of the payment agreement between the consortium and HUD (applicable only to PHA participating in a consortium as specified under 24CFR761.15);
- ?? Partnership agreements (indicating specific leveraged support) with agencies/organizations providing funding, services or other in-kind resources for PHDEP -funded activities;
- ?? Coordination with other law enforcement efforts;
- ?? Written agreement(s) with local law enforcement agencies (receiving any PHDEP funds); and
- ?? All crime statistics and other relevant data (including Part I and specified Part II crimes) that establish need for the public housing sites assisted under the PHDEP Plan.

13. The PHA will comply with acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and implementing regulations at 49CFR Part 24 as applicable.

14. The PHA will take appropriate affirmative action to award contracts to minority and women's business enterprises under 24CFR 5.105(a).

15. The PHA will provide HUD or the responsible entity any documentation that the Department needs to carry out its review under the National Environmental Policy Act and other related authorities in accordance with 24CFR Part 58.

16. With respect to public housing the PHA will comply with Davis - Bacon or HUD determined wage rate requirements under section 12 of the United States Housing Act of 1937 and the Contract Work Hours and Safety Standards Act.

17. The PHA will keep records in accordance with 24CFR 85.20 and facilitate an effective audit to determine compliance with program requirements.

18. The PHA will comply with the Lead -Based Paint Poisoning Prevention Act and 24CFR Part 35.

19. The PHA will comply with the policies, guidelines, and requirements of OMB Circular No. A -87 (Cost Principles for State, Local and Indian Tribal Governments) and 24CFR Part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments).

20. The PHA will undertake only activities and programs covered by the Plan in a manner consistent with its Plan and will utilize covered grant funds only for activities that are approvable under the regulations and included in its Plan.

21. All attachments to the Plan have been and will continue to be available at all times and all locations that the PHA Plan is available for public inspection. All required supporting documents have been made available for public inspection along with the Plan and attachments at the primary business office of the PHA and at all other times and locations identified by the PHA in its PHA Plan and will continue to be made available at least at the primary business office of the PHA.

Housing Authority of the City of Terre Haute

IN021

PHA Name

PHA Number

YVONNE AVARY

Chairman of the Board

Date

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

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

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

**THIS DOCUMENT IS SUBJECT TO MODIFICATION DUE TO STATUTORY OR REGULATORY
EDICTS ISSUED BY THE US GOVERNMENT.**

**THIS DOCUMENT IS SUBJECT TO MODIFICATION DUE TO RESOLUTION BY THE BOARD OF
COMMISSIONERS.**

**THIS DOCUMENT IS AN INTEGRAL PART OF THE ANNUAL PLAN OF THE HOUSING
AUTHORITY.**

Patrick J. Barder

Executive Director

**ADOPTED BY THE BOARD OF COMMISSIONERS
OF THE HOUSING AUTHORITY OF THE CITY OF TERRE HAUTE**

RESOLUTION 2002 -13

Certification for a Drug-Free Workplace

HOUSING AUTHORITY OF THE CITY OF TERRE HAUTE

ALL SITES/ALL PROGRAMS

Acting on behalf of the abovenamed Applicant as its Authorized Official, I make the following certification and agreement to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

I certify that the abovenamed Applicant will or will continue to provide a drug-free workplace by:

- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying the action that will be taken against employees for violation of such prohibition.
b. Establishing an ongoing drug-free awareness program to inform employees: (1) The dangers of drug abuse in the workplace; (2) The Applicant's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a.;
d. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will: (1) Abide by the terms of the statement; and (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace not later than five calendar days after such conviction;
e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.(2) from an employer or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notices shall include the identification number(s) of each affected grant;
f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.(2), with respect to any employee who is so convicted: (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a. thru f.

2. Sites for Work Performance. The Applicant shall list (on separate pages) the site(s) for the performance of work done in connection with the HUD funding of the program/activity shown above: Place of Performance shall include the street address, city, county, State, and zip code. Identify each sheet with the Applicant name and address and the program/activity receiving grant funding.)

ALL SITES/ALL PROGRAMS

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment therewith, is true and accurate. Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties.

(18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

PATRICK J. BARDER

EXECUTIVE DIRECTOR

Signature

Date

GENERAL HUD PROGRAM REQUIREMENTS FOR MULTIFAMILY, PUBLIC HOUSING, AND SECTION 8 PROGRAMS (24CFR5)

24CFR Part 5

General HUD Program Requirements: Cross-Cutting Requirements

PART 5 --- GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

Subpart A --- Generally Applicable Definitions and Federal Requirements; Waivers

Sec.

5.100 Definitions.

5.105 Other Federal requirements.

5.107 Audit requirements for non-profit organizations.

5.110 Waivers.

Subpart B --- Disclosure and Verification of Social Security Numbers and Employer Identification Numbers; Procedures for Obtaining Income Information

5.210 Purpose, applicability, and Federal preemption.

5.212 Compliance with the Privacy Act and other requirements.

5.214 Definitions.

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.

5.218 Penalties for failing to disclose and verify Social Security and Employer Identification Numbers.

Procedures for Obtaining Income Information About Applicants and Participants

5.230 Consent by assistance applicants and participants.

5.232 Penalties for failing to sign consent forms.

5.234 Requests for information from SWICA and Federal agencies; restriction on use.

5.236 Procedures for termination, denial, suspension, or reduction of assistance based on information obtained from a SWICA or Federal agency.

5.238 Criminal and civil penalties.

5.240 Family disclosure of income information to the responsible entity and verification.

Subpart C --- Pet Ownership for the Elderly or Persons With Disabilities

General Requirements

5.300 Purpose.

5.303 Exclusion for animals that assist persons with disabilities.

5.306 Definitions.

5.309 Prohibition against discrimination.

5.312 Notice to tenants.

5.315 Content of pet rules: general requirements.

5.318 Discretionary pet rules.

5.321 Lease provisions.

5.324 Implementation of lease provisions.

5.327 Nuisance or threat to health or safety.

Pet Ownership Requirements for Housing Programs

5.350 Mandatory pet rules for housing programs.

5.353 Housing programs: Procedure for development of pet rules.

5.356 Housing programs: Pet rule violation procedures.

5.359 Housing programs: Rejection of units by applicants for tenancy.

5.360 Housing programs: Additional lease provisions.
5.363 Housing programs: Protection of the pet.
Pet Ownership Requirement s for Public Housing Programs
5.380 Public housing programs: Procedure for development of pet rules.
Subpart D --- Definitions for Section 8 and Public Housing Assistance Under the United States Housing Act of 1937
5.400 Applicability.
5.403 Definitions.
Subpart E --- Restrictions on Assistance to Non -citizens
5.500 Applicability.
5.501 Removed.
5.502 Requirements concerning documents.
5.504 Definitions.
5.506 General provisions.
5.508 Submission of evidence of citizenship or eligible immigration status.
5.510 Documents of eligible immigration status.
5.512 Verification of eligible immigration status.
5.514 Delay, denial, reduction or termination of assistance.
5.516 Availability of preservation assistance to mixed families and other families.
5.518 Types of preservation assistance available to mixed families and other families.
5.520 Pro-ration of assistance.
5.522 Prohibition of assistance to non-citizen students.
5.524 Compliance with nondiscrimination requirements.
5.526 Protection from liability for responsible entities and State and local government agencies and officials.
5.528 Liability of financially eligible tenants for reimbursement of benefits.

Subpart 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.
5.603 Definitions.
5.605 [Removed]
5.607 [Removed]

Family Income

5.609 Annual income.
5.611 Adjusted income.
5.613 Public housing program and Section 8 tenant -based assistance program: PHA cooperation with welfare agency.
5.615 Public housing program and Section 8 tenant -based assistance program: How welfare benefit reduction affects family income.
5.617 Self -sufficiency incentives for persons with disabilities --- Disallowance of increase in annual income.

Family Payment

5.628 Total tenant payment.
5.630 Minimum rent.
5.632 Utility reimbursements.
5.634 Tenant rent.

Section 8 Project -Based Assistance: Occupancy Requirements

5.653 Section 8 project -based assistance programs: Admission --- income-eligibility and income -targeting.
5.655 Section 8 project -based assistance programs: Owner preferences in selection for project owner.
5.657 Section 8 project -based assistance programs: Reexamination of family income and composition.

5.659 Family information and verification.

5.661 Section 8 project -based assistance programs: Approval for police or other security personnel to live in project.

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Authority: 42 U.S.C. 3535(d), unless otherwise noted.

Source: 61 FR 4202, Feb. 9, 1996; 61 FR 5665, Feb. 13, 1996; 61 FR 9041, Mar. 6, 1996; 61 FR 9538, Mar. 8, 1996; 61 FR 11113, Mar. 18, 1996; 61 FR 13616, Mar. 27, 1996; 61 FR 54498, Oct. 18, 1996; 61 FR 60538, Nov. 29, 1996; 62 FR 27125, May 16, 1997; 62 FR 61617, Nov. 18, 1997; 63 FR 46577, 46591, Sept. 1, 1998; 64 FR 25731, May 12, 1999; 65 FR 16714, Mar. 29, 2000; 66 FR 6223, Jan. 19, 2001; 66 FR 28791, May 24, 2001.

Subpart A ---Generally Applicable Definitions and Federal Requirements; Waivers

§5.100 Definitions.

The following definitions 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, for purposes of 24 CFR 5, subpart 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 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. This 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 subparts 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, subparts 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, subpart I, and parts 960, 966, 882, and 982, means the family and PHA-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, subpart 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 PHA with capital or operating assistance.

Public Housing Agency (PHA) means any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, 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 the PHA 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 24 CFR part 8 of this title; title II of the Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*; 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 competition 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.

§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, "Audit 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.

§5.110 Waivers.

Upon determination of good cause, the Secretary may, 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)).

Subpart 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 subpart B requires applicants for and participants in covered HUD program to disclose, and submit documentation to verify, their Social Security Numbers (SSNs). This subpart B also enables HUD and PHA 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 subpart B is to enable HUD to decrease the incidence of fraud, waste, and abuse in the covered programs.

(b) *Applicability.* (1) This subpart 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 subpart 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 may authorize the collection of other information from applicants and participants to determine eligibility or level of benefits.

(c) *Federal preemption.* This subpart B preempts any State law, including restrictions and penalties, that govern the collection and use of income information to the extent State law is inconsistent with this subpart.

§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 subpart 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 subpart 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 is assisted under 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 databases 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; return information 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 return information 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 may 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 mortgage or lender.

(2) The term does not include a public entity, such as a PHA, 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; es

(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(1)(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 whose seek 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 home ownership 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 co-insured 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 cooperative member receiving home ownership assistance.

Processing entity means the person or entity that, under any of the programs covered under this subpart B, is responsible for making eligibility and related determinations and any 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 must submit the following information to the processing entity when the assistance applicant's eligibility under the program involved is being determined:

(1)

(i) The complete and accurate SSN assigned to the assistance applicant and to each member of the assistance 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 must 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 must 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, must 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 must 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 must 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, may 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, the PHA.

(e) *Disclosure: entity applicants.* Each entity applicant must 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, the PHA may 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 may 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) 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 must 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 must 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 may 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 periods 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 submit to the processing entity the documentation required under paragraph (f)(1) of this section within the time periods 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 may, 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 may 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 the PHA may prescribe in applicable administrative instructions.

(i) *Information on SSNs and EINs.*

(1) Information regarding SSNs and SSN cards may 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 may 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 must be in the form and manner that HUD and the PHA prescribe in applicable administrative instructions. If an individual who is required to execute a certification is less than 18 years of age, the certification must 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 must 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 must 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 must 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) *Crossreference.* Individuals should consult the regulations and administrative instructions for the programs covered under this subpart 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) *Towhom 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 the PHA 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 PHA to obtain from SWICA 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, PHAs, 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 forms 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 may be terminated.

(b) *Cross references*. Individuals should consult the regulations and administrative instructions for the programs covered under this subpart B for further information on the use of income information in determinations regarding eligibility.

§5.234 Requests for information from SWICA and Federal agencies; restriction on use.

(a) *Information available from SWICA and Federal agencies --- towhom and what*. Income information will generally be obtained through computer matching agreements between HUD and a SWICA or Federal agency, or between a PHA 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 the PHA requests the computer match, the PHA 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 PHA 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 PHA 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 redisclosure, 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 redetermination of family income verified in accordance with this paragraph must 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 may be:

- (i) By HUD;
- (ii) In the case of the public housing program, by a PHA; or
- (iii) In the case of any Section 8 program, by a PHA acting as contract administrator

under an ACC.

(2) Upon receiving income information from a SWICA or a Federal agency, HUD or, when applicable, the PHA shall compare the information with the information about a family's income that was:

- (i) Provided by the assistance applicant or participant to the PHA; 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, the PHA 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 §Sec. 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 home ownership assistance, or Section 236 programs.

(ii) HUD or the PHA may 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 the PHA 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 the

PHA, as appropriate, may 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 the PHA may disclose income information obtained from a SWICA directly to an owner (unless a PHA is the owner). Disclosure of income information obtained from the SSA or IRS is restricted under 26 U.S.C. Sec. 6103(l)(7) and 42 U.S.C. 3544.

(c) *Opportunity to Contest.* HUD, the PHA, 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 may 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 may 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 must 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 must 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.

Subpart C ---Pet Ownership for the Elderly or Persons With Disabilities

General Requirements

§5.300 Purpose.

(a) This subpart 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 subpart C does not apply to animals that are used to assist persons with disabilities. Project owners and PHAs may not apply or enforce any pet rules developed under this subpart 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 may require resident animals to qualify for this exclusion. Project owners must 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.

(b) Nothing in this subpart C:

- (1) Limits or impairs the rights of persons with disabilities;
- (2) Authorizes project owners or PHAs to limit or impair the rights of persons with disabilities;

or

(3) Affects any authority that project owners or PHAs may 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 may be owned or kept in dwelling accommodations, the State or local law or regulation shall apply. This definition shall not include an animal that are used to assist persons with disabilities.

(2) *For purposes of Public Housing programs:* PHAs may define the term "common household pet" under §5.318.

Elderly or disabled family means:

(1) *For purpose 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 subpart A of this part.

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 subpart 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 state or local 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 the PHA 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 through 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 (PHA) is defined in § 5.100.

§ 5.309 Prohibition against discrimination.

Except as otherwise specifically authorized under this subpart no project owner or PHA that owns or manages a project for the elderly or persons with disabilities may:

(a) As a condition of tenancy or otherwise, prohibit or prevent any tenant of such housing from owning a common household pet or having such a pet 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 a common household pet or the presence of such a pet in the person's dwelling unit.

§ 5.312 Notice to tenants.

(a) During the development of a pet rule as described in §§ 5.353 or 5.380, the project owner or PHA 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 subpart C;

(2) Animals that are used to assist persons with disabilities are excluded from the requirements of this subpart C, as provided in § 5.303;

(3) Tenants may, at any time, request a copy of any current pet rule developed under this subpart C (as well as any current proposed rule or proposed amendment to an existing rule); and

(4) Tenants may request that their leases be amended under § 5.321 to permit common household pets.

(b) The project owner or PHA 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 notices specified in paragraphs (a)(1), (2), and (3) of this section.

(c) If a PHA chooses not to promulgate pet rules, the notices shall be served within 60 days of the effective date of this part. PHA 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 owners shall prescribe reasonable rules to govern the keeping of common household pets. The pet rules must include the mandatory rules described in §5.350 and may, unless otherwise noted in this subpart C, include other discretionary provisions as provided in §5.318.

(b) *Public Housing programs.*

(1) PHA may choose not to promulgate rules governing the keeping of common household pets or may include rules as provided in §5.318. PHA may elect to include provisions based on those in §5.350. If they so choose, the PHA may modify the provisions in §5.350 in any manner consistent with this subpart C.

(2) If PHA chooses to promulgate pet rules, tenants must be permitted to own and keep pets in their units in accordance with the terms and conditions of their leases, the provisions of this subpart C, and any applicable State or local law or regulation governing the owning or keeping of pets in dwelling accommodations.

(3) PHA that chooses not to promulgate pet rules, shall not impose, by lease modification or otherwise, any requirement that is inconsistent with the provisions of this subpart C.

(c) *Use of discretion.*

(1) This subpart C does not define with specificity the limits of the project owners' or PHA's discretion to promulgate pet rules. Where a project owner or PHA has discretion to prescribe pet rules under this subpart C, the pet rules should be:

(i) Reasonably related to furthering a legitimate interest of the project owner or PHA, such as the owner's or PHA'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 PHA's financial interest in it; and

(ii) Drawn narrowly to achieve the owner's or PHA's legitimate interests, without imposing unnecessary burdens and restrictions on pet owners and prospective pet owners.

(2) Where a project owner or PHA has discretion to prescribe pet rules under this subpart C, the owner or PHA may 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 PHA shall not conflict with applicable State or local law or regulations. If such a conflict may exist, the State and local law or regulations shall apply.

§5.318 Discretionary pet rules.

Pet rules promulgated by project owners and PHA may include, but are not limited to, consideration of the following factors:

(a) *Definition of "common household pet."* ---

(1) *For Public Housing programs.* The pet rules established by a PHA may 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 must 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 may take into account tenant and pet density. The pet rules may place reasonable limitations on the number of common household pets that may be allowed in each dwelling unit. In the case of group homes, the pet rules may place reasonable limitations on the

number of common household pets that may be allowed in each home.

(ii) *For Housing programs.* Under these rules, project owners may limit the number of four-legged, warm-blooded petstoonepetineachdwellingunitorgrouphome.

(iii) Other than the limitations described in this paragraph (b)(1), the pet rules may 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 may 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 may require tenants who own or keep pets in their unit 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 PHA may 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 replacement 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 PHA 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 may provide for gradual accumulation of the deposit by the pet owner.

(v) The project owner may (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 subpart C.

(3) *Public Housing programs: Maximum pet deposit.* The maximum amount of pet deposit that may be charged by the PHA, 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 the PHA may require. The pet rules may permit gradual accumulation of the pet deposit by the pet owner.

(4) *Housing programs: Waste removal charge.* The pet rules may 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 subpart 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 PHAs may not prescribe pet rules that impose additional financial obligations on pet owners that are designed to compensate the project owner or PHA 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 may prescribe standards of pet care and handling, but must 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 may not require pet owners to have any pet's vocal cords removed. Permitted rules may:

(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 may also:

(i) Require pet owners to have their dogs and cats spayed or neutered; and

(ii) Limit the length of time that a pet may be left unattended in a dwelling unit.

(f) *Pet licensing.* The pet rules may 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) PHAs may designate buildings, floors of buildings, or sections of buildings as no-pet areas where pets generally may not be permitted. Similarly, the pet rules may designate buildings, floors of buildings, or sections of buildings for residency generally by pet-owning tenants. The PHA may direct such initial tenant moves as may be necessary to establish pet and no-pet areas. The PHA may 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. The PHA may adjust the pet and no-pet areas or may direct such additional moves as may be necessary (or both) to accommodate such applicants for tenancy or to meet the changing needs of existing tenants.

(2) Project owners may not designate pet areas in buildings in their pet rules.

(h) *Pet temporarily on the premises.* The pet rules may 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 PHAs 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) PHAs 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 a common household pet in their dwelling units (subject to the provisions of this subpart and the pet rules);
- (ii) Shall incorporate by reference the pet rules promulgated by the project owner or PHA;
- (iii) Shall provide that the tenant agrees to comply with these rules; and
- (iv) Shall state that violation of these rules may be grounds for removal of the pet or termination of the pet owner's tenancy (or both), in accordance with the provisions of this subpart and applicable regulations and State or local law.

(b) Where a PHA 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 the PHA 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 subpart 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 subpart C prohibits a project owner, PHA, 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 threat to the health or safety of other occupants of the project or of 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 must 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 may:

- (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 may require the pet owner to change the litter (but not more than twice each week), may require pet owners to separate pet waste from litter (but not more than once each day), and may 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 must register the pet before it is brought onto the project premises, and must update the registration at least annually. The project owner may coordinate the annual update with the annual reexamination of tenant income, if applicable. The registration must 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 may 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 may 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 may 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 may 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 may submit written comments on the rules; and
- (3) State that all comments must 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 may 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 may submit written comments on the proposed pet rules to the project owner by the dates specified in the notice of proposed rules. In addition, the owner may schedule one or more meetings with tenants during the comment period to discuss the proposed rules. Tenants and tenant representatives may make oral comments on the proposed rules at these meetings. The project owner must 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 may meet with tenants and tenant representatives to attempt to resolve issues raised by the comments. Subject to this subpart C, the content of the final pet rules, however, is within the sole discretion of the project owner. The project owner shall serve one each tenant of the project, a notice of the final pet rules as provided in paragraph (f) of this section. The notice must include the text of the final pet rules and must specify the effective date of the final pet rules.

(e) *Amendment of pet rules.* The project owner may 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 must 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 may 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 must:

(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 may 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 owners shall establish a mutually agreeable time and place for the meeting but not 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 owners shall discuss any alleged pet rule violation and attempt to correct it. The project owner may, 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 may 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 must:

(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 must 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 may 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 may 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 may 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 may 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 subpart C imposes a duty on project owners to provide an alternate dwelling unit 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 may state that the project owner may, after reasonable notice to the tenant and during reasonable hours, enter and inspect the premises. The leases shall permit entry and inspection only if the project owner has received a signed, written complaint alleging (or the project owner has a reasonable ground to believe) that the conduct or condition of a pet in the dwelling unit constitutes, under applicable State or local law, an 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 may 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 may be permissible under State and local law, which may 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 may 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 may 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 may 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 may 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 may 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 may 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 may 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.

PHAs 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. PHAs shall develop the specific procedures governing tenant consultation, but these procedures must 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. PHAs are solely responsible for the content of final pet rules, but must give consideration to tenant comments. PHAs 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.

Subpart D --- Definitions for Sections 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 PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA 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 may 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 may 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.

Subpart E ---Restrictions on Assistance to Noncitizens

§ 5.500 Applicability.

(a) *Covered programs/assistance.* This subpart 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 subpart 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 unit only).

(b) *Covered individuals and entities.* (1) *Covered individuals /persons and families.* The provisions of this subpart E apply to both applicants for assistance and persons already receiving assistance covered under this subpart E.

(2) *Covered entities.* The provisions of this subpart E apply to Public Housing Agencies (PHAs), project (or housing) owners, and mortgagees under the Section 235 Program. The term "responsible entity" is used in this subpart E to refer collectively to these entities, and is further defined in § 5.504.

§ 5.501 [Removed].

§ 5.502R requirements concerning documents.

For any notice or document (decision, declaration, consent form, etc.) that this subpart 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, must 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 (PHA)*", and "*Section 8*" are defined in subpart A of this part.

(b) As used in this subpart 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 must 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 a 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 noncitizens with ineligible immigration status. The entity responsible for administering the restrictions on providing assistance to noncitizens 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, the PHA 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 subpart E, the term tenant will also be used to include a home buyer, 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) *Noncitizens* 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 may be eligible for one of the three types of assistance provided in §§ 5.516 and 5.518. A family with at least one eligible member and receiving assistance on June 19, 1995 may be eligible for temporary deferral of termination of assistance as provided in §§ 5.516 and 5.518.

§ 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 may 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, must 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 may request verification of the declaration by requiring presentation of a United States passport or other appropriate documentation, as specified in HUD guidance.

(2) For noncitizens 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 noncitizens, 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 must 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 must be signed by the adult.

(ii) For each child, the declaration must 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 may be incorporated as part of the application for housing assistance or may constitute a separate document.

(d) *Verification consent form.*

(1) *Whosigns.* Each non-citizen who declares eligible immigration status (except certain noncitizens who are 62 years of age or older as described in paragraph (b)(2) of this section) must sign a verification consent form as follows.

(i) For each adult, the form must be signed by the adult.

(ii) For each child, the form must 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 may 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 may 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, must 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 mortgagee's notice.* A mortgagee receiving Section 235 assistance must be provided the notification described in paragraph (f)(1) of this section and any additional requirements

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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;

(ii) Describe the type of evidence that must be submitted, and state the time period in which that evidence must be submitted (see paragraph (g) of this section concerning when evidence must 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 time 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 must 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 mortgage or 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 subpart 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) *Extension of time to submit evidence of eligible status.*

(1) *When extension must 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 periods 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, prorated 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 Document 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 may 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) *PHA election to provide assistance before verification.* APHA that is a responsible entity under this subpart may 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 must 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 must 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 forms 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 may 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 Sec. 5.514(e) has not been concluded;

(v) Assistance is prorated in accordance with Sec. 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 dates 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 terminations 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-ratio 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 may be eligible for pro-ratio 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 notices shall advise that assistance may not be delayed until the conclusion of the INS appeal process, but assistance may 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 must 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 must include a copy of the INS document verification request form G-845S (used to process the secondary verification request) or such other forms 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 may 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 may request that the responsible entity provide a hearing. This request must 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:* 24CFR part 882;

(B) *For Section 8 tenant-based assistance:* 24CFR part 982; or

(C) *For Section 8 project-based certificate program:* 24CFR 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 24CFR 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 whom made or approved the decision under review, and other than a person who is a subordinate of the person whom 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 may 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 may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings;

(D) *Controverting 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 may 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 may, 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 may 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 may 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 may 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 must be in accordance with applicable HUD regulations and other HUD requirements. For any jurisdiction, HUD may prescribe a maximum period during which assistance payments may be continued during eviction proceedings and may 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.) The PHA shall not make any additional assistance payments to the owner after the required procedures specified in this section have been completed. In addition, the PHA shall not approve a lease, enter into an assistance contract, or process a portability move for the family after those procedures have been completed.

§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 must 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 must 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 may 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 Sec. 5.520.

(c) *Assistance available to other families in occupancy.* Temporary deferral of termination of assistance may 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 may 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 must provide one of the two types of assistance to a family. However, project owners and PHAs must offer prorated assistance to eligible mixed families.

(2) *PHAs*. The PHA, 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 after termination of assistance). The PHA must establish its own policy and criteria to follow in making its decision. In establishing the criteria for granting continued assistance or temporary deferral after termination of assistance, the PHA must incorporate the statutory criteria, which are set forth in paragraphs (a) and (b) of § 5.518. However, the PHA must 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 may receive continued housing assistance if all of the following conditions are met (a mixed family assisted under a Housing covered program must 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 Sec. 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) *Prorated 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 after 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 may be eligible for temporary deferral after termination of assistance if necessary to permit the family additional time for the orderly transition of those family members within eligible 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 after termination of assistance*.

The responsible entity shall grant a temporary deferral after 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 size and incomes similar to the family seeking the deferral.

(3) *Time limit on deferral period*. If temporary deferral after termination of assistance is granted, the deferral period shall be for an initial period not to exceed six months. The initial period may be renewed for additional periods of six months, but the aggregated deferral period for deferrals provided after November 29, 1996 shall not exceed a period of eighteen months. The aggregated 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 must inform the family of its ineligibility for financial assistance and offer the family information concerning, and refer the family 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 must satisfy the applicable requirements of either paragraph (b)(5)(i)(A) or (B) of this section. Specifically, the responsible entity must:

(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), 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 when taken together will demonstrate an inadequate supply of affordable housing for the area in which the project is located, the consolidated plan (if applicable, as described in 24 CFR part 91), the responsible entity's own knowledge of the availability of affordable housing, and on evidence of the tenant family's effort to locate such housing.

(ii) The responsible entity must 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 aggregated deferral periods that exceed 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 aggregated 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, may 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 must 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 whose requests for prorated assistance must 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) *Prø 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) *Prø 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 rents 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 eligible persons in the household; the

(4) *Prø 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 rents 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 eligible persons in the household, plus;

(ii) An amount equal to the rents 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 eligible persons in the household.

(c) *Method of prorating assistance for Section 8 covered programs.*

(1) *For 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 provided for a tenancy under the voucher program or an over -FMR tenancy under the certificate program, the PHA must 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 § 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 must pay as its 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, the PHA must 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 the owner. The family must 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.* The PHA 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 the PHA. (This "maximum rent" shall be determined by HUD using the 95th percentile rent for the PHA.) 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 may 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 may follow based on the False Statements Act (18 U.S.C. 1001 and 1010).

Subpart 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 Assistance -Based

§5.601 Purpose and applicability.

This subpart 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 (24CFR part 92); Rent Supplement Payments Program (24CFR part 200, subpart W); Rental Assistance Payments Program (24CFR part 236, subpart D); Housing Opportunities for Persons with AIDS (24CFR part 574); Shelter Plus Care Program (24CFR part 582); Supportive Housing Program (McKinney Act Homeless Assistance) (24CFR part 583); Section 202 Supportive Housing Program for the Elderly (24CFR 891, subpart B); Section 202 Direct Loans for Housing for the Elderly and Persons with Disabilities (24CFR part 891, subpart E) and the Section 811 Supportive Housing for Persons with Disabilities (24CFR part 891, subpart 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, subpart F, the regulations in part 5, subpart F, generally are not applicable to these programs; and
- (e) Determining earned income disregards for persons with disabilities, as provided in §5.617, for the following programs: HOME Investment Partnerships Program (24CFR part 92); Housing Opportunities for Persons with AIDS (24CFR part 574); Supportive Housing Program (McKinney Act Homeless Assistance) (24CFR part 583); and the Housing Choice Voucher Program (24CFR part 982).

§5.603 Definitions.

As used in this subpart:

(a) *Terms found elsewhere in part 5.*

(1) *Subpart A.* The terms *1937 Act, elderly person, public housing, public housing agency (PHA), responsible entity* and *Section 8* are defined in §5.100.

(2) *Subpart 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 child ren 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 either paid to a member of the family or 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 skill 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 small and larger families, except that HUD may 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 may 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 home ownership 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, PHAs 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 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, subpart 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 subpart, where appropriate, the term "owner" shall also include a "borrower" as defined in 24 CFR part 885.

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 or PHA 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 the estimate made or approved by a PHA or HUD of 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 may 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.

Work activities. See definition at section 407(d) of the Social Security Act (42 U.S.C. 607(d)).

§ 5.605 and 5.607 [Removed]

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 may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(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 lump-sum amount or prospectively 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.* 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:

(i) The amount of the allowance or grant exclusive of the amounts specifically designated for shelter or utilities; plus

(ii) 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 (b)(6)(ii) 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, childcare, etc.) and which are made solely to allow participation in a specific program;

(iv) Amounts received under a resident's service stipend. A resident's service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving on the PHA's governing board. No resident may 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 must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;

- (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 for 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 program 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 PHAs 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 cyclical income), or the PHA believes that past income is the best available indicator of expected future income, the PHA may annualize the income anticipated for a shorter period, subject to a 90-day determination at the end of the shorter period.

§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 must 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) Unreimbursed medical expenses of any elderly family or disabled family; and
 - (ii) Unreimbursed 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 may 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 PHA may adopt additional deductions from annual income. The PHA must 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: PHA cooperation with welfare agency.

(a) This section applies to the public housing program and the Section 8 tenant-based assistance program.

(b) The PHA must make best effort 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 the PHA 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 must 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 benefits 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 the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with §5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA 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 the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA 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 the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA 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) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) *Review of PHA decision.*

(1) *Public housing.* If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance

hearing in accordance with part 966, subpart B of this title to review the PHA 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 the PHA determination.

(2) *Section 8 participant.* A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with § 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must 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 the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notices shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) *PHA relation with welfare agency.*

(1) The PHA must ask welfare agencies to inform the PHA 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 the PHA written notice of such reduction, the family's annual income shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA 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 the PHA. However, the PHA 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, or 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 may seek appeal of such determination through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency's determination 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, wages 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 must 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 phase -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 must 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 may 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) The PHA must 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, the PHA may 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 must 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 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, the PHA must suspend the minimum rent requirement beginning the month following the family's request for a hardship exemption, and continue until the PHA determines whether there is a qualifying financial hardship and whether it is temporary or long term.

(B) The PHA must promptly determine whether a qualifying hardship exists and whether it is temporary or long term.

(C) The PHA may 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 the PHA determines that a qualifying financial hardship is temporary, the PHA must reinstate the minimum rent from the beginning of the suspension of the minimum rent. The PHA must offer the family a reasonable repayment agreement, on terms and conditions established by the PHA, 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 must 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 must 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, the PHA must 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 must reinstate the minimum rent from the beginning of the suspension. The family must 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 must reinstate the minimum rent, including back rent owed from the beginning of the suspension. The family must 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 must exempt the family from the minimum rent requirements so long as such hardship continues. Such exemptions 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 PHA denial of request for hardship exemption.* If a public housing family requests a hearing under the PHA grievance procedure, to review the PHA'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, the PHA may 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 the PHA elects to pay the utility supplier, the PHA must notify the family of the amount paid to the utility supplier.

(3) In the other Section 8 programs, the owner must 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, except for the moderate rehabilitation and the project-based certificate or voucher programs.

(b) *Who is eligible?*

(1) *Basic eligibility.* An applicant must meet all eligibility requirements in order to receive housing assistance. At a minimum, the applicant must be a family, as defined in §5.403, and must 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 Contract effective before October 1, 1981 and that are released 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 may 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 must state the basis for requesting the exception and provide supporting data. Bases for exception that may be considered include the following:

(i) Need for admission of a broad 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) Projects supervised 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 may consider. HUD will review exceptions granted to owners at regular intervals. HUD may 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 must 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. This 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 must adopt a written tenant selection plan in accordance with HUD requirements.

(3) *Amount of income.* The owner may 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 may 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 may 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 must first offer the unit to families which include persons with disabilities who requires 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 may not be provided a

housing unit with two or more bedrooms.

(c) *Particular owner preferences.* The owner must inform all applicants about available preferences and must give applicants an opportunity to show that they qualify for available preferences.

(1) *Residency requirements and preferences.*

(i) Residency requirements are prohibited. Although the owner is not prohibited from adopting a residency preference, the owner may 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) A owner's residency preference must 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 the PHA 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 may 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 must 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 must be treated as residents of the residency preference area. The owner may 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 may 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 must not give a preference based on the amount of earned income.

(3) *Preference for person with disabilities.* The owner may adopt a preference for admission of families that include a person with disabilities. However, the owner may not adopt a preference for admission of persons with a specific disability.

(4) *Preference for victims of domestic violence.* The owners 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 may 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 must conduct a reexamination and re-determination of family income and composition at least annually.

(c) *Interim reexaminations.* A family may request an interim reexamination of family income because of any change since the last examination. The owner must make the interim reexamination within a reasonable

time after the family request. The owner may adopt policies prescribing when and under what condition the family must 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 must 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, subpart E of this title). "Information" includes any requested certification, release or other documentation.

(2) The family must 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, 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 must 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 must 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 must obtain and document in the family file third party verification of the following factors, or must 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 may 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 fear of such threat.

(c) *Owner application.*

(1) The owner may submit a written application to the contract administrator (PHA 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 must 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 may 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 terms of such approved occupancy. Such approval may 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 owners 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 owners shall bear the risk of collecting such rent from such security personnel, and the amount of the housing assistance payments shall not be increased because of non-payment by such security personnel. The owners 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 may 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.

Subpart G ---Physical Condition Standards and Inspection Requirements

§5.701 Applicability.

(a) This subpart applies to housing assisted under the HUD programs listed in 24 CFR 200.853(a).

(b) This subpart 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 subpart 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 subpart, 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 (DSS/GR).

HUD housing must be decent, safe, sanitary and in good repair. Owners of housing described in § 5.701(a), mortgagor or of housing described in § 5.701(b), and PHAs and other entities approved by HUD for housing described in § 5.701(c), must 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 must be free of health and safety hazards and be in good repair. The site must not be subject to material adverse conditions, such as abandoned vehicles, dangerous walks or steps, poor drainage, septic tank back-ups, sewer hazards, excess accumulation of trash, vermin or rodent infestation or fire hazards.

(b) *Building exterior.* Each building on the site must be structurally sound, secure, habitable, and in good repair. Each building's doors, fire escapes, foundations, lighting, roofs, walls, and windows, where applicable, must 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 must be free of health and safety hazards, functionally adequate, operable, and in good repair.

(d) *Dwelling units.*

(1) Each dwelling unit within a building must 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) must be free of health and safety hazards, functionally adequate, operable, and in good repair.

(2) Where applicable, the dwelling unit must 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 must be in proper operating condition, usable in privacy, and adequate for personal hygiene and the disposal of human waste.

(4) The dwelling unit must 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 must 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, must 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, must 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 congregational 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 must 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 must have fire exits that are not blocked and have handrails that are undamaged and have no other observable deficiencies. The housing must have no evidence of infestation by rats, mice, or other vermin, or of garbage and debris. The housing must have no evidence of electrical hazards, natural hazards, or fire hazards. The dwelling units and common areas must have proper ventilation and be free of mold, odor (e.g., propane, natural gas, methane gas), or other observable deficiencies. The housing must comply with all requirements related to the evaluation and reduction of lead-based paint hazards and have available proper certification 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 must comply. HUD housing must 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 subpart, must inspect such HUD housing annually in accordance with HUD-prescribed physical inspection procedures. The inspection must be conducted annually unless the program regulations governing the housing provide otherwise or unless HUD has provided otherwise by notice.

Subpart H --- Uniform Financial Reporting Standards

§5.801 Uniform financial reporting standards.

(a) *Applicability.* This subpart H implements uniform financial reporting standards for:

(1) Public housing agencies (PHAs) receiving assistance under sections 5, 9, or 14 of the 1937 Act (42 U.S.C. 1437c, 1437g, and 1437i) (Public Housing);

(2) PHAs 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

(b) *Submission of financial information.* Entities (or individuals) to which this subpart is applicable must provide to HUD, on an annual basis, such financial information as required by HUD. This financial information must 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 may 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 reporting 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, must 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, must 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.

(d) *Reporting compliance dates.* Entities (or individuals) that are subject to the reporting requirements in this section must commence compliance with these requirements as follows:

(1) For PHAs listed in paragraphs (a)(1) and (a)(2) of this section, the requirements of this section will begin with those PHAs with fiscal years ending September 30, 1999 and later. Unaudited financial statements will be required 60 days after the PHA's fiscal year end, and audited financial statements will then be required no later than 9 months after the PHA's fiscal year end, in accordance with the Single Audit Act and OMB Circular A-133 (See 24 CFR 84.26). A PHA with a fiscal year ending September 30, 1999 that elects to submit its unaudited financial report earlier than the due date of November 30, 1999 must submit its report required in this section. On or after September 30, 1998, but prior to November 30, 1999 (except for a PHA with its fiscal year ending September 30, 1999), PHAs may 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 report earlier than the due date must submit their financial reports as required in this section. On or after September 30, 1998 but prior to January 1, 1999, these entities may submit their financial reports in accordance with this section.

(e) *Limitation on changing fiscal years.* To allow for a period of consistent assessment of the financial reports submitted to HUD under this subpart, PHAs 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.

Subpart 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 subpart?

(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 subpart 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 subpart 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 subpart 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 subpart implement statutory directives that either require or permit you to take action to deny admission to applicants under certain circumstances in accordance with the established standards, as described in this subpart. The provisions of this subpart do not constrain your authority to screen out applicants whom 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 subpart 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 the established standards, as described in this subpart. 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 may 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 may 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 leaser 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 may 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 an 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 may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose,

you may 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 must be considered), you may 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 may apply that prohibition for a longer period of time.

(e) *Nondiscrimination limitation.* Your admission and eviction actions must 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 subpart 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 (PHA), Section 8, violent criminal activity.*

(b) *Additional terms used in this part are as follows.*

Currently engaging in. With respect to behaviors 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 the PHA 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 must I prohibit admission of individuals who have engaged in drug-related criminal activity?

(a) You must 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 may 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 must 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 may 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 may 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 the PHA or owner or any

employee, contractor, subcontractor or agent of the PHA or owner who is involved in the housing operations.

(b) You may establish a period before the admission decision during which an applicant must 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 may 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 members 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 subpart 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 must I prohibit admission of sex offenders?

You must 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 must 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 must I prohibit admission of alcohol abusers?

You must 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 must 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 must 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 must provide that the owner may 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 must provide that you may 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 must provide that you may 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 must I have to evict?

You may terminate the tenancy and evict the tenant through judicial action for criminal activity by a covered person in accordance with this subpart 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.

Subpart J --- Access to Criminal Records and Information

§5.901 To what criminal records and searches does this subpart apply?

(a) *General criminal records searches.* This subpart applies to criminal conviction background checks by PHA 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 subpart applies to PHA 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 subpart do not apply to criminal conviction information or sex offender information searches by a PHA or others of information from law enforcement agencies or other sources other than as provided under this subpart.

§5.902 Definitions.

(a) *Terms found elsewhere.* The following terms used in this subpart are defined in subpart A of this part: *1937 Act, drug, federally assisted housing, household, HUD, public housing, public housing agency (PHA), Section 8.*

(b) *Additional terms* used in this subpart 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 the PHA 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 PHA 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 may 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 must 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 may release criminal conviction records concerning the household member to a PHA in accordance with this section;

(ii) The PHA may receive the criminal conviction records from a law enforcement agency, and may use the records in accordance with this section.

(c) *Procedure for PHA.*

(1) When the law enforcement agency receives your request, the law enforcement agency must 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 must be provided in accordance with

NCIC procedures.

(2) *The law enforcement agency may 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 the PHA for criminal records concerning an adult member of an applicant or resident household, in accordance with the provisions of paragraph (d) of this section, the PHA must request the criminal conviction records from the appropriate law enforcement agency or agencies, as determined by the PHA.

(ii) If the PHA receives criminal conviction records requested by an owner, the PHA must determine whether criminal action by a household member, as shown by such criminal conviction records, may be a basis for applicants screening, lease enforcement or eviction, as applicable in accordance with HUD regulations and the owner criteria.

(iii) The PHA must notify the owner whether the PHA has received criminal conviction records concerning the household member, and of its determination whether such criminal conviction records may be a basis for applicants screening, lease enforcement or eviction. However, except as provided in paragraph (e)(2)(ii) of this section, the PHA must 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 may request that the PHA 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 must include a copy of the consent form, signed by the household member.

(ii) Your request must 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 may request that the PHA 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 must include a copy of the consent form, signed by the household member.

(ii) If you intend to use the PHA determination regarding any such criminal conviction records in connection with the eviction, your request must 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 the PHA determination regarding any such criminal conviction records for lease enforcement other than the eviction, your request must include your standards for lease enforcement because of criminal activity by members of a household.

(4) *Fees.* If an owner requests a PHA to obtain criminal conviction records in accordance with this section, the PHA may charge the owner reasonable fees for making the request on behalf of the owner and for taking other actions for the owner. The PHA may require the owner to reimburse costs incurred by the PHA, including reimbursement of any fees charged to the PHA by the law enforcement agency, the PHA's own related staff and administrative costs. The owner may 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 PHA.* ---

(1) *Use of records.* Criminal conviction records received by a PHA from a law enforcement agency in accordance with this section may only be used for the following purposes:

(i) *Applicants screening.*

(A) PHA screening of applicants for admission to public housing (part 960 of this title);

(B) PHA screening of applicants for admission to the Housing Choice Voucher

Program (section 8 tenant -based assistance) (part 982 of this title);

(C) PHA 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) PHA 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 PHA at the request of a Section 8 owner under this section, see paragraph (d) of this section.)

(ii) *Lease enforcement and eviction.*

(A) PHA enforcement of public housing leases and PHA 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 PHA from a law enforcement agency under this section may not be used for lease enforcement or eviction of residents receiving Section 8 tenant -based assistance.)

(2) *PHA disclosure of records.*

(i) A PHA may disclose the criminal conviction records which the PHA receives from a law enforcement agency only as follows:

(A) To officers or employees of the PHA, or to authorized representatives of the PHA who have a job -related need to have access to the information. For example, if the PHA is seeking to evict a public housing tenant on the basis of criminal activity as shown in criminal conviction records provided by a law enforcement agency, the records may be disclosed to PHA employees performing functions related to the eviction, or to a PHA hearing officer conducting an administrative grievance hearing concerning the proposed eviction.

(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 may be included in pleadings or other papers filed in an eviction action, may be disclosed to parties to the action or the court, and may be filed in court or offered as evidence.

(ii) This disclosure may be made only if the following conditions are satisfied:

(A) If the PHA has determined that criminal activity by the household members as shown by such records received from a law enforcement agency may 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) The PHA may rely on a 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, the PHA is not responsible for controlling access to or knowledge of such records after such disclosure.

(f) *Opportunity to dispute.* If a PHA 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, the PHA must notify the household of the proposed action to be based on the information and must 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 must be provided before 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, the PHA must establish and implement a system of records management that ensures that any

criminal record received by the PHA 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 the PHA 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 PHA 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 PHA 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) *Civilliability.*

(i) APHA may 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 the PHA 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 may seek relief against a PHA in these circumstances by bringing a civil action for damages and such other relief as may be appropriate against the PHA 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 may 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) *PHA obligation to obtain sex offender registration information.*

(1) APHA that administers a Section 8 or public housing program under an Annual Contributions Contract with HUD must 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 must 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 the PHA requests such information from any State or local agency responsible for the collection or maintenance of such information, the State or local agency must promptly provide the PHA such information in its possession or control.

(3) The State or local agency may charge a reasonable fee for providing the information.

(b) *Owner's request for sex offender registration information.* ---

(1) *General.* A owner of federally assisted housing that is located in the jurisdiction of a PHA that administers a Section 8 or public housing program under an Annual Contributions Contract with HUD may request that the PHA 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) The PHA must request the information from a State or local agency;

(ii) The State or local agency must promptly provide the PHA such information in its possession or control;

(iii) The PHA must determine whether such information may 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) The PHA must notify the owner of its determination whether sex offender registration information received by the PHA under this section concerning a household member may be a basis for applicant screening, lease enforcement or eviction in accordance with HUD requirements and the criteria used by the owner.

(3) *Content of request.* As the owner, your request must specify whether you are asking the PHA to obtain the sex offender registration information concerning the household member for a 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 the PHA determination regarding any such sex offender registration information for applicant screening, your request must 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 the PHA determination regarding any such sex offender registration information for eviction, your request must include your standards for evicting persons subject to a lifetime registration requirement in accordance with § 5.858.

(iv) If you intend to use the PHA determination regarding any such sex offender registration information for lease enforcement other than eviction, your request must include your standards for lease enforcement because of criminal activity by members of a household.

(4) *PHA disclosure of records.* The PHA must not disclose to the owner any sex offender registration information obtained by the PHA under this section.

(5) *Fees.* If a owner asks a PHA to obtain sex offender registration information concerning a household member in accordance with this section, the PHA may charge the owner reasonable fees for making the request on behalf of the owner and for taking other actions for the owner. The PHA may require the owner to reimburse costs incurred by the PHA, including reimbursement of any fees charged to the PHA by a State or local agency for releasing the information, the PHA's own related staff and administrative costs. The owner may not pass along to the applicant or tenant the costs of a sex offender registration records check.

(c) *Records management.*

(1) The PHA must establish and implement a system of records management that ensures that any sex offender registration information record received by the PHA 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 the PHA 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 PHA other than under this section.

(d) *Opportunity to dispute.* If a PHA 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, the PHA must notify the household of the proposed action to be based on the information and must 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 must be provided before denial of admission, eviction or lease enforcement action on the basis of such information.

VI. THE HADWELL 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 must sign the lease);

Emergency telephone number for **TENANT** to use if maintenance problems arise with the unit outside of normal Authority working hours

Form EPA 747 -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 must 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 may, 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 may 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(c)(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(c)]

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(c)]

(b) Rent is DUE and PAYABLE on the 1ST day of each month and shall be considered delinquent after the 5TH calendar day of the month.

Rent may 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 notices shall also state that **TENANT** may 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(c)(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 amount(s) 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 **MAY** 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** may be assessed by the LANDLORD and/or MANAGEMENT AGENT for unpaid rent and/or other charges **after** the 15th 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.

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 damage to the dwelling unit caused by **TENANT**, household members or guests.
3. The Security Deposit may 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 agree 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 HEATER Setc.), may 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** may 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 may 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 **may** 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** must 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 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 must 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 be changed 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 must be reported to the HOUSING ASSISTANCE ADMINISTRATOR within 30 days of the occurrence. Failure to report within the 30 days may 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 recertification.

(3) In the case of a rent increase due to a change in Federal law or regulations, the increase will become effective at annual recertification.

(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 may 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 units 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 may 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 the 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 services 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 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 the time to request such a hearing has expired and (if hearing was timely requested) the grievance process has been completed. [966.4(e)(8)]

X. 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)(i))]
- (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 others such as areas 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 may be made for **TENANT** who have no household members able to perform such tasks because of age or disability. [966.4(g)(3)]
- (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 electric, al, 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:
- a. **Any** criminal activity that threatens the health, safety, or right to peaceful enjoyment of the housing premises by other resident or employees of the LANDLORD and/or MANAGEMENT AGENT, or
 - b. **Any drug -related criminal activity** . Any criminal activity in violation of the preceding sentences 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-decoration 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 to ward 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 any where 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, areas, 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 may 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 ordinance 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 may 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, and abandon or surrender 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 she/she is justified in abating rent. [966.4(h)(1)]

(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 representatives 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 may 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 5:00 P.M.) for the purpose of performing routine maintenance, making improvements or repairs, inspecting the unit, or showing the unit for releasing. [966.40)(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, 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 may 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 must 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** must 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)(i)]

© 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 must be in an accessible format. [966.4(k)(2)]

XV. Termination of the Lease

Interminating the Lease, the following procedures shall be adhered to the LANDLORD and/or MANAGEMENT AGENT and **TENANT**:

(a) This Lease may 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. [966.40)(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 5th 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; [966.40)(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; [966.4n)(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. [966.40)(2)]
- (8) Weapons or illegal drugs seized in a unit by a law enforcement officer; [966.40)(2)]
- (10) Any fire on the premises caused by the **TENANT**, household members or guests' actions or neglect. [966.40)(2)]

(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. [966.40)(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 may wish, and of **TENANT**'s right to examine documents directly relevant to the termination or eviction. [966.40)(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. [966.40)(3)(ii)]
- (3) Any notice to vacate (or quit) which State or local law requires may be combined with, or run concurrently, with the notice of lease termination under this section. [966.40)(3)(iii)]
- (4) The Notice to Vacate must 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** may 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. [966.40)(3)(iv)]

When the LANDLORD and/or MANAGEMENT AGENT **is not** required to offer **TENANT** the opportunity for 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 USD HUD regulations; and
- c. State whether the eviction is for a criminal activity that threatens health or safety of residents or staff for drug -related criminal activity. [966.40)(3)(v)]

The LANDLORD and/or MANAGEMENT AGENT may evict the **TENANT** from the unit only by bringing a court action. [966.4(1)(4)]

TENANT may terminate this Lease at any time by giving 30 days written notice as described in Section XV, above.

- d. 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.
- e. The LANDLORD and/or MANAGEMENT AGENT **may** prohibit continued occupancy and/or visiting by remaining family members who engaged in prohibited activities on the premises.
- f. The LANDLORD and/or MANAGEMENT AGENT may 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. [966.40)(5)]
- g. 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. [966.40)(5)(ii)]

XVI. Waiver

Nodelay 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 rights all constitute a waiver (post or prospective) of that or any other right, unless otherwise expressly provided herein.

XVII. PETHOLICY(24CFR960)

Nothing in Section XVII

- a) limit or impair 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 may have to regulate service animals that assist, support or provide service to persons with disabilities, under Federal, state, or local law.

1. COMMONHOUSEHOLDPETDEFINED

- 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. Areptile 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

- a. Before the pet can be brought on the premises of any community, the owner must meet with Property Management and pay in full the required pet deposit as described in Section 3.
- b. All pets must then be registered with the Property Manager. Each pet registration must 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 must 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**

- a. A Pet Deposit of **\$250.00** will be required.
- b. 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.
- c. The remainder of the Pet Deposit **\$150.00** will be refunded NO EARLIER 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**

- a. All pet waste will be picked up and removed immediately by the pet owner and deposited in an **outdoor** waste disposal container.
- b. Single-family scattered site residents are required to pick up all pet waste from their yards.
- c. Indoor litter boxes must be changed twice each week and used litter deposited in the appropriate outdoor disposal. Pet waste must be removed from the litter oncedaily and the waste placed in the appropriate outdoor disposal.
- d. **Absolutely no pet waste may be deposited indoors in a trash can, in a trash chute, in a trash room or in a dumpster.**
- e. **A \$25.00** charge will be assessed to pet owner each time they fail to remove waste in accordance with the Pet Policy.

5. **RESTRAINT**

- a. Pets must be restrained with a collar and leash while outside on the grounds of the community.
- b. 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**

- a. The owners 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

- a. 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 pets removed.

- b. Pets must 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~~ xterminator.

- e. Pet must be housebroken.

8. LIABILITY

- a. The pet owner must provide proof of renter's insurance or some other type of coverage for liability in the event the pet bites or injures another party on the premises.
- b. 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

- a. Pets not owned by the tenant are not covered by this policy and are prohibited from the community.

10. IN CASE OF AN EMERGENCY

- a. 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 may 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.

12. 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 doors 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 excess 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

Linencloset: 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 Fans 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.

The following standards apply only when they are noted as 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 _____ X _____ INCOME-BASED RENT computations for Lease purposes.

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 ____/____/____.

Thereafter

Monthly Rent, in the amount of \$_____._____, shall be payable on the first day of each month, and shall be **delinquent** after the **5th** day of said month.

A paid up Security Deposit of \$_____._____ is required at Lease execution. At this date, the TENANT has paid \$_____._____ and owes a balance of \$_____._____.

(5) Utilities and Appliances : OWNER AND/OR MANAGEMENT AGENT - Supplied Utilities [966.4(b)(1)]

If indicated by an (X) below, THE OWNER AND/OR MANAGEMENT AGENT provides the indicated utility as part of the rent for the premises:

Electricity Natural Gas Heating Fuel Other:

If indicated by an (X) below, the OWNER and/or MANAGEMENT AGENT shall provide the following appliances for the premises:

Cooking Range Refrigerator Washer/Dryer

(6) Utility Allowances – Tenant Paid Utilities [913.102]

If indicated by an (X) below, the **Housing Assistance Administrator** shall provide **Tenant** with a Utility Allowance in the monthly amount of \$_____._____ for the following utilities paid directly by the **Tenant** to the Utility supplier:

Electricity Gas Heat Water Sewerage

Execution:

By Tenant's signature below, Tenant and household agree to the terms and conditions of Part I and II of this lease and all additional documents made a part of the lease by reference.

I/We also acknowledge that the Provisions of Part I of this Lease Agreement have been received and thoroughly explained to me/us.

TENANT: _____

CO-TENANT: _____

CO-TENANT: _____

LANDLORD and/or MANAGEMENT AGENT **DATE**

Must 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. 232 -1381*400 (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: _____

VII. CONDITIONS FOR CONTINUED OCCUPANCY

A. Income Re-certification.

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.

B. Rent Adjustments.

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

C. Utilities Allowances

At least annually, the Housing Authority shall determine 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. If substantial changes have occurred, the allowances will be adjusted accordingly and implemented at re-certification. In any event, the chart will be reviewed on at least an annual basis and submitted to HUD.

D. Scheduling Reexaminations

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

Information, however, should 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.

E. 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.
2. If, at initial admission, the tenant was unemployed and becomes employed, the subsequent increase in income will **not** be counted for **12 months from the initial date of employment. (960.255)**
3. If the tenant stays employed, **50%** of the increase in income due to employment will **not** be counted for the **second 12-month period.**
4. In estimating anticipated income, the THHA WILL PROJECT income and events that will affect the determination of rent prior to the next scheduled re-certification. Taking into account both what will remain the same and what will change, rent will be "averaged out" to lessen the impact of anticipated changes.

5. If it is found that a Tenant has misrepresented to management the fact upon which his rent is based, so that the rent he is paying is less than he should have been charged. If it is found then the increase in rent will be retroactive. If fraud is suspected, THHA may elect to terminate or evict the tenant and prosecute through the Court System.
6. 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.
7. If a Housing Assistance recipient, in the opinion of 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 fraud will have been determined to have been committed and rent will be computed according to paragraph (2) above. (i.e., quitting employment a short time before reexamination)

F. 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 must pay the higher amount of rent that is required by program regulations.

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. The assisted unit must be the principal place of residence.

4. Mandatory approval is required if there is an absence extending beyond 30 days.

5. If warranted, HA may issue a voucher or consider for public housing placement, if the family returns for occupancy for a valid verifiable reason for being absent longer than allowed (i.e., hospital or nursing home confinement).

G. Transfers.

There is an examination that provides the opportunity to review any changes in family size that may require a transfer to a larger or smaller dwelling.

Population in excess of the number of persons for which a project was designed is often the cause of many serious management problems including crime, vandalism, excessive maintenance costs, and low tenant satisfaction.

THHA transfer policy is as follows:

1. Priority for transfer will be given to overcrowded families over families on the waiting list for admission.

2. DecisionsonwhichovercrowdedfamielstotransferwillbemadebyProperty Managementconsideringleasdate,lengthoftimethefamilyhasbeen overcrowded,andperformanceofthetenant.
3. Familiesmaybereimbursedfortheirout -of-pocketexpensesinconnectionwith THHAMandatedtransfers.
4. ThirtydayswrittennoticeisrequiredforTHHAMandatedmoves.
5. Inthecaseoftransferstoadifferentprojectinadifferentschooldistrict,the transferwillbepostponeduntiltheendoftheschoolyear.
6. Inextremecases,transfers **may**beallowedfortheconvenienceofthetenantfor reasonsofhealth,proximitytowork,etc.Thecostofsuchamoveshallbeborne bythetenant.Writtenpermissio nfromPropertyManagementis **required**.
7. Notransferswillbeallowedfromoneprojecttoanotherbasedsolelyonthe desireofthetenanttomove.

H.PortabilityProvisions(Section8Programs)

1. VoucherholderswhohaveresidedintheTerreHa uteareaforatleast12monthscantransfertheir Section8participationanywhereintheUnitedStatesthathasaSection8program.
2. Thetransfermustberequestedbytheparticipantandpertinentinformationrequestedbythe receivingjurisdiction.
3. TransferstotheTerreHauteareawillfollowthesamerulesandprocedures.

VIII.THHA PetPolicy.

(POLICYISSTATEDINTHEDWELLINGLEASE)

HOUSING AUTHORITY OF THE CITY OF TERRE HAUTE MAINTENANCE DEPARTMENT

MOVE OUT CHARGE POLICY

It shall be the responsibility of the THHA Inspector 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.) MUST 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 less than 30 days MUST be submitted to the Director of Maintenance.

All grievances by the previous tenants shall be forwarded to the Director of Maintenance.

PREVENTATIVE MAINTENANCE PROGRAM

- Roofs
- Furnaces & air conditioning
- Waterlines
- 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, etc.)
- 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 shutdown, create list, determine who is going to do the work, system operation manuals, use universal parts, time frame to complete, qualified staff.

VACANCY TIME -LINE

- 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 MUST notify the Director of Maintenance, who in turn MUST contact the Director of Property Management.**
- 4). The vacant unit will be placed on the PEST CONTROL sprays 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 PICKUP POLICY

Trash and large items **must** be placed out on the curbside, or designated locations, **AFTER** 6:00 p.m., on the day **before** trash pickup. Do not put trash out before then. Household trash must be bagged, tied and placed in the proper trash container.

Tenant 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 pickup, and the maintenance department returns the trash containers.

*Do not place their trash out for pickup service and the maintenance department must remove the trash.

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-rechargeable fire extinguishers no less than every 30 days. We 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.

LAWNCAREPOLICY

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...) MUST be worn at all times.

Employees are responsible for servicing and cleaning the lawn care equipment. Broken equipment must be reported to the sector chief immediately for repair.

Do not provide lawn care to an occupied unit. At times, units may 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 DONOT 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 maintenance 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.

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 (1st and 3rd Thursdays of each month) for OCCUPIED and VACANT UNITS. Tenants can request to have their units 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 work 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. Hopefully, through a team effort, we can reduce the roach problem.

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 -FIXIT.
- 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.

Whenever a lengthy delay seems possible, I will instruct sector chiefs to paint the unit. 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. This will help in the planning and scheduling process.

Sector chiefs MUST plan ahead. As soon as the vacancy work order has been received, a thorough inspection MUST 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.

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 MUST contact their immediate supervisor whenever a tool is MISSING. The supervisor MUST complete a "Tool Incident Report" and submit it immediately to the maintenance office.**
- ✓ **If a tool is BROKEN, the employee MUST immediately contact their supervisor. The supervisor MUST 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 MUST 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) MUST be signed in and signed out.**

SNOWREMOVALPOLICY

**The Snow Removal Policy for the THH Maintenance Department is very simple –BE
PREPARED & REMOVE IT.**

Sector Chiefs are responsible for having a “Plan of Action”.

1). Snow removal equipment must be serviced and ready for use (snow throwers, tractors, snowshovels, 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.

**HOUSING AUTHORITY OF THE CITY OF TERRE HAUTE
P.O. BOX 3086
TERRE HAUTE, IN 47803**

MAINTENANCE PLAN

MASTER METERED GAS OPERATION

Reviewed: 1/15/01
By: Tim Buddle
Director of Maintenance

The Housing Authority of the City of Terre Haute plans to maintain and operate its facilities in accordance with applicable Federal and State Safety Codes and Regulations and in accordance with accepted gas industry safety practices.

LEAK SURVEYS

The gas distribution systems shall be surveyed regularly for indication of leaks and abnormal conditions that may affect the safety of personnel or property. Particular attention shall be given to high traffic areas and construction areas where external pressure, settlement or movement could affect or damage the distribution system.

Types and Frequency of Surveys:

Type: Residential
Type of Survey: Leak Test & Visual Inspection
Intervals: Once a Year

Additional surveys or patrols shall be scheduled, whenever necessary, to assure the safety of personnel and normal operation of the distribution system.

All reported leaks must be investigated promptly.

REPAIRS AND REMEDIAL MEASURES

All leaks or other defects shall be repaired immediately. Whenever permanent repairs cannot be made at once, temporary measures shall be taken to protect personnel and property from injury or damage.

All repairs shall be made in such a manner as to promote the greatest safety for the public and shall equal or exceed the requirements as required by the Public Service Commission and Federal Department of Transportation regulations.

All repaired leaks must be rechecked within a 30 to 60 day period to determine if gas is still present. In the event gas is detectable, additional action must be taken to correct the problem.

CATHODIC PROTECTION

All buried metallic piping shall have cathodic protection in areas of active corrosion.

- 1). All coated metallic pipes shall be insulated at the meter and where it enters the building wall.
- 2). All coated metallic pipes shall have magnesium anode attached to bring the pipe measurement to -0.85 or more negative.

3). Bare metallic pipings shall be hot spot protected areas of active corrosion. Areas of active corrosion shall be determined by electrical survey or if impractical by other means. The areas where corrosion leaks develop are considered active corrosion areas.

All buried metallic pipe under cathodic protection shall be surveyed once each year at intervals not to exceed fifteen (15) months.

1). P/S readings shall be taken at pre-determined points and the readings recorded.

2). Bare pipe that is hot spot protected shall be re-evaluated every three (3) years.

3). Above ground pipings shall be examined for atmospheric corrosion at intervals not to exceed three (3) years.

All deficiencies discovered during the cathodic protection survey shall be corrected promptly.

1). If a corrosion leak develops on cathodically protected pipe, the entire system shall be surveyed and additional anodes added, if necessary, to bring the p/sof the buried pipe to -0.85 volts.

2). Corrosion leaks on bare steel shall have magnesium anodes attached to the pipe at the corrosion area.

3). Whenever the buried pipe is exposed for any reason, the condition of the pipe or coatings shall be recorded and anodes added if necessary.

VALVES

All valves necessary for the safe operation of the gas system shall be listed. These valves shall be inspected at intervals not exceeding twelve (12) months. Report all deficiencies immediately. g

RECORDS

The following records shall be maintained by the Housing Authority of the City of Terre Haute:

- 1). Leakage Control Surveys
- 2). Reported Leaks
- 3). Leak Repair Records
- 4). Cathodic Protection Tests
- 5). Evaluation of Bare Pipe
- 6). Visual Inspection Records
- 7). Maps and/or records of Buried Pipe
- 8). Valve Inspection Records

REPORTS

The Annual State Report must be reviewed and submitted every year. A copy will be prepared and forwarded, by no later than March 1st to:

Pipeline Safety Division
Indiana Utility Regulatory Commission
302 West Washington Street
Suite E306
Indianapolis, IN 46204

As required by the Pipeline Safety Division, report all serious accidents, explosions or fires involving gas lines.

TERREHAUTEHOUSINGAUTHORITY

GASEMERGENCYPLAN

Revision: 1/15/01
Approved: Tim Buddle,
Director of Maintenance

INTRODUCTION

It is the purpose of the Gas Emergency Plan to outline procedures whereby situations of an emergency nature can be alleviated promptly and gas services can be restored in an orderly manner.

EMERGENCY COORDINATORS

Sector Chiefs at the Dreiser Square, Lockport, Margaret Avenue and Garfield Towers communities are delegated as the Emergency Coordinators and will be responsible for the safety and protection of persons and property. Sector Chiefs will be in complete charge of the operation, determine what procedures will be used, delegate responsibility to other employees and instruct them in their assigned duties. Sector Chiefs will be familiar with the proper turn-off and turn-on procedures of the gas systems at each required community and personnel to contact.

ACTION

Upon receiving an Emergency Gas call, the Sector Chief shall evaluate the situation and determine what action to take. The following procedure will be followed in all gas emergency situations:

- 1). Turn OFF main gas valve and secure the area.
- 2). Notify Indiana Gas Company (1 -800-777-2060).
- 3). Notify local police and fire department (911).
- 4). Contact the Director of Maintenance* (232 -1381, ext. 338) Work (877 -6279) Home

*The Director of Maintenance will be responsible for contacting all other agencies, including, but not limited to:

- 1). Vigo County Civil Defense (462 -3217, 232- 8730).
- 2). United Utilities Construction Company (1 -217-932-5215).
- 3). Indiana Utility Regulatory Commission (Pipeline Safety Division), (1 -317-232-2718) or (1 -317-232-2754)

NOTE: EMERGENCY OVERTIME PERSONNEL will be responsible for:

- 1). Turning OFF the main gas valve and securing the area.
- 2). Notifying the Indiana Gas Company (1 -800-777-2060).
- 3). Contacting the Emergency Coordinator (sector chief).

After conditions are no longer urgent, sector chiefs will arrange to turn on gas services that have been cut off during the emergency situation.

EMERGENCY VALVE LOCATIONS

DREISERSQUARE: Eastside of First Street (between Farrington and Cruft Streets).

LOCKPORT: Fenced area in the alley just West of the Community Center.

MARGARET AVENUE: 2996 Jackson (Corner of Jackson Street and Margaret Avenue).

GARFIELD TOWERS: South Wing of Building (Next to maintenance shop over head doors).

EMERGENCYCONTACTLIST

PERSONNEL

POSITION	NAME	ADDRESS	S	PHONE
GasEmergency SectorChief	SteveHamilton	DreiserSquare466	232-	1381,ext.301 -3129(home)
GasEm SectorChief	urgency232 BillLocke	MargaretAvenue		-1381,ext.344 466-9228(home)
GasEmergency232 SectorChief	NormanBalder	Lockport299		-1381,ext.340 -1686(home)
GasEmergency SectorChief	232 DonKing	GarfieldTowers234		-1381,ext.332 -7144(home)
GasSupplier	ProlianceEnergy	1+317+231		-6548
Contractor/UnitedUtilitiesConstructionCo. Consultant	1101 NorthDrive1			-217-932-5215(24hour service) Casey,IL62420
Directorof232 Maintenance	TimBuddle	1112LocustStreet	877-	-1381,ext.338 6279(home)
PipelineSafety302W.Washington Division	AnnMarieRobertson	SuiteE3061 Indianapolis,IN1		-317-232-2754(work) -317-232-6758(fax)

AGENCIES

NAME	ADDRESS	EMERGENCY	BUSINESS
PoliceDepartment	17HardingAvenue	911238-	1661
FireDepartment& Ambulance	TerreHaute911466		-1421
Sheriff 232-	VigoCounty232	-3801 3802462-	3226
StatePolice	TerreHautePost299	-1151299	-1153

X. ADMINISTRATIVE GRIEVANCE PROCEDURE REQUIREMENTS

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 the 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 on grievance.

A "Grievance" shall mean any dispute which a tenant or landlord may have with respect to action or failure to act in accordance with their lease, Housing Assistance Payment Contractor THHA regulations which adversely affect their rights, duties, welfare, or status.

Procedures

1. INFORMAL SETTLEMENT

Any grievance may 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 may be discussed informally and settled without a hearing.

A summary of such discussions shall be prepared by the HA Representative with in a reasonable time and one copy shall be given to the complainant and one retained in the 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 may be obtained if the complainant is not satisfied.

2. FORMAL SETTLEMENT

The complainant must submit a written request for a hearing to THHA within ten 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 **MUST** 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 a cost of \$1.00 per copy), records and regulations of THHA that are relevant to the hearing.

Likewise, THHA is to have the same opportunity to copy documents and records to be used by the complainant. (Any document not made available after request may 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 may 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 may make a determination to postpone the hearing or may make a determination that the party has waived his right to a hearing.

Both complainant and the THHA official shall be notified of the determination. Hearings shall not constitute a waiver of any right the complainant may have to due process in a court of law.

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the THHA official must 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 documentary evidence pertinent to the facts and issues raised by the complainant may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The Hearing Officers shall require all participants to conduct themselves in an orderly fashion. Failure to comply with the directions of the Hearing Officer to obtain order may 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 the THHA official may 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 the 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.

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 must 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 them and they may be required to pay court costs and attorney fees.

X. PROCUREMENT POLICY

Whereas and pursuant to 24CFR85.36, 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 24CFR85.36 (a copy of which is attached to and a part of this policy)
- II. It is understood and accepted that 24CFR85.36 is applicable to any procurement funded under:
 - A) 24CFR941- Public Housing Development Program
 - B) 24CFR968- Comprehensive Improvement Assistance Program
 - C) 24CFR990- Annual Contributions for Operating Subsidies for Public Housing Projects
- III. It is understood and accepted that 24CFR85.36 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 or general circulation OR
 - B) Advertised for bid in circular letters to all available dealers; OR
 - C) Advertised for bid by a combination of such methods in A) and B) AND
 - D) 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.

NOW THEREFORE the aforementioned is established as formal policy from this day forward and management personnel are advised to incorporate such into their daily business activities.

XI. 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 others 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

XII.

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 too 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 descriptions 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 obtain the most advantageous remuneration possible from the disposition property and so records said remuneration, if any, on the Authority's Books of Account and Record pursuant to applicable procedures.
- d. The Executive Director may establish any and all internal procedures necessary to comply with the intent of the previous paragraphs of this policy, but in no event may any Real or Personal property be disposed of without formal Board approval.