

**HOUSING AUTHORITY OF THE
BOROUGH OF LODI**

**ADMINISTRATIVE PLAN
FOR THE
HOUSING CHOICE VOUCHER PROGRAM**

Adopted By Board Resolution #01-37 on June 18, 2002

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SECTION I - STATEMENT OF POLICIES & OBJECTIVES

INTRODUCTION

The Section 8 Program was enacted as part of the Housing and Community Development Act of 1974, which re-codified the US Housing Act of 1937. The 1937 Act governs HUD's public housing and tenant-based section 8 housing assistance programs. The Quality Housing and Work Responsibility Act of 1998 made extensive amendments to the Housing Act of 1937. On enactment (October 21, 1998) certain provisions were effective immediately. However, most of the provisions of The QHWRA of 1998 or The Reform Act {as it is sometimes refer to} became effective on October 1, 1999, some provisions became effective October 21, 1999, one year from enactment.

All amendments affecting the Section 8 Program are described in and implemented through this Administrative Plan.

Administration of the Section 8 Program herein after refer to as the Housing Choice Voucher Program and the functions and responsibilities of the Lodi Housing Authority (LHA) staff shall be in compliance with the LHA's Personnel Policy and the Department of Housing and Urban Development (HUD) Section 8 Regulations as well as all Federal, State and local Fair Housing Laws and Regulations.

This Administrative Plan has been designed with the intent to provide applicants, participants, and owners with the basic understanding of the Housing Choice Voucher Program.

LHA'S MISSION STATEMENT

It's the objective of the LHA to provide safe, decent and sanitary housing free from drugs, a suitable living environment to low-income families, senior citizens and individuals with disabilities through the use of a system of housing assistance program. It's also our objective to provide quality affordable housing and to expand economic opportunities primarily benefiting low-income residents.

Additionally, our goal is to maximize our resources by adopting good financially sound business practices. By effectively utilizing available government and community resources, and partnering with private property owners and managers, to provide our families with a wide range of choices for housing selection. We are committed to identifying educational resources, and employment opportunities that will enable our families in becoming self-sufficient and improving their quality of life. We shall attain our goals in the spirit of civil rights and non-discrimination laws and regulations and of affirmatively furthering fair housing opportunities.

LOCAL OBJECTIVES

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

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

In addition, the LHA has the following goals for the program:

1. To assist the local economy by increasing the occupancy rate and the amount of money flowing into the community.
2. To encourage self -sufficiency of participant families.

A. Nondiscrimination: (Fair Housing Policy)

1. This policy was developed and adopted to comply with all applicable laws as they relate to Civil Rights, including but not limited to: Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the implementing regulations at 24 CFR part 1; The Fair Housing Act (42 U.S.C. 3602-3619) and implementing regulations at 24 CFR parts 100, 108, 109, and 110; Executive order 11063 on Equal Opportunity in Housing and the implementing regulations at 24 CFR 107; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations at 24 CFR part 8; The Age Discrimination Act of 1975 (42 U.S.C. 6101-6107), and

the implementing regulations at 24 CFR part 146; and the Americans with Disabilities Act (42 U.S.C. 12101-12213) to the extent applicable; Section 214 of the Housing and Community Development Act of 1980; and the implementing regulations at 24 CFR 200 et. al. Federal Registrar 3/20/95; Occupancy Provisions of the Housing Opportunity Program Extension Act of 1996; and any applicable state laws or local ordinances and any legislation protecting the individual rights of the residents, applicants, or staff that may subsequently be enacted.

2. This Administrative Plan outlines rules and regulations and establishes discretionary policies and procedures for use by the LHA for carrying out the program in a manner consistent with HUD requirements and local objectives. The Administrative Plan provides guidance for both admission and continual participation in the Section 8 Housing Choice Voucher Program. In order to provide clear guidelines for LHA staff, applicants, program participants and landlords. In an effort to prevent misunderstandings, program consistency and avoid litigation.
3. LHA shall not on the grounds of race, color, religion sex, national origin, age, disability and familial status exclude any person from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity under the jurisdiction covered by a Contract for Annual Contributions (ACC) under the United States Housing Act of 1937, or in use of occupancy thereof.
4. Procedures will be applied objectively in dealing with both applicants and participants. Only an individual's particular behavior may be considered, not traits that might be attributed to a specific group or category of persons. Rationale for all decisions will be documented.
5. In an effort to further its commitment to full compliance with applicable Fair Housing and Civil Rights laws, the LHA will provide Federal/ State/local information to Voucher holders regarding "discrimination" and any recourse available during the family briefing session, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made a part of the Voucher holder's briefing packet.

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

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

6. LHA will not permit these policies to be subverted to do personal and/or political favors. Accepting an applicant from a lower waiting list position before one in a higher position violates policy, federal law, and the civil rights of the other families on the waiting list. (24 CFR ~ 906.204 (a) (3) (ii). Unless its to comply with income targeting and de-concentration rules.

B. Policies, Rules and Regulations

1. LHA's Board of Commissioners shall formally adopt policies and Policy changes to the Administrative Plan.
2. The Administrative Plan becomes part of a supporting document to the PHA Annual Plan and must be available for public review.
3. The Administrative Plan does not have to be approved by HUD, but must be made available for audit review.
4. Copies of Administrative Plan, rules and regulations shall be posted in Administrative Offices and furnished to applicants/program participants upon request.

C. Accessibility and Plain Language:

1. Facilities and programs used by participants and/or applicants must be made accessible to a full range of disabilities; i.e.: Administrative Office, Community Rooms. In the event that these facilities are not already accessible, they shall be made so subject to undue financial and administrative burden test.
2. Documents and/or forms designed for use by applicants and/or participants are made available in formats accessible for those with vision or hearing impairments (whenever possible). Furthermore, the documents should be written simply and clearly in an effort to enable applicants with learning or cognitive disabilities to understand as much as possible. If required by local law, documents may have to be translated into languages other than English.
3. In order for the applicant/participant to understand the issues involved, it is advisable to describe some of the concepts regarding eligibility, rent computation, applicant screening, lease compliance, etc. clearly and provide examples of same whenever possible.
4. The LHA staff will ask all applicants whether they need some form of communication other than plain language paperwork. Optional forms of communication might include: sign language, having materials explained orally by staff, large type print, translation from English to dominant language by staff or friend, relative or advocate, etc.
5. At a minimum LHA will prepare the following information in plain language accessible formats:
 - The Application Form
 - Information pertaining to application process
 - Orientation materials to new participants
 - Marketing and informational materials
 - The Lease / Addendum to Lease
 - All information pertaining to applicant's rights (to informal hearings, etc.)
 - All form letters, notices, to applicants and participants
 - Information about opening, updating or closing the waiting list
6. **Translations of Documents**
In determining whether it is feasible to translate documents into other languages, the LHA will consider the following factors:

- Number of applicants and participants who do not speak English and speak the other language.
- Costs of translation into the other language per/client who speaks the language.
- Evaluation of the need for translation by the bilingual staff and by agencies that work with the non-English speaking clients.
- The availability of organizations to translate documents, letters, and forms for non-English speaking families.
- Availability of bilingual staff to explain and translate documents to clients.

D. Service Policy/Accommodation

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

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

The LHA's policies and practices will be designed to provide assurances that all persons with disabilities will be provided reasonable accommodation so that they may fully access and utilize the housing program and related services. The availability of specific accommodations will be made known by including notices on LHA forms and letters to all families, and all requests will be verified so that the LHA can properly accommodate the need presented by the disability.

Requests for reasonable accommodation from persons with disabilities will be granted upon verification that they meet the need presented by the disability.

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

Verification of a Request for Accommodation

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

- The Housing Authority utilizes organizations, which provide assistance for hearing- and sight-impaired persons when needed.
- A list of accessible units will be provided.

E. Marketing:

1. It is the policy of LHA to conduct outreach as needed to maintain an adequate application pool representative of the eligible population in the area. Outreach efforts will include encouraging participation by owners of suitable units located in areas outside of low income or minority concentration.
2. Marketing and informational materials will be subject to the following:
 - All marketing materials must comply with Fair Housing Act requirements with respect to wording, logo, size of type, etc.;

- Marketing should describe the application process, waiting list, and preference structure accurately;
- Marketing should be "plain language" and should use more than strictly English-language print media;
- An effort should be made to target all agencies that serve and advocate for potentially qualified applicants (e.g. the disabled, to ensure that accessible/adaptable units are used by people who can best take advantage of their features.)
- Marketing materials should make clear who is eligible: individuals and families, people with both physical and mental disabilities.
- Lodi Housing Authority's responsibility to provide reasonable accommodations to people with disabilities should be made clear.

F. Owner Outreach

The LHA encourages owners of decent, safe and sanitary housing units to lease to Section 8 families. The LHA maintains a [list of interested landlords/ of units available] for the Housing Choice Voucher Program and updates this list at least once a month. When listings from owners are received, the LHA staff will compile them by bedroom size.

- The Housing Authority will actively recruit suburban property owners and when available grant exception rents for accessible and suburban properties.
- LHA will inform participant owners and prospective owner community of applicable changes in program requirements.
- The staff of the LHA initiates personal contact with private property owners and managers by conducting formal and informal discussions and meetings.
- Printed material is offered to acquaint owners and managers with the opportunities available under the program.
- The LHA has active participation in a community-based organization(s) comprised of private property and apartment owners and managers.
- The LHA periodically evaluates the distribution of assisted families to identify areas within the jurisdiction where owner outreach should be targeted.
- The LHA conducts periodic meetings with participating owners to improve owner relations and to recruit new owners.

G. Family Outreach

The LHA will publicize and disseminate information to make known the availability of housing assistance and related services for very low-income families on a regular basis. LHA will publicize the availability and nature of housing assistance for very low-income families in a newspaper of general circulation, minority media, and by other suitable means. Notices will also be provided in [English and Spanish] when applicable.

- To reach individuals who do not read the newspapers, the LHA may distribute fact sheets to the broadcasting media, and initiate personal contacts with members of the news media and community service personnel. The LHA will also utilize public service announcements.
- The LHA will communicate the status of housing availability to other service providers in the community; advise them of housing eligibility

factors and guidelines in order that they can make proper referrals for housing assistance.

- LHA will ask current participants to inform friends, family and neighbors of voucher program.
- LHA will try to maximize the use of community groups and available resources within the community in its outreach effort.

H. Privacy Rights (Authorization for Release of Information)

Applicants and participants, including all adults [18 years and over] in their households, are required to sign the HUD 9886 Authorization for Release of Information as a condition of occupancy and continued occupancy. This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD will release family information.

NOTE: This form is valid for only 15 months and must be signed annually at each reexamination.

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

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

- The LHA will furnish prospective owners with information about the family's rental history, or any history of drug trafficking (if requested).

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

- The LHA's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicants and participant files will be stored in a secure location accessible only to authorized staff.
- LHA staff will not discuss family information contained in files unless there is a business reason to do so. Inappropriate discussion of family information, or improper disclosure of family information by staff will result in disciplinary action.

I. Monitoring Program Performance

Reports will be maintained for:

- Monitoring funding availability, to ensure the LHA is at maximum lease up but not over-leased.
- Tracking outstanding Vouchers for expiration [or suspension].
- Timeliness of annual activities.
- Numbers of failed inspections and abatements.
- Claim payments made.
- Number and reason for moves and terminations of assistance.
- Number of new vouchers issued.
- Repayment of amounts owed the LHA

J. Waiting List Management

The Housing Authority of the Borough of Lodi administers its waiting list in accordance with rules and regulations Promulgated by the U.S. Department of Housing and Urban Development, at 24 CFR 945,960, 982.204, 24 CFR Part 5. Participants will be selected from the waiting list with the exception of special admissions as directed by HUD.

Organization of waiting list.

The LHA will maintain information that will permit the LHA to select participants from the waiting list in accordance with the authority's admission policies. The waiting list will contain the following information for each applicant listed:

- Applicant name;
- Family unit size (number of bedrooms for which family qualifies under LHA occupancy standards);
- Date and time of application;
- Qualifications for any LHA preference;
- Racial or ethnic designation of the head of household.

Removing applicant names from the waiting list.

- LHA will remove applicants name from the waiting list for non-compliance with request for information or updates.
- LHA's decision to withdraw from the waiting list the name of an applicant family member that includes a person with disabilities is subject to reasonable accommodation in accordance with 24 CFR part 8. If the applicant did not respond to the LHA request for information or updates as a result of the family's member's disability, the LHA must reinstate the applicant in the family's former position on the waiting list (on a case-by-case basis, LHA's discretionary policy).

Family Size.

- The order of admission from the waiting list may not be based on family size, or on the family unit size for which the family qualifies under the Administrative Plan.
- If the LHA does not have sufficient funds to subsidize the family unit size of the family at the top of the waiting list, LHA may not skip the top family to admit an applicant with a smaller family size. Instead, the family at the top of the waiting list will be admitted when sufficient funds are available.

Funding for specified category of waiting list families.

When HUD awards a PHA program funding for a specified category of families on the waiting list, the PHA must select applicant families in the specified category.

Number of waiting lists.

LHA has a single waiting list for admission to its Housing Choice Voucher Program.

LHA has opted to take full applications for all families. LHA will accept an application even if an informal discussion reveals the applicant may not be eligible [unless the waiting list is closed]. In accordance with CFR 982.206(b) families should not be discouraged from applying or rejected based on "apparent ineligibility". If the family is ineligible, the LHA must notify the applicant in writing of the (1) reason (s) for the determination, and; (2) family's right for an informal hearing.

LHA selection/intake staff must document how and when an applicant was selected/or rejected. Applicants must have an opportunity to apply and to be considered for any and all of the LHA's list available to new applicants.

The LHA may upon request of applicant, place an applicant from section 8 waiting lists (and vice-versa) on the conventional program. All files will be documented of action taken and reason(s) for such action.

"Opening and Closing" Waiting Lists:

LHA, at its discretion, may restrict application intake, suspend application, and close waiting lists in whole or in part. The Authority may open or close the list by, local preference category or LHA's system of preferences. Prior to closing the waiting list, LHA will consider whether the waiting list includes a sufficient number of extremely low-income families to satisfy the 75 percent requirement of families admitted to the housing choice voucher program.

Opening the waiting lists:

When LHA opens a waiting list, the authority must give public notice that families may apply for tenant-based assistance (Housing Choice Voucher Program). The notice must state where and when to apply

Public Notice must be by publication in a local newspaper or general circulation, and also by minority media and other suitable means. The notice must comply with HUD fair housing requirements.

The public notice must state any limitations on who may apply for available slots in the program.

The authority may adopt criteria defining what families may apply for assistance under public notice

Closing the waiting lists:

Closing waiting list. If LHA determines that the existing list contains an adequate pool for use of available program funding, the authority may stop accepting new applications, or may accept only applications meeting criteria adopted by LHA.

During the period when the waiting list is closed, LHA **will not** maintain a list of individuals who wish to be notified when the waiting list is reopened.

Purging/updating the waiting list:

The waiting list will be kept as up-to-date as possible in order to minimize the number of "no-shows" and ineligible determinations. Purging the waiting list prevents delays in leasing activities. The L.H.A will update its waiting list at least once a year. The procedure will be as follows:

1. Families who are no longer interested, their names will be removed from the waiting list;
2. Families who no longer qualify for housing, their names will be removed from waiting list;
3. Families who cannot be reached by phone or mail, names will be removed from waiting list; at the time of initial intake of application, families will be advised of their responsibility to notify the LHA when mailing address or phone changes. It

is also the responsibility of families to advise LHA if their Citizenship and/or Immigration Status Changes.

Waiting Lists and LHA's System Preference

During periods when LHA is not accepting new applications, LHA will place an applicant on the waiting list if the applicant is otherwise eligible for assistance and claims that he/she qualifies for LHA's System Preference

However, LHA may refuse to place an applicant with a preference if the following are true:

- There is an adequate pool of applicants already on the waiting list who are likely to qualify for a Preference;
- It is unlikely that under the LHA's system for applying a Preference that the family making the application could qualify for assistance ahead of other applicants already on the waiting list

The Reform Act of 1998 (QHWRA) repealed the use of Federal Preferences effective October 1, 1998 and all references were removed from HUD regulations as of 3/29/00. The selection system adopted by LHA is in compliance with income targeting requirements.

Change in Preference Status while on the Waiting List:

Occasionally families on the waiting list who did not qualify for an LHA Preference at the time of application intake will experience a change in circumstances that qualifies them for a Preference. In these circumstances, it will be the family's duty to contact the LHA with said information in order to re-certify their status depending on application processing status, re-verified.

To the degree that the LHA determines that the family does now qualify for LHA Preference, they will be moved up on the waiting list in accordance with their LHA Preference, any local or ranking preference(s) and their date and time of application. They will then be informed in writing of how the change in status has affected their place on the waiting list.

Retention of Documents

During the term of each assisted lease, and for at least three years thereafter, the LHA must keep (in accordance with 24 CFR 982.158(e):

- A copy of the executed lease
- The HAP contract
- The application from the family

Additionally, LHA will retain for a period of at least three years (24 CFR 982.158 (f):

- Records that provide income, racial, ethnic, gender and disability status data on program applicant and participants.
- An application from each ineligible family and the Notice sent that stated the applicant is not eligible.
- HUD required reports
- Unit Inspection reports
- Lead-based paint inspection records as required by 24 CFR 982.401
- Accounts and other records supporting its budget and financial statements for the program.
- Records to document the basis for LHA determination that rent to owner is a reasonable rent (initially and during the term of the HAP contract).

- Other records as specified by HUD.

Management Assessment Objectives

The PHA operates its housing assistance program with efficiency and can demonstrate to HUD auditors that the PHA is using its resources in a manner that reflects its commitment to quality and service. The PHA policies and practices are consistent with the goals and objectives of the following HUD SEMAP indicators.

1. Selection from the Waiting List
2. Reasonable Rent
3. Determination of Adjusted Income
4. Utility Allowance Schedule
5. HQS Quality Control Inspections
6. HQS Enforcement
7. Expanding Housing Opportunities
8. FMR/exception rent & Payment Standards
9. Annual Re-examinations
10. Correct Tenant Rent Calculations
11. Pre-Contract HQS Inspections
12. Annual HQS Inspections
13. Lease-up
14. Family self-sufficiency (FSS) enrollment and escrow
Bonus Indicator (De-concentration)

SECTION II. - ELIGIBILITY FOR ADMISSION

INTRODUCTION

This section outlines the criteria used by the LHA to admit families into the Section 8 Housing Choice Voucher Program and also defines the circumstances that may lead to a denial of admission. The purpose of the policies outlined below is to maintain consistency and objectivity in evaluating the eligibility of families applying for the program. This section only addresses those factors used to review eligibility, to minimize the possibility of bias or discrimination. Selection shall be made without regard to race, color, creed, religion sex, sexual orientation, national origin, or disability.

A. Criteria

To be eligible for participation, an applicant must meet HUD's criteria. HUD's eligibility factors are:

1. The applicant must be a "family."
2. The household's annual income may not exceed the applicable income limit.
3. All family members six years or older must provide a Social Security Number or certify they don't have one.
4. Applicant must furnish evidence of citizenship or eligible immigrant status

B. Family Composition

The applicant must qualify as a Family. A Family may be a single person or a group of persons. **A group** of persons may be:

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

A family may also include:

A family with or without children;

A remaining member of a tenant family
A displaced family;
A disabled family;

Any single person that is:
An elderly person
A displaced person
A person with a disability and Any "other single" person

Head of Household

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

Spouse of Head

Spouse means the husband or wife of the head.

For proper application of the Non-citizens Rule, the definition of spouse is: the marriage partners whom, in order to dissolve the relationship, and would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

Co-Head

Co-Head is an individual in the household who is equally responsible for the lease with the Head of Household. A family may have a spouse or co-head, but not both. A co-head never qualifies as a dependent.

Stable Relationship

When the applicant family is not related by blood, marriage, or operation of law, LHA will require the applicant family to provide evidence of a stable relationship.

LHA defines a stable relationship as:

- a) A relationship that has been in existence for a minimum of six (6) months, and
- b) The parties provide financial support for each other.

Live-In Attendants

A Family may include a live-in aide provided that such live-in aide:

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

Is not obligated for the support of the person(s), and

Would not be living in the unit except to provide care for the person(s).

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

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

A child who is temporarily away from home because of placement in foster care is considered a member of the family. This provision only pertains to the foster child's temporary absence from the home, and is not intended to artificially enlarge the space available for other members.

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

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

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

- Verification must include the hours the care will be provided.

The LHA has the right to disapprove a request for a live-in aide based on the "Other Criteria for Eligibility" described in Section III "Other Criteria for Admission"

Split Households Prior to Voucher Issuance

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

- Which family member applied as head of household?
- Which family unit retains the children or any disabled or elderly member?
- Restrictions that were in place at the time the family applied.
- Role of domestic violence in the split.
- Recommendations of social service agencies or qualified professionals such as children's protective services.

Documentation of these factors is the responsibility of the applicant families. If either or both of the families do not provide the documentation, they may be denied placement on the waiting list for failure to supply information requested by the LHA.

In cases where domestic violence played a role, the standard used for verification will be the same as that required for the "displaced due to domestic violence" preference.

Multiple Families in the Same Household

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

Joint Custody of Children

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

C. Income Limits at Admission

HUD establishes income limits annually by family size for the area in which the LHA is located:

Extremely Low Income Limit: 30% of area median.

Very-Low Income Limit: 50% of area median.

Low Income Limit: 80% of area median.

Compare family's gross annual income to the income limit.

An eligible applicant must be a "family" whose annual income does not exceed the applicable income limit as set by HUD.

To be admitted as a very low-income family, the family income must be within the very low-income limit for the area.

To be admitted as a low- income family, the family income must be within the low -income limit for the area.

Families in certain HUD-specified categories may be admitted under the low- income limit.

For families to be admitted who are above the very low income limit, they must fall into one of these categories:

A low- income family that is continuously assisted.

A low- income family that is physically displaced by rental rehabilitation.

A low- income non-purchasing family residing in a HOPE 1 or HOPE 2 project.

A low- income non-purchasing family residing in a project subject to a home ownership program.

A low- income family displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract.

- LHA must use HUD income limits and may not establish their own.
- Income limits are established by family size, so a change in family composition while on the waiting list may affect the family's eligibility for admission.
- Annual Income is compared to the income limit and is applied only at admission as a test for eligibility.

To determine if the family is income-eligible, the LHA will compare the Annual Income of the family to the applicable income limit for the family's size.

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

Single jurisdiction P.H.A.'s: The applicable income limit to be used at initial issuance of a voucher is the income limit of the LHA

Multi-jurisdiction P.H.A.'s: The applicable income limit used for initial issuance of a voucher is the highest income limit within the P.H.A.'s jurisdiction.

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

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

- Applicants on the waiting list who have an increase in income above the limits may not be admitted.
- Transfers from other programs (i.e. Conventional Housing) and other P.H.A.'s must be treated as new admissions.
- Once a family is admitted (leased), it is no longer subject to initial income limits in order to retain eligibility.

D. Continuously Assisted Families

- LHA may assist "low income" families who are continuously assisted under the 1937 Housing Act.
- Applicants who are "already assisted" and between the low and very low-income limit must provide such information to the LHA
- The LHA may verify information by an inquiry to the agency or owner.
- Brief breaks that do not interrupt the essential continuity of assistance are permissible.
- LHA must establish policy as to when, and to what extent, brief interruptions will be considered to break the continuity of assistance.

E. Applicable Income Limits

- Applicants are subject to the income limit of the area where the unit is located and the family is initially assisted.
- To determine the applicable income limit for issuance of a Voucher upon selection for the program:

P.H.A.'s within a "one income-limit area" must use that income limit at initial issuance of a Voucher.

P.H.A.'s with more than one income-limit area (such as State or Regional P.H.A.'s) must use the highest income limit of all the income limit areas in its jurisdiction.

The applicable income limit for admission to the program is the income limit for the area where the family is initially housed.

F. Social Security Number Requirements

All family members age six (6) and over who have a Social Security number (SSN) are required to disclose it and provide verifying documentation as a condition of initial or continuing eligibility under HUD programs. If a family member who is at least 6 years old and has not been issued a SSN, the individual (or guardian if under 18 years of age) must sign a certification that he or she does not have one.

The certification should state the following:

- The individual's name
- State that the individual has not been assigned an SSN
- State that the individual will disclose the number if he or she later gets one
- Be signed and dated

NOTE: Individuals who applied for legalization under the Immigration Reform and Control Act of 1986 (IRCA) have an SSN to disclose **but** do not have the SSN card until they receive eligible immigration status. IRCA applicants applied for SSN at the time they applied for amnesty. The Social Security Administration (SSA.) assigned each applicant an SSN and issued an SSN card. The card was sent to INS and placed in the applicant's file.

The INS sent a letter to IRCA applicants, assigning them an SSN. This letter is acceptable verification until the applicants are granted temporary lawful resident status.

The penalties for failure to disclose SSN and employee identification numbers:

- Applicants: Denial of assistance
- Participants: Termination of assistance.

G. Citizenship/Eligible Immigration Status

Eligibility for assistance is contingent upon a family's submission of signed declarations of U.S. citizenship or eligible immigration status. In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. Each family member, regardless of age, must submit a signed declaration of U.S. citizenship or eligible immigration status. LHA may request verification of the declaration by requiring presentation of alien resident card, birth certificate, social security card, naturalization document, or other appropriate documentation.

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

Mixed Families

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

No Eligible Members

Applicant families that include no eligible members will be ineligible for assistance. Such families will be denied admission and have an opportunity for an informal review.

H. Other criteria for Section 8 housing choice voucher.

Past participants in the Section 8 Rental Certification or Voucher Program and former Public Housing tenants of the LHA (or another H.A.) who failed to satisfy liability for unpaid rent or tenant damages may be denied a Voucher.

NOTE: The LHA requires the applicant to repay the amount owed or enter into an agreement to pay in order to be eligible for assistance.

Applicants who have committed fraud in any Federal housing assistance program or violated family obligations under the Section 8 Program may be denied assistance. (Consider period of time for violation of family obligation in policy.)

I. Criminal Background Checks

Lodi Housing Authority conducts a criminal background check for all adult household members (including live-in aides) eighteen (18) years of age or older applying for Section 8 Housing Choice Voucher Program in order to comply with HUD mandates. All new applicants/household member(s) who is a parole or on probation must wait two (2) years after completion of sentence/ probation prior to receiving assistance.

J. Mandatory Denials

The LHA must deny admission to the program for an applicant if any member fails to sign consent forms for obtaining information.

The family must submit evidence of citizenship or eligible immigration status, and the LHA must deny assistance based on noncitizen rule regulations.

The LHA must deny admission to a family prior to the verification of U.S. citizenship or the eligible immigration status of at least one member of the family.

The LHA must deny admission to any household member who has ever been convicted of drug-related criminal activity for methamphetamine production.

K. Ineligible Families

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they were denied due to non-citizen status.

SECTION III. - APPLYING FOR ADMISSION

INTRODUCTION

This section describes the policies and procedures that govern the initial application process, placement and denial of placement on LHA's section 8 waiting list, including limitations on whom may apply. The policies and procedures outlined in this section are intended to ensure that all families who express interest in section 8 program are given an equal opportunity to apply. The fundamental purpose of the intake function is to obtain information about the family so that an accurate, fair, and timely decision relative to the family's eligibility may be made. Applicants are placed on the waiting list in accordance with this administrative plan.

A. Processing Applications for Admission:

It is the LHA's policy to accept and process application in accordance with applicable HUD Regulations. The Authority may admit an applicant for participation in the voucher program either as a special admission (refer to section on Special Admission); or from the waiting list in accordance with 24 CFR 982.204 through 982.210.

Applications/Initial Interview:

An application must be completed and signed by the head of the household and/or spouse, and other responsible adult members (who are legal age of emancipation according to State Statute).

At the time the application is completed, Authority personnel will interview the applicant and complete the following checklists:

- Family composition and type (Elderly/Near-Elderly/Non-Elderly).
- Annual Income Checklist
- Asset Checklist
- Allowance Checklist
- LHA's Preference Qualification Checklist
- Social Security Verification/Certification of all family members
- Citizenship or eligible Immigration Status

At the conclusion of the application interview (or within 60 calendar days following the interview), the applicants will be notified of eligibility and if they qualify for a preference.

"Apparent Eligibility"- Social Security Number verification and/or certification documentation must be presented at the time that application is completed for each family member 6 years or older (discretionary policy).

Before leaving the interview, applicants coming on the program will be required to sign releases for information needed to determine eligibility, annual and adjusted income, qualification for LHA's Preference, applicant screening.

Other Criteria For Admission

In addition to HUD eligibility criteria, as grounds for denial of admission to the program, the following criteria's have been included:

1. Housing Choice Voucher Program family's Total Tenant Payment, computed in accordance with the federal regulations, may not exceed the current Fair Market Rent as set by HUD for the family's voucher size in the area.
2. The Family must not have violated any family obligation during a previous participation in the Section 8 Program on a case-by-case basis.

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

- An exception may be granted by the LHA if the family member who violated the family obligation is not a current member of the household on the application.
3. No family member may have committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program during the past two years.
 4. If a family member were convicted of a criminal [or pleaded guilty]/violent crime, the individual would have to wait two (2) years after serving sentence (inclusive of probation) to be eligible to become a participant (LHA discretionary policy).
 5. If a family member used drugs and completed a certified drug rehabilitation program, the individual must be free from drugs for one (1) year after completion of program to be eligible (LHA discretionary policy).

B. Prohibited Admission Criteria

- 1) Admission to the voucher program may not be based on where the family lives before admission to the program. LHA may however; target assistance for families who live in public housing or other federally assisted housing. LHA has adopted and has been approved by HUD a residency preference.
- 2) Admission to the program may not be based on where the family will live with assistance under the program.
- 3) The LHA preference system provides a preference for admission of families with certain characteristics from the LHA waiting list. Admission to the program

May not be based on:

- Discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock;
 - Discrimination because a family includes children (familial status discrimination);
 - Discrimination because of age, race, religion, sex, or national origin;
 - Discrimination because of disability; or
 - Whether a family decides to participate in a family self-sufficiency program.
- 4) An applicant does not have any right or entitlement to be listed on the authority's waiting list, to any particular position on the waiting list, or to admission to the programs.

NOTE: Number 4 above does not affect or prejudice any right, independent of this rule, to bring a judicial action challenging LHA violation of a constitutional or statutory requirement.

C. Special Admission (Non-Waiting Lists)

Assistance targeted by HUD in accordance with 24 CFR 982.203. LHA may receive funding for families residing in specific housing.

Funding in these cases is intended for families in specifically identified circumstances with out regard to waiting list status. Targeted families are not required to be on the LHA waiting list at all. The Authority must use the assistance for the families living in the targeted units.

The Authority may admit a family that is not on the LHA's waiting list, or without considering the family's waiting list position. LHA will maintain records showing that the family was admitted with HUD-targeted assistance. However, after all targeted families have been assisted and when the housing choice voucher turns over, funding may be used for families from the housing choice voucher waiting list.

Some examples of program funding that may fall under this category are:

- **Public Housing Demolition/Disposition/Vacancy Consolidation:** A family displaced as a result of demolition, disposition of a public housing project, or vacancy consolidation actions.
- **Mainstream Housing** – Elderly Designation: Rental assistance for non-elderly persons with disabilities in support of designated housing plans. This voucher funding is intended to provide sufficient alternatives to non-elderly disabled families who would otherwise have been housed by LHA if the development had not been restricted solely to elderly households. NOTE: this assistance is aimed solely towards non-elderly disabled families that are income eligible and reside in public housing that has been designated for occupancy by the elderly.
- **Moderate Rehabilitation Contract Expirations:** MRC are fifteen (15) year agreements between a PHA and a private owner, pertaining to specific units in a single- family or multifamily property. Therefore, if at the end of the 15-year agreement, the owner decides not to renew its HAP contract, HUD provides special allocation of voucher funding to the authority, so that the families living in the development do not lose their assistance as a result of MRC expiration. The families affected may use these vouchers to stay in current units, or move with the housing choice voucher assistance.
- **Project-Based Assisted Housing Conversion Actions:** At the end of a HAP contract for a project-based assisted development in a housing conversion action, HUD will make housing choice vouchers available to protect families that live in the units and families that were assisted under the project-based HAP contract. These housing choice vouchers targeted for families living in a development undergoing a housing conversion action are sometimes called "enhanced vouchers." Rules pertaining to the administration of these enhanced vouchers vary from regular housing choice voucher rules with regard to the payment standard used in subsidy calculations if the family opts to remain in the same development.

Project-based assisted housing conversion actions include the following:

- Project-based opt-outs: Refers to a conversion action where an owner chooses to opt out of certain programs by not renewing an expiring Section 8 project-based HAP contract.
- Pre-payment of HUD-insured mortgage: Refers to a conversion action where an owner chooses to pre-pay a HUD-insured mortgage on a Section 8 Property.
- HUD enforcement actions: Refers to situations where HUD is either terminating the Section 8 project-based HAP contract or, due to the owner's failure to comply with the terms of the HAP contract, not offering the owner the option to renew an expiring contract.
- HUD property disposition: Refers to the situations where, due to an owner default on the FHA-insured mortgage, HUD is the mortgager-in-possession or owner of the multifamily property and is closing down or selling the property to a new owner.
- LHA discretionary policy in case of Federal Disaster, Fire, Government Action etc LHA will skip list when applicable on a case-by-case basis.

Application Processing for Voucher

Once the above steps are completed, the application will be placed on a sequence waiting list based on the date of application filing and preference.

Applicants will then be notified of their place on the waiting list and how long a wait they may reasonably expect on the waiting list before getting to the top of the waiting list.

D. Interviews and Verification Process:

As families approach the top of the waiting list, the following items will be verified to determine the applicant's eligibility and suitability for admission to the Authority's housing:

- (1) Eligibility Information
- (2) Annual Income
- (3) Assets and Asset Income
- (4) Allowance Information
- (5) LHA's Preference
- (6) Information used in Applicant Screening
- (7) Social Security Number Verification/Certification
- (8) Citizenship or Eligible Immigration Status

Verified information obtained after application intake, which is less than 90 days old need not to be re-verified. Verifications may be extended for an additional 30 days with a telephone update. (A record of the update must be placed in the applicant's file). Verified information not subject to change need not be re-verified.

Information obtained in order to verify categories 1 through 8, above, which is subject to change, and for which verifications are more than 120 (calendar) days old, must be re-verified.

All statements and information relative to the categories listed above must be verified. Rent payment history, and lease compliance history will be checked, reviewing police and court records, credit payment histories, landlord references, parole officers, and social service providers, to be conducted on all appropriate members of the applicant household, not just the head of the household. Police records will be obtained on all applicant household members 16 years of age or older to ascertain past drug or criminal activity.

Documentation obtained as part of the verification process may include: checklists completed as part of the interview process, reports of interviews, letters or telephone conversations with reliable sources. At a minimum, such reports will indicate the date of the conversation, source of the information, name and job title of the individual contacted, and a written summary of the information received.

Sources of information may include, but are not limited to, the applicant by means of interviews; present or former landlords, present and former employers, credit checks, family social workers, parole officers, court records, drug treatment centers, clinics, physicians, clergy, or police departments where warranted by the particular circumstances.

Income and rent computations: Annual income, used to determine eligibility, and Adjusted Income, the income upon which rent is based, will be computed in accordance with the definitions and procedures set forth in Section XIII of this policy.

Verifications shall be attempted in the following order:

- (1) Third party written
- (2) Third party oral with a record kept in the file
- (3) Review of documents provided by the family
- (4) In the absence of any of the above; affidavits from the family
- (5) Certifications/Verifications for Social Security Numbers
- (6) Certifications/Verifications of Citizenship/Immigration Status

NOTE: Applicants **MUST** cooperate fully in obtaining or providing the necessary verifications.

Applicants reporting, “**zero income**” will be asked to complete a family expense form. This form will be the first form completed (once eligibility is established). The expense form will ask applicants to estimate (on a monthly basis) how much they spend on: food, beverages, transportation, health care, debts, household items, cable, etc. It will also ask applicants about the status of any application or benefits through TANF (Temporary Assistance to Needy Families, previously AFDC) or other similar programs. On condition that a “zero income” family is admitted, quarterly re-determinations of income will be performed. Refer to Section XII, Periodic Re-examinations of this policy.

NOTE: “Zero Income” families will pay minimum rent (as approved by Board Resolution) unless “zero income” family requests in writing further consideration as a hardship case. At which time the Executive Director/his designee will review all documentation submitted and make determination. Each hardship case will be treated individually, and will stand on its own merit.

LHA’s records with respect to application for admission to any low-income housing assisted under the United States Housing Act of 1937, as amended, shall indicate for

each application the date and time of receipt; the determination by LHA as to eligibility or ineligibility of the applicant; when eligible, family size for eligible, preference rating, if any, and the date, location, identification, and circumstances of voucher offered and accepted or rejected.

The interviewer should provide an explanation of the program to the applicant, including the family's responsibilities while receiving assistance.

E. Voucher issuance

The voucher is issued after the family has been certified eligible and briefed on program requirements or when the participant family wishes to move to another unit with continued tenant-based assistance. The voucher is a document between the LHA and the tenant outlining the tenant's obligations under the program.

Voucher extensions will be provided with a written request 15 days prior to expiration date.

If an existing participant is looking for a new apartment and participant was given a voucher and doesn't find suitable apartment within the allotted time frame. LHA will not offer another voucher for a period of one (1) year of expiration date (on a case by case basis) LHA discretionary policy.

F. Subsidy Standards

The subsidy standard is the criteria established by the PHA for determining the appropriate number of bedrooms for families of different sizes and compositions. There are two standards, one for voucher size issuance and one for the minimum and maximum unit size a family may select.

G. Final Determination and Notification of Eligibility

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

H. Definition of Admission

Admission is the point at which the LHA initially executes a HAP contract with an owner for assistance to a family in the LHA's Section 8 Housing Choice Voucher program and the applicant family becomes a participant.

NOTE: Issuance of a voucher is not considered an "admission."

Once a request is submitted and all required documentation has been received the process takes a minimum of 45 days.

SECTION IV. - ESTABLISHING PREFERENCES AND MAINTAINING THE WAITING LIST

INTRODUCTION

It is the policy of the LHA that each applicant shall be assigned his/her appropriate place on a single community-wide waiting list in sequence based upon date and time of application so that an offer of assistance is not delayed to any family or an offer made precociously.

A. Organization of the Waiting List

The waiting list is organized to indicate the following information:

- Family name
- Household Type (elderly, family member(s) with disabilities)
- Date and time of application receipt
- Unit size
- Admission Preference (if applicable)
- Whether special unit or accessibility required
- Racial or ethnic designation of Head of Household

The LHA will maintain its waiting list in such a way that it can document how, as well as when applicants were selected.

The LHA will maintain information that permits proper selection from the waiting list.

The waiting list is the inception of a "paper trail" and must enable a reviewer to immediately determine if the selection process is in accordance with the LHA's policies.

In accordance with 24 CFR 982.201(b)(2)(i) at least 75% of families admitted to the tenant-based voucher program during the LHA fiscal year from the LHA waiting list must be extremely low-income families.

B. Method of Applicant Selection

Except for Special Admissions, applicants will be selected from the LHA waiting list in accordance with policies and preferences defined in this Administrative Plan.

The order of selection is based on LHA's system and the HUD requirement that elderly and disabled families and displaced singles will be selected before other singles. Applicable LHA Preferences and Local Preferences as previously described in this Administrative Plan will then be used to determine the order of selection from the waiting list.

1. In selecting the applicants for a voucher, preference will be given to families that are otherwise eligible for assistance and that, at the time they are seeking housing assistance, are involuntarily displaced, living in substandard housing, or paying more than 50 percent of family income for rent (LHA Preference System).

2. LHA Preference for vouchers will be granted to applicant families whose verified circumstances at the time of issuance a voucher correspond to one of the following:

- a) Involuntarily Displaced;
- b) Living in substandard Housing
- c) Paying more than 50% of Family Income for rent.

The LHA has determined that the three (3) LHA Preference System (formerly Federal Preference) will carry equal weight and work in conjunction with local preferences. Date of application will be a determining factor in the selection process.

Applicant selection criteria

It is the policy of the LHA to screen all applicants in accordance in with HUD's rules and regulations. The Authority may also consider any of the additional Criteria for admission in Section II of this policy. However, it is not the responsibility of LHA to screen for factors, which relate to the suitability of the applicant family as tenants. It is the responsibility of the owner to screen the applicants as to their suitability for tenancy. The LHA will advise families how to file a complaint if they have been discriminated by an owner. The LHA will advise the family to make a Fair Housing complaint. The LHA could also report the owner to HUD (Fair Housing/Equal Opportunity) or the local Fair Housing Organization.

C. Targeted program qualifications

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

The application will be a permanent file.

All applicants in the pool will be maintained in date and time sequence and then order of preference.

All applicants must meet "Very Low- Income" eligibility requirements as established by HUD. The HUD Field Office must, have approved any exceptions to these requirements, other than those outlined in the Section on "Eligibility for Admission," previously.

D. Exceptions for Special Admissions

Applicants who are admitted under Special Admissions, [funding that is targeted for families living in specified units] rather than from the waiting list, are identified by codes and are not maintained on separate lists.* include under special admissions and delete from here.

E. The Preference System in the Selection of Participants

It is the LHA's policy that a preference does not guarantee admission. Preferences are used to establish the order of placement on the waiting list. Every applicant must still meet the LHA's participants Selection Criteria (See Section III) before being offered a unit.

Preferences will be given to applicants who are otherwise eligible and who at the time they are seeking assistance meet the definitions of the preferences described in the following paragraphs.

LHA's annual admissions will be those holding LHA's Preferences and/or local preferences. Applicants will be selected from the waiting list.

LHA will also offer assistance to families with Court Ordered admission (if applicable). Court Ordered new admissions take priority over families with Federal or Local Preferences.

In case of the LHA not having sufficient applications of the applicants with LHA Preference admissions will alternate between those applicants with/without LHA Preference.

If there are no applicants on the waiting lists that qualify for the LHA Preferences otherwise eligible non-preference families will be selected.

LHA will not hold vouchers for prospective applicants with LHA Preferences, nor will it relax eligibility or screening criteria to admit otherwise unqualified applicants with either LHA Preferences.

For dwelling units that initially became available for occupancy under Annual Contributions Contracts on or after October 1, 1984, shall be available only to Very Low Income Families. Prior HUD approval shall be obtained for admission of Lower Income Families.

Any admission mandated by court order related to desegregation or Fair Housing and Equal Opportunity will take Precedence over LHA's Preference System. Other admissions required by court order will also take precedence over the Preference System. If permitted by the court order, the LHA may offer the family a housing voucher.

F. Verification and/or Certification of Information:

All information from each applicant must be verified and/or certified depending on the circumstances governing the situation. Any information relative to the acceptance or rejection of an applicant must be documented and placed in the applicant's file. This may include reports of interviews, letters, or telephone conversations with reliable sources. At a minimum, those entered will include the date, the source of information, including the name and title of the individual contacted and recapitulation of the information received.

Sources of information may include, but are not limited to, the applicant, social workers, parole officers, court records, drug treatment centers, clinics, physicians or police departments, building code inspectors, INS, where necessary.

As a condition of admission or continued occupancy, LHA shall require the family head and other appropriate members to sign a HUD approved release form and consent authorizing any depositor or private source of income, or any Federal, State, or local agency to furnish and release information to LHA and to HUD.

Methods of Verification and/or Certification of Information

Income- Income is one of the main factors in determining a family's eligibility for housing and among the most likely to subject to misrepresentation or error. Consequently, the Authority must establish adequate methods of verifying income (including applicable deductions and exemptions) which may include:

- **Third-party written verification-** The bank, employer, agency, etc. completes, signs, and returns information pertinent to the applicant or tenant directly to the Authority.
- **Third-party oral verification-** The bank, employer, agency, etc., provides information in person, or over the phone to the appropriate staff member. The staff person then documents the file completely, including identifying all parties, the date, and the content of the information.
- **Document Review-** In some instances a Third-party verification is not possible. Therefore, a review of documentation provided by family such as benefit checks, income tax returns, etc.
- **Verification of Pregnancy-** In those instances where an immediate determination of pregnancy cannot be determined, LHA/owners may wish to require the applicant to obtain a physician's certificate.

Social Security Numbers- Documentation necessary to verify SSN of an individual who is required to disclose his/her SSN are:

- A valid Social Security Card issued by the Social Security Administration of the Dept. of Health and Human Services.
- A State Driver's License that displays the Social Security Number of the individual.
- W2 or 1099 Forms that displays Social Security Number of individual.
- Pay subs that display Social Security Number of the individual.
- Government checks, i.e., Social Security, Disability, SSI, checks, etc.
- Medicaid or Medicare Card.
- Or such other evidence of the Social Security Number, including one or more alternate documents or such other substantiation of the Social Security Number.

Reason for rejection of Social Security verification/certification documentation:

Timeliness of submission (over time allotted).

Third-party verification.

Documents that appear to have been tampered with.

If an individual who is required to execute a certification is less than 18 years of age and certification is not executed by parent or guardian or (in accordance with Administrative instructions issued by HUD).

G. Restriction on Assistance to Non-Citizens- Effective Date 6/19/95, codified in 24 CFR Part 5, Subpart E.

Eligibility for Assistance:

In order to determine the family type and eligibility status of any family, the eligibility of each individual in the family must be first established.

Individuals will fall into one of these categories:

- Citizens
- Eligible immigrants 62 or older assisted on or before 6/19/95.
- Other eligible immigrants
- Ineligibles
- Non-citizen students on student VISA

Verification Requirements

Unlike the third-party verification process for income eligibility, a declaration of citizenship or eligible immigrant status by the persons in the household is all that is needed for:

- Persons who claim citizenship status by executing a signed declaration (Section 214 Status)
- Persons 62 and older who claim eligible immigration status and were receiving assistance as of 6/19/95 by executing a signed declaration (verify age)
- Persons who declare themselves ineligible or don't contend eligibility status

Verification is required for all non-citizens who claim eligible immigration status.

Exception for persons 62 and over who were receiving assistance as of 6/19/95.

Documentation Required

Housing Authority Documents:

- Declaration of Section 214 Status
- Verification Consent Form
- Listing of Non-contending Family Members
- Notice of Section 214 requirements
- Eligible Immigration Documents (Originals Only)
- Resident Alien Card (I-551)
- Alien Registration Receipt Card (I-151)
- Arrival-Departure Record (I-93)
- Temporary Resident Card (I-688)
- Employment Authorization Card (I-588B)
- INS receipt for a replacement card.

H. LHA's Local Preference

The LHA will use Local Preferences in its selection procedures. The following Preference System will be applied in the Selection of Applicants from the waiting list:

Preferences for admission are of equal rank and shall be granted to applicant families whose verified circumstances at the time of the unit offer (prior to execution of a Lease).

The LHA uses the following Local Preference System:

- Date and Time
- Residency preferences for families who live, work, or have been hired to work [or who are attending school] in the jurisdiction.
- Veteran preference: [state law definition] (veterans or surviving spouses of veterans).
- Disability Preference: This preference is extended to disabled persons or families with a disabled member as defined in this Plan. Proof of disability will be required at time of selection. [HUD regulations prohibit admission preferences for specific types of disabilities]
- Families with at least one adult who is employed [and has been employed for 90 calendar days]. This preference is extended equally to elderly families or a family whose head or spouse is receiving income based on their inability to work.
- Families who are graduates of or active participants in educational and training programs designed to prepare the individual for the job market.
- Moderate Rehabilitation families who are currently residing in a unit which is overcrowded or under-occupied and there is no applicable unit available in the Moderate Rehabilitation development [or other Moderate Rehabilitation developments within the LHA's jurisdiction].
- Graduates of transitional housing programs for [homeless/substance abusers/victims of domestic abuse].

Victims of Domestic Violence: The LHA will offer a local preference to families that have been subjected to or victimized by a member of the family or household within the past year. The LHA will require evidence that the family has been displaced as a result of a fleeing violence in the home. Families are also eligible for this preference if there is proof that the family is currently living in a situation where they are being subjected to or victimized by violence in the home (LHA discretionary policy). The following criteria are used to establish a family's eligibility for this preference:

Actual or threaten physical violence directed against the applicant or the applicant's family by a spouse or other household member who lives in the unit with the family.

The actual or threatened violence must have occurred within the past 30 days or be of a continuing nature.

An applicant who lives in a violent neighborhood or is fearful of other violence outside the household is not considered involuntarily displaced.

To qualify for this preference, the abuser must still reside in the unit from which the victim was displaced. The applicant must certify that the abuser will not reside with the applicant unless the LHA gives prior written approval.

The LHA will consider approving the return of the abuser to the household under the following conditions:

- The abuser and victim can certify and verify [to the satisfaction of the LHA] that the abuser has received therapy or counseling that appears to minimize the likelihood of recurrence of violent behavior.
- A counselor, therapist or other appropriate professional recommends in writing that the individual be allowed to reside with the family.

If the abuser returns to the family without approval of the LHA, the LHA will deny or terminate assistance for breach of the certification.

- At the family's request, the LHA will take precautions to ensure that the new location of the family is concealed in cases of domestic abuse.

LHA has adopted the former Federal Preferences as LHA Preferences System for selection of applicants.

- Involuntarily Displaced
- Living in Substandard Housing
- Paying more than 50% of family income for rent

NOTE: The definitions of the Preferences are found in Section IV of these policies and include requirements for qualification. Review the definitions for specific verification requirements.

The LHA Preferences will not be combined or aggregated in any way. Applicants will be considered for admission based on any one of the LHA Preferences for which they qualify.

The LHA will apply the following local preference (employment). The local preferences are ranked equally.

A local preference for a family that can verify (working preference)

- While the family is on the waiting list- employment by a previously unemployed family member, age 16 or older, that lasts at least 90 calendar days. The employment must provide a minimum of 20 hours of work per week for the family member claiming the preference.
- Employment at the time of the offer- to receive the local employment preference the applicant family must have at least one family member, age 16 or older, employed at the time of LHA's offer of housing. Housing Authority employment at the time of the offer of housing and provide a minimum of 20 hours of work per week for the family member claiming the preference.

- Employment periods may be interrupted but to claim the preference a family must have an employed family member prior to the actual offer of housing as described above.
- A family member that leaves a job after receiving benefit of the preference will be asked to document the reasons for the termination. Someone who quits work (as opposed to layoff, or taking a new job) will be considered to have misrepresented the facts to LHA and will have their assistance terminated.
- The amount earned shall not be a factor in granting this local preference. This local preference shall also be available to a family if the head, spouse, or sole member is 62 or older, or is receiving social security disability, or SSI disability benefits, or any other payments based on the individual's inability to work.

A local preference for a family that can verify, at the time of initial application, participation in a job training program or graduation from such a program; OR can verify participation in a job training program or graduation from such a program while on the waiting list. The family must notify LHA if it enters such a program while on the waiting list and provide documentation of participation to LHA. LHA will not grant this preference if the family fails to provide notice. Notice and verification of the preference claim must be received prior to the offer of housing. To claim this preference applicant must be in good standing with respect to attendance and program rules.

LHA will not give a Preference to an applicant if any member of the applicant family is a person evicted during the past three (3) years because of drug-related criminal activity from housing assisted program under the 1937 Housing Act is required by 24 CFR 960.211 (b)(3). LHA may give an admission's preference in any of the following cases:

- If the LHA determines that the evicted person has successfully completed a rehabilitation program approved by the Authority; and has been drug free for one (1) year after completion of program (discretionary policy)
- If the LHA determines that the evicted person clearly did not participate in or know about the drug-related criminal activity; or
- If the LHA determines that the evicted person no longer participates in any drug-related criminal activity.

I. Administration of the Preferences

1. LHA requires that applicants Certify to their qualifications for a Preference at the time of initial application.
2. At the time of initial application Preferences will be verified
3. At the time of initial application, the LHA will use a preference checklist to obtain the family's certification that it qualifies for a Preference. If a local preference is claimed, the housing authority will advise the family of the need to verify the claim. At the initial application interview the family will be advised to notify LHA of any change that may affect their ability to qualify for a preference.

4. Applicants that are otherwise eligible and are certified or verified as qualifying for a Preference will be placed on the waiting list in the LHA Preference System (formerly Federal Preferences) or local preference.

5. Families that do not qualify for a preference at the time of application will not be notified in writing and advised of their right to an informal meeting as described below. If otherwise qualified, the family's application will then be placed on the waiting list in the appropriate non-preference category.

6. Applicants that certify/verify to a preference at the time of initial application **must** be able to verify their preference status prior to the offer of unit. Applicants that cannot verify current preference status will lose their preference qualification and their standing on the waiting list.

7. Families that lose their LHA preference will be placed on the waiting list in accordance with their current preference status. Families that cannot qualify for any of the preferences will be moved into a non-preference category, in a lower position on the waiting list based on date and time of application.

J. Qualifying for Preferences

The definitions of Involuntary Displacement, Substandard Housing, Paying more than 50% of Income for Rent, and Standard, Permanent Replacement Housing can be found in Section XIII of these policies. An applicant qualifies for a LHA Preference by meeting one these definitions. In addition the following preference criteria apply:

Involuntarily Displaced- The applicant has been involuntarily displaced and are not living in standard, permanent replacement housing; or the applicant will be involuntarily displaced within no more than six months from the date of any preference status certification by the family or verification of the family's status by the LHA

Families are considered to be involuntarily displaced if they are required to vacate housing as a result of the following:

1. A disaster (fire, flood, earthquake, etc.) that has caused the unit to be uninhabitable.
2. Federal, state or local government action.
3. Action by a housing owner which is beyond an applicant's ability to control, and which occurs despite the applicant's having met all previous conditions of occupancy, and is other than a rent increase.

NOTE: Applicants may not qualify for this preference if they were a resident family and refused to comply with applicable program policies or procedures with respect to the occupancy of under occupied and overcrowded units; or failed to accept a transfer to another housing unit in accordance with a court decree or in accordance with the policies and procedures of a HUD-approved desegregation plan.

If the owner is an immediate family relative and there has been no previous rental agreement and the applicant has been part of the owner's family immediately prior to application, the applicant will not be considered involuntarily displaced (discretionary policy).

4. To avoid retribution because the family provided information on criminal activities to a law enforcement agency (family must be part of a Witness Protection Program, or the HUD Office or law enforcement agency must have notified the LHA that the family is part of a similar program.
5. If the family have been the victim(s) of one or more Hate Crimes.

Families that receive involuntary displacement preference because they will be involuntarily displaced within no more than six months of the date of preference status certification will lose the preference if they are not, in fact displaced within six months.

Living in Substandard Housing- Applicants must be homeless or living in substandard housing at the time of the preference verification required by LHA

Paying more than 50% of Income for Rent- a family must be paying more than 50% of income for rent for at least 90 calendar days at the time of the preference verification required by LHA

NOTE: An applicant may not qualify for the preference if he/she is paying more than 50% of income for rent because the applicant's housing assistance under any one of the following programs is terminated as a result of the applicant's failure to comply with program policies and procedures on the occupancy of under-occupied and overcrowded units. Programs covered under this provision are: Section 8 programs or public and Indian housing programs under the United States Housing Act of 1937; Section 101 of the Housing and Urban Development Act of 1965; or rental assistance payments under Section 236(f)(2) of the National Housing Act.

Local preferences require verification as described earlier in these policies.

Required Verifications for the LHA Preference System (formerly Federal Preferences)- Applicants will qualify for the LHA Preferences to the extent that their status is verified in accordance with LHA's procedure on verification.

K. Notice and Opportunity for a Meeting:

LHA will provide a written notice of determination in accordance with HUD rules and regulations in those cases where an applicant does not meet the criteria for receiving a LHA Preference. Said Notice shall contain: a brief statement of the reasons for the determination and a statement that the applicant has the right to meet with LHA's designee to review the determination.

If the applicant requests the meeting, LHA shall designate an officer or employee to conduct the meeting. This person(s) can be the person who made the initial determination or reviewed the determination of his or her subordinate. A written summary of this meeting shall be made and retained in the applicant's file.

This applicant will be advised that he/she may exercise other rights if the applicant believes that illegal discrimination, based on race, color, religion, national origin, age, disability, familial status, child born out of wedlock, sex, welfare recipients, marital status has contributed to the LHA's decision to deny the preference.

L. Changes in Eligibility Prior to Effective Date of the Contract

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

M. Ineligible Families

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they were denied due to non-citizen status.

LHA will complete a criminal background check on all applicants including other adult members in the household or any member for which criminal records are available, including juveniles. Information on juveniles will be provided only to the extent that State or local laws authorize the release of such information.

NOTE: This information is also required of participant(s) with portability from the initial PHA. Initial PHA must conform to the requirements of the receiving PHA (LHA's discretionary policy).

N. Implementation of System Devised:

All applicants who qualify for a LHA Preference will be selected ahead of applicants who do not qualify, without regard to the other applicant's qualification for one or more preferences or priorities that are not provided LHA, place on the waiting list, or the time and date of application. Non-LHA Preferences will be used to differentiate between LHA Preference holders. Non-LHA Preferences are subordinate to the LHA Preferences.

Priority 1: Applicants, who have certified that they qualify for any of the three (3) LHA Preferences listed below:

- a) Involuntarily Displaced;
 - b) Living in Substandard Housing;
 - c) Paying more than 50% of family income for rent; and
- Who are local residents and/or qualify for any of the following local preferences;
- a) Veterans/Family of Veteran
 - b) Elderly
 - c) Disabled
 - d) Victim of Domestic Abuse

Priority 2: Applicants, who have certified that they qualify for any of the local preferences and are local residents.

Priority 3: Applicants, who do not certify that they qualify for any of the three LHA Preferences, and; who do not qualify for any of the local preferences and are local residents.

Priority 4: Applicants, who do not certify that they qualify for any of the three LHA Preferences, and: who qualify for any of the local preferences and are not local residents.

Priority 5: Applicants, who certify that they qualify for anyone of the three LHA Preferences, and; who do not qualify for any local preference.

Priority 6: Applicants who do not certify that they qualify for any of the three LHA Preferences, and; who do not qualify for any local preference.

In all cases, date of application will be a determining factor. The three preferences will not be combined or aggregated in any manner.

Applicants are considered based on one of the definitions listed. All LHA Preferences (formerly Federal Preferences) will be given equal weight. No additional consideration will be given to applicants who qualify for more than one LHA Preferences.

O. Evaluating Final Eligibility

Applicant Interviews

The L.H.A will provide the family with a written description of:

1. (a) Family obligations while receiving assistance, explanation of the program to applicants
(b) Grounds on which the authority may deny or terminate assistance because of family action or failure thereof.
(c) Assist applicant in completing the required forms, and obtain the applicant's authorization to verify the information provided.
(d) Determine on a preliminary basis whether the applicant is eligible.
(e) Collect the documentation the applicant brings to the interview and give clear instructions and deadlines for additional information needed to complete the application process.
(f) Inform the applicant that a final eligibility determination will be made when the information provided is verified.
The LHA will provide the participant family information on how to request an informal hearing; if applicable.
 - The verification and selection process may take up to 90 calendar days to complete; therefore LHA will schedule applicant interviews well in advance of when a voucher will be available.
 - LHA will provide applicants with sufficient notice in order for them to gather any preliminary documentation requested and to arrange their schedule to attend the interview.
 - Materials will be provide (when applicable) for sight-impaired and hearing-impaired persons in accordance with 24 CFR 8.6
2. Denial of assistance for an applicant may include:
 - Denying listing on waiting list
 - Denying or withdrawing a Voucher
 - Refusing to enter into a HAP contract or to approve a lease

- Refusing to process or provide portability.
3. LHA may deny assistance to a family for reasons including:
 - If family violates any family obligation
 - If any member of the family has ever been evicted from public housing.
 - If the LHA has ever terminated assistance under the Voucher program for any member of the family.
 - If any family member commits fraud, bribery, or another corrupt or criminal act regarding any federal housing program.
 - If the family currently owes rent or other amounts to the LHA or to another Housing Authority in connection with Section 8 or public Housing Programs.
 - Note: the LHA may offer a family the opportunity for a repayment agreement. The LHA may prescribe the terms of agreement.
 - If the family breaches an agreement with the LHA to pay amounts owed to the LHA, or amounts paid to an owner by a Housing Authority.
 4. When deciding to deny, the LHA has discretion of considering circumstances regarding the family's action or failure to act, including the seriousness of the case and the effects on family members who were not involved in the action or failure to act.
 5. The LHA may permit assistance for the family if the family member(s) who were involved in the action or failure to act will not reside in the unit.

P. Mandatory Denials

- The family must submit evidence of citizenship or eligible immigration status, and the LHA must deny assistance based on non-citizen rule regulations and applicable informal hearing procedures.
- The L.H.A must deny assistance to a family if any member of the family fails to sign and submit consent forms for obtaining continuing eligibility factor verifications.
- The LHA must deny admission to a family prior to the verification of U.S. citizenship or the eligible immigration status of at least one member of the family.

Denial for Previous Eviction From Assisted Housing

1. In accordance with Notice PH 96-27 and 97-29, individuals evicted from Public Housing, Indian Housing, Section 23, or any Section 8 program resulting from drug-related criminal activity are ineligible for admission to Section 8 Program for a three-year period beginning on the date of such evictions.

2. LHA may waive this requirement if:

- The person demonstrates successful completion of a rehabilitation program approved by the LHA, or
 - The circumstances leading to the eviction no longer exist. For example, the individual involved in drugs is no longer in the household.
3. The LHA must also deny assistance if the LHA determines that any family member:
- Is illegally using a controlled substance.
 - Abuses alcohol in a way that would interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

Denial for Drug-Related and Other Criminal Activity

- The LHA must deny assistance if the LHA determines that any family member engages in violent or drug-related criminal activity.
- Drug-related criminal activity is defined as:
- The illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use a controlled substance.
- If L.H.A has reasonable cause to believe that any household member's use or pattern of illegal drug use may threaten the health, safety or right to peaceful enjoyment of the premises by other residents, the LHA must deny admission of the family.

Violent Criminal Activity:

- Any criminal activity that has one of its elements the use: attempted use, or threatened use of physical force against the person or property of another.
- Are grounds for denial or termination of assistance and is reason to provide a review or hearing.

NOTE: For violent criminal activity and if family member served sentenced, must wait two years after serving sentence including probation prior to admission to housing (discretionary policy).

Waiver of Regulation by LHA if:

1. A family with a member who has engaged in drug-related criminal activities may be able to show that the family member has been rehabilitated and has stayed off drugs for one year after completion of rehabilitation program (discretionary policy).

2. LHA may waive the policy to deny admission to applicants previously evicted for illegal drug activity or abuse of alcohol if the person demonstrates to the LHA's satisfaction that the person is no longer engaging in illegal use of a controlled substance or abuse of alcohol and:

- Has successfully completed a supervised drug or alcohol program, or
- Has otherwise been rehabilitated successfully, or is participating a supervised drug or alcohol rehabilitation program and has remained clean from drugs or alcohol for one year after completion of program (discretionary policy).

3. LHA has been given broad discretion to consider all of the circumstances in each case, including the seriousness of the offense, the extent of participation by family members, and the effects that denial or termination would have on family members not involved in the proscribed activity.

4. The LHA may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. The LHA may permit the other members of a participant family to continue receiving assistance.

Evidence of Criminal Activity

In determining whether to deny or terminate assistance based on drug-related criminal activity or violent criminal activity, the LHA may deny or terminate assistance if the Preponderance of evidence indicates that a family member has engaged in such activity, regardless of whether the family member has been arrested or convicted.

Q. Informal Review for Applicant

In accordance with 982.554, the LHA **must** give an applicant for Participation prompt notice of a decision denying assistance to the applicant: The notice must contain a brief statement of the reason for the decision. The notice must **also** state that the applicant may request an informal review of the decision and information on how to obtain the informal review.

Informal Review Process

The LHA must give an applicant an opportunity for an informal review of the LHA decision denying assistance to the applicant.

Procedure for Conducting Informal Review

1. The review may be conducted by any person or persons designated by the LHA, other than a person who made or approved the decision under review or a subordinate of this person.

2. The applicant will be given an opportunity to present written or oral objections to the LHA decision.

3. The LHA will notify the applicant of the LHA final decision after the informal review, including a brief statement of the reasons for the final decision.

When Informal Review Is Not Required

The LHA is not required to provide the applicant an opportunity for an informal review for any of the following:

1. Discretionary administrative determinations by the LHA
2. General policy issues or class grievances
3. A determination of the family unit size under the LHA subsidy standards

4. Refusal to extend or suspend a Voucher
5. Disapproval of lease
6. Determination that unit is not in compliance with HQS
7. Determination that unit is not in accordance with HQS due to family size or composition

Restriction on Assistance for Non-Citizens

Informal hearing provisions for the denial of assistance on the basis of ineligible immigration status are as per 24CFR Part 5. Refer to page 54 subsections M of this Administrative Plan.

Opportunity for an Informal Hearing

For decisions related to any of the following LHA determinations:

1. Determination of the family's annual or adjusted income and the computation of the housing assistance payment
 2. Appropriate utility allowance used from schedule
 3. Family unit size determination under LHA subsidy standards
 4. Determination that Voucher program family is under occupied in their current unit and a request for exception is denied.
 5. Determination to terminate assistance for any reason
 6. Determination to terminate a family's FSS Contract, withholds supportive services, or proposes forfeiture of the family's escrow account.
- Determination to pay an owner claim for damages, unpaid rent or vacancy loss.

The LHA must always provide the opportunity for an informal hearing before termination of assistance.

Notification of Hearing

It is the LHA's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, the LHA will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations.

When the LHA receives a request for an informal hearing, a hearing shall be scheduled within 10 working days. The notification of hearing will contain:

1. The date and time of the hearing
2. The location where the hearing will be held
3. The family's right to bring evidence, witnesses, legal or other representation at the family's expense
4. The right to view any documents or evidence in the possession of the LHA upon which the LHA based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing

The LHA's Hearing Procedures

- After a hearing date is agreed to, the family may request to reschedule only upon showing "good cause," which is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.
- If the family does not appear at the scheduled time, and did not make arrangements in advance, the LHA will automatically reschedule the hearing.
- If a family does not appear at a scheduled hearing and has not rescheduled the hearing in advance, the family must contact the LHA within 24 hours, excluding weekends and holidays. If family fails to appear and has not contacted the LHA, the family is responsible for legal fees and will be terminated from program for lack of cooperation (discretionary policy). The LHA will reschedule the hearing only if the family can show good cause for the **failure to appear**.

Families have the right to:

1. Present written or oral objections to the LHA's determination.
 2. Examine the documents in the file which are the basis for the LHA's action, and all documents submitted to the Hearing Officer;
 3. Copy any relevant documents at their expense;
 4. Present any information or witnesses pertinent to the issue of the hearing;
 5. Request the LHA staff be available or present at the hearing to answer questions pertinent to the case; and
 6. Be represented by legal counsel, advocate, or other designated representative at his or her own expense.
- If the family requests copies of documents relevant to the hearing, the LHA will make copies for the family and assess a charge of \$.50 per copy. In no case will the family be allowed to remove the file from the LHA's office.

In addition to other rights contained in this policy, the LHA has a right to:

1. Present evidence and any information pertinent to the issue of the hearing;
2. Be notified if the family intends to be represented by legal counsel, advocate, or another party;
3. Examine and copy any documents to be used by the family prior to the hearing;
4. Have its attorney present; and
5. Have staff persons and other witnesses familiar with the case present.

The Informal Hearing shall be conducted by the Hearing Officer appointed by the LHA who is neither the person who made or approved the decision, nor a subordinate of that person. The LHA appoints hearing officers who:

- Are LHA commissioners/Are LHA management
- Are managers from other departments in the government of the jurisdiction
- Are managers from other Housing Authorities
- Are professional mediators or arbitrators [employed by the county Bar Association/a mediation, dispute resolution, or arbitration service/other]

- LHA Counsel.

The hearing shall concern only the issues for which the family has received the opportunity for hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

- The family must request an audio recording of the hearing, if desired, 10 calendar days prior to the hearing date.

The Hearing Officer may ask the family for additional information and/or might adjourn the Hearing in order to reconvene at a later date, before reaching a decision.

- If the family misses an appointment or deadline ordered by the Hearing Officer, the action of the LHA shall take effect and another hearing will not be granted.

The Hearing Officer will determine whether the action, inaction or decision of the LHA is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the Hearing Findings shall be provided in writing to the LHA and the family within 10 working days and shall include:

A clear summary of the decision and reasons for the decision;

If the decision involves money owed, the amount owed; and

The date the decision goes into effect.

The LHA is not bound by hearing decisions;

- Which concern matters in which the LHA is not required to provide an opportunity for hearing
- Which conflict with or contradict to HUD regulations or requirements;
- Which conflict with or contradict Federal, State or local laws; or
- Which exceed the authority of the person conducting the hearing.

The LHA shall send a letter to the participant if it determines the LHA is not bound by the Hearing Officer's determination within 5 working days. The letter shall include the LHA's reasons for the decision.

All requests for a hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

Hearing and Appeal Provisions for "Restrictions on Assistance to Non-Citizens"

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal.

Assistance to a family may not be terminated or denied while the LHA hearing is pending but assistance to an applicant may be delayed pending the LHA hearing.

1. INS Determination of Ineligibility

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, the LHA notifies the applicant or participant within ten days of their right to appeal to the INS within thirty days or to request an informal hearing with the LHA either in lieu of or subsequent to the INS appeal.

If the family either appeals to the INS, they must give the LHA a copy of the appeal and proof of mailing or the LHA may proceed to deny or terminate. The time period to request an appeal may be extended by the LHA for good cause.

The request for an LHA hearing must be made within fourteen days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within fourteen days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in section D of this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members the LHA will:

- a) Deny the applicant family
- b) Defer termination if the family is a participant and qualifies for deferral
- c) Terminate the participant if the family does not qualify for deferral

If there are eligible members in the family, the LHA will offer to prorate assistance or give the family the option to remove the ineligible members.

2. All other complaints related to eligible citizen/immigration status:

- a) If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.
- b) Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.
- c) Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of Tenant Rent and Total Tenant Payment.
- d) Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

R. Mitigating Circumstances for Applicants /Participants With Disabilities

When applicants are denied on the waiting list, or the LHA is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review process.

NOTE: Examples of mitigating circumstances are:

- a) A person with a cognitive disorder may not have understood the requirement to report increases in income,
- b) A person may not understand the need to make regular repayments on a promissory note,
- c) Minor criminal records for public drunkenness may be due to medication; prior to incarcerations for being disorderly may be emotional disorder.

SECTION V. SUBSIDY STANDARDS AND VOUCHER ISSUANCE

INTRODUCTION

In accordance with federal regulation requirements, this section establishes subsidy standards as well as outlines the factors involved in determining the Voucher size issued to a family when they first get on the program and when there is a move to a new unit, as well as LHA's procedures for handling changes in family size, selection of unit size that differ from the voucher size and requests for waivers.

A. Determining family unit size (voucher size)

The Standard used for the Voucher size must also be within the minimum unit size requirements of HUD's Housing Quality Standards (HQS), Subsidy Standards are applicable when determining the Voucher size for various size families when they are selected from the waiting list and LHA's Procedure when a family's size changes, or a family selects a unit size that is different from the voucher.

- a) The family unit size number is entered on the voucher issued to the family.
- b) The LHA does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the Voucher. The LHA's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines.
- For subsidy standards, an adult is a person 18 years or older.
- c) All standards relate to the number of bedrooms on the Voucher, NOT the family's actual living arrangements. The unit size on the Voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

- d) One bedroom will be assigned for each two family members regardless of sex, age, or relationship. Exceptions will be made for medical reasons and in the case of a live-in aide.
- e) Generally, the LHA assigns one bedroom to two people within the following guidelines:
 - Persons of different generations, persons of the opposite sex (other than spouses), and unrelated adults should be allocated a separate bedroom (if funding available – refer to Notice PIH 2004-7).
 - Separate bedrooms should be allocated for persons of the opposite sex (other than adults who have a spousal relationship) and children over the age of seven (unless special accommodations are required for health reasons) and if funding is available (refer to Notice PIH 2004-7).
 - Foster children will be included in determining units size only if they will be in the unit for more than 6 months.
 - Live-in attendants may generally be provided a separate bedroom. No additional bedrooms are provided for the attendant's family (discretionary policy) and if funding available (refer to Notice PIH 2004-7).
 - Space may be provided for a child who is away at school but who lives with the family during school recesses.
 - Space will not be provided for a family member who will be absent most of the time, such as a member who is away in the military.
 - Adults of different generations may have separate bedrooms (if funding available – refer to Notice PIH 2004-7).

Determining Family Unit Size

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- Must comply with HQS space requirements.
- Must be applied consistently for all families with the same size and composition.
- Fair Housing Amendments Act of 1988 and 504 regulations impact this area.
- LHA may not dictate who actually shares a bedroom or sleeping room
- LHA may not want to distribute bedroom sizes by age or sex

Actual Unit Size Selection

- Families may select larger units than listed on the voucher.

- Families may select smaller units than listed on the voucher if the unit selected has at least one bedroom or living/sleeping room for each two persons in the household.
- **NOTE:** The Utility Allowance use is always for the unit size selected.

B. Unit Size Selected

The goal of the voucher program is to provide safe, decent and sanitary housing to low-income families at an affordable cost. HUD provides housing quality standards (HQS) which all units must meet before assistance can be paid. HQS consists of the following thirteen (13) performance requirements:

- Sanitary facilities;
- Food preparation and refuse disposal;
- Space and security;
- Thermal environment;
- Illumination and electricity;
- Structure and materials;
- Interior air quality;
- Water supply;
- Lead-based paint;
- Access;
- Site and neighborhood;
- Sanitary condition; and
- Smoke Detectors.

HUD has provided acceptability criteria for each performance requirement to help PHAs determine if the unit meets mandatory minimum standards. Specific guidance is provided by HUD for some standards, but PHA's must rely upon the inspector judgment in the areas. In some instances, family preference should be considered in the determination of acceptability.

C. Exceptions to subsidy standards

Changes in Voucher Size

Changes for applicants

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

Requests for Exception to Subsidy Standards for Applicants

The family may request a larger sized voucher than indicated by the LHA's subsidy standards. Such request must be made in writing within 10 working days of the LHA's determination of bedroom size. The request must explain the need or justification for a larger bedroom size.

The LHA will not issue a larger certificate or voucher due to additions of family members other than by birth, adoption, marriage, or court-awarded custody.

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

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

- Persons who cannot occupy a bedroom because of a verified medical or health reason
- Elderly persons or Persons with disabilities who may require a live-in attendant

A doctor or medical professional must verify requests based on health related reasons (discretionary policy).

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

- A single person who is not displaced, disabled or elderly may only get a zero or one-bedroom, and is not eligible for an exception.

Changes for Participants

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

Requests for Exception to Subsidy Standards for Participants

The LHA will grant an extension upon request as an accommodation for persons with disabilities.

- The family may request a larger size voucher than indicated by the LHA's subsidy of standards. Such request must be made in writing within 10 calendar days of the LHA's determination of the bedroom size. The request must explain the need or justification for a larger bedroom size.
- When a change in family composition requires issuance of another size Voucher, and funds are not available for the program in which the family is assisted, the family will not be issued form of assistance (discretionary policy).
- The LHA will not issue a larger size Voucher due to additions to the family other than by birth, adoption, marriage, or court-awarded custody.

Under housed and Over housed Families

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

D. Extensions and Expirations

In accordance with 24 CFR 982.303(a) and 982.302 respectively, the initial term of the voucher must be at least 60 calendar days. The initial term must be stated on the voucher.

LHA at its discretion may extend the voucher on one or more increments, in accordance with LHA policy and as described in this Administrative Plan. Any extension of the term is granted by notice to the family. The final rule merger allowed authorities the discretion to extend the voucher term beyond the prior 120-day (calendar days) limit.

Request will be dealt with on a case-by-case basis. **All requests for extensions must be in writing and submitted 15 days prior to voucher expiration.**

Extensions beyond its initial 60 calendar day term will be granted in the following circumstances:

- If the family needs and request an extension as a reasonable accommodation to make the program accessible for a person with a disability, LHA will extend the voucher term up to the term reasonably required for that purpose approximately 30 calendar days.
- Health reasons
- Unable to find unit (must maintain research log)
- On case-by-case basis.

NOTE: during the initial or extended term of a voucher, the authority may require the family to report progress in leasing unit. Such reports may be required at such intervals or times as determined by the authority.

E. Suspension:

LHA will (upon written request) suspend (stop the clock) on the term of the family's voucher, for a period of 30 calendar days, from the time when the family submits a request for LHA approval of the tenancy, until the time the LHA approves or denies the request. Also referred to as tolling*.

The following factors (but not limited to) will be considered by LHA in granting and determining the length of time for extensions/suspensions:

-Extenuating circumstances, such as a death/illness, that prevented the family from finding a unit.

Whether or not family submitted request(s) for Tenancy Approval that the LHA disapproved.

Whether family size or other special requirements made finding a unit difficult.

NOTE: * Tolling- The specific number of days that the clock was stopped on the term of a voucher. The period "tolled" is the number of days between the Requested for Approval of the Tenancy is received and the date on the written notification from the LHA denying the household's request.

SECTION VI. FACTORS RELATING TO TOTAL TENANT PAYMENT DETERMINATION

INTRODUCTION

This section defines the allowable deductions from Annual income and the impact the presence or absence of household members affect the Total Tenant Payment (TTP). The procedures outlined in this section of the Administrative Plan address those factors which allow LHA in accordance with program regulations discretion to define terms and to design standards in order to assure consistent application of those factors directly related to the determination of Total Tenant Payment.

A. Income and Allowances

Annual Income: As defined by HUD in accordance with 24 CFR 5.609 (a) is 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;
3. Annual income also means amounts derived (during the 12 month period) from assets to which any member of the family has access.

Annual Income includes, but is not limited to:

1. Annual Income (24 CFR 5.609)
Annual income is the anticipated total income from all sources, including net income derived from assets, received by the family head and spouse (even if temporarily absent) and by each additional family member including all net income from assets for the 12-month period following the effective date of initial determination or re-examination of income, exclusive of income that is temporary, non-recurring, or sporadic as defined below or is specifically excluded from income by other federal statute. Annual income includes, but is not limited to:
 - a) The full amount before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
 - b) The net income from operation of a business or profession, including any withdrawal of cash or assets from the operation of the business. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining the net income from a business. An allowance for the straight-line depreciation of assets used in a business or profession may be deducted as provided in IRS regulations. Withdrawals of cash or assets will not be considered income when used to reimburse the family for cash or assets invested in the property.
 - c) 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 the straight-line depreciation of real or personal property is permitted. Withdrawals of cash or assets will not be considered income when used to reimburse the family for cash or assets invested in the property.

Where the Family has Net Family Assets in excess of \$5,000, Annual Income shall include the greater of the actual income derived from all Net Family Assets or a percentage of the value of such Assets based on the current passbook savings rate as determined by HUD.

- d) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount.
- e) Payments in lieu of earnings, such as unemployment and disability compensation, workers' compensation, and severance pay.

- f) All welfare assistance payments received by or on behalf of any family member. See 24 CFR 5.609 (b)(6) for welfare rules applicable to "as-paid" States.
- g) Periodic and determinable allowances, such as alimony and child support payments, and regular cash contributions or gifts received from persons not residing in the dwelling.
- h) All regular pay, special pay, and allowances of a family member in the Armed Forces.
- i) **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:
 - ii) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
 - iii) 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 be the amount resulting from one application of this percentage;

2. Items not included in Annual Income (24 CFR 5.604)

Annual Income does not include the following:

- a) Income from the employment of children (including foster children) under the age of 18 years.
- b) Payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the resident family, who are unable to live alone).
- c) Lump sum additions to family assets, such as inheritances, insurance payments (including individuals under health, and accident insurance, and workers' compensation) capital gains, and settlement for personal property losses; (but see 1., d) and e) if the payments are or will be periodic in nature)
- d) Amounts received by the family that are specifically for, or in reimbursement of the cost of medical expense for any family member.
- e) Income of live-in aide provided the person meets the definition of a live-in aide (See Section XIII of this Administrative Plan).
- f) The full amount of student financial assistance paid directly to the student or the educational institute. (FR Vol. 60, # 65/5 April 1995)
- g) The Special pay to a family member serving the Armed Forces who is exposed to hostile fire.

- h) (i.) Amounts received under HUD funded training programs (e.g. Step-up program; excludes stipends, wages, transportation payments, child care vouchers, etc. for the duration of the training);
(ii.) Amounts received by a person with disabilities that are disregarded for a limit time for purposes of Supplemental Security Income and benefits that are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
(iii.) Amounts received by a participant in other publicly assisted programs which are specifically for, or in reimbursement of, out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) allow participation in a specific program;
(iv.) A resident services stipend. A resident services stipend is a modest amount (not to exceed \$200/month) received by a public housing resident for performing a service for the PHA, on a part-time basis, that enhances the quality of life in public housing. Such services may include but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident initiatives coordination. No resident may receive more than one such stipend during the same period of time (FR Vol. 60, #65/5 April 1995)
(v.) Compensation from State or local employment training programs and training of family members 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 a limited period as determined in advance by the Authority. (FR Vol. 60, #65/5 April 1995)
- i) Temporary, non-recurring, or sporadic income (including gifts); or
- j) For all initial determinations and re-examinations of income on or after 23 April 1993, reparation payments paid by foreign governments pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.
- k) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of the household and spouse) (FR Vol. 60, #65/5 April 1995)
- l) Adoption assistance payments in excess of \$480 per adopted child (FR Vol. 60, #65/5 April 1995)
- m) The earnings and benefits to any resident/participant resulting from the participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988 (42 U.S.C. 1437 et seq.), OR any comparable Federal, State or local law during the exclusion period. (FR Vol. 60, #65/5 April 1995) For purposes of this paragraph the following definitions apply:
 - (i) Comparable Federal, State or local law means a program providing employment training and supportive services that: (a) is authorized by a Federal, State or local law; (b) is funded by the Federal, state or local government; (c.) is operated or administered by a public agency;

and (d) has as its objective to assist participants in acquiring employment skills.

- (ii) Exclusion Period means the period during which the resident/participant participates in a program described in this section **PLUS** 18 months from the date the resident/participant funded by public housing assistance under the US Housing Act of 1937 (42 U.S.C. 1437 et seq.). If the resident is terminated from employment without good cause, the exclusion period shall end.
 - (iii) Earnings and benefits means the incremental earnings and benefits resulting from a qualifying employment training program or subsequent job.
- n) Deferred periodic payments of supplemental security income and social security benefits that are received in a lump sum payment (FR Vol. 60, #65/5 April 1995)
 - o) 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.
 - p) Amounts paid by a State agency to a family with a developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home. (FR Vol. 60, #65/5 April 1995)
 - q) Amounts specifically excluded by any other Federal Statute from consideration as income for purposes of determining the eligibility or benefits under a category of assistance programs that includes assistance under the United States Housing Act of 1937. (A notice will be published by HUD in the Federal Register identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.)

The following is a list of benefits excluded by other Federal Statute as of 3 August 1993 [FR Vol. 58, #147]:

- The value of the allotment provided to an eligible household for coupons under the Food Stamp Act of 1977 [7 U.S.C. 2017 (h)]
- Payments to volunteers under the Domestic Volunteer Service Act of 1973 [42 U.S.C. 5044 (g), 5088].

Examples of programs under this act include but are not limited to:

The Retired Senior Volunteer Program (RSVP), Foster Grandparent Program (FGP), Senior Companion Program (SCP), and the Older American Committee Service Program;

National Volunteer Antipoverty Programs such as VISTA, Peach Corps, Service Learning Program, and Special Volunteer Programs;

Small Business Administration Programs such as the National Volunteer Program to Assist Small Business and Promote Volunteer Service to Persons with Business Experience, Service Corps of Retired Executives (SCORE), and Active Corps of Executives (ACE)

- Payments received under the Alaska Native Claims Settlement Act [43 U.S.C. 1626 (a)].

- Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes [25 U.S.C. 459 (e)].
- Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program [42 U.S.C. 8624 (f)].
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552 (b)).
- Income derived from the disposition of funds of the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04);
- The first \$2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims (25 U.S.C. 1407-08), or from funds held in trust for an Indian Tribe by the Secretary of Interior [25 U.S.C. 117b, 1407]; and
- Amounts of scholarships funded under the Title IV of the Higher Education Act of 1965 including awards under the Federal work-study program or under the Bureau of Indian Affairs student assistance programs [20 U.S.C. 1087 uu].

Examples of Title IV programs include but are not limited to: Basic Educational Opportunity Grants (Pell Grants), Supplemental Opportunity Grants, State Student Incentive Grants, College Work Study, and Byrd Scholarships.

- Payments received from programs funded under the Title V of the Older Americans Act of 1965 [42 U.S.C. 3056 (f)].

Examples of programs under this act include but are not limited to : Senior Community Services Employment Program (CSEP), National Caucus Center on the Black Aged, National Urban League, Association National Pro Personas Mayors, National Council on Aging, American Association of Retired Persons, National Council on Senior Citizens, and Green Thumb.

- Payments received after January 1, 1989 from the Agent Orange Settlement Fund or any other fund established in the In Re Orange product liability litigation, M.D.L. No 381 (E.D.N.Y.)
- Payments received under the Maine Indian Claims settlement Act of 1980 (Pub. L. 96-420, 94 Stat. 1785)
- The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
- Earned income tax credit refund payments received on or after January 1, 1991 (26 U.S.C. 32 (j)).

Anticipating Annual Income [24 CFR 5.609]

If it is not feasible to anticipate income for a 12-month period, the Authority may use the annualized income anticipated for a shorter period, subject to an Interim Adjustment at the end of the shorter period. (This method would be used for teachers who are only paid for 9 months or for residents receiving unemployment compensation.)

B. Adjusted Income (24 CFR 5.609)

Adjusted Income (the income upon which rent is based) means Annual Income less the following deductions and exemptions.

For All Families

- a) **Child Care Expenses**- A deduction of amounts anticipated to be paid by the family for the care of children under 13 years of age for the period for which Annual Income is computed.
BUT ONLY when such care is necessary to enable a family member to be gainfully employed or to further his/her education. Amounts deducted must be un-reimbursed expenses and shall not exceed: (1) the amount of income earned by the family member released to work; or (2) an amount determined to be reasonable by housing authority when the expense is incurred to permit education.
- b) **Dependent Deduction** - An exemption of \$480 for each member of the family residing in the household (other than the head of household, or spouse, Live-in Aide, or foster child) who is under eighteen years of age or who is eighteen years of age or older and disabled, handicapped, or a full-time student.
- c) **Handicapped Expenses** - A deduction of un-reimbursed amounts paid for attendant care or auxiliary apparatus expenses for handicapped family members where such expenses are necessary to permit a family member(s), including the handicapped/disabled member, to be employed. In no event may the amount of the deduction exceed the employment income earned by the family member(s) freed to work.

Equipment and auxiliary apparatus may include but are not limited to: Wheelchairs, lifts, reading devices for the visually handicapped, and equipment added to cars and vans to permit their use by the handicapped or disabled family member.

- For non-elderly families and elderly families without medical expenses: the amount of the deduction equals the cost of all un-reimbursed expenses for handicapped care and equipment less three percent of Annual Income, provided the amount so calculated does not exceed the employment income earned.
- For elderly families with medical expenses: the amount of the deduction equals the cost of all un-reimbursed expenses for handicapped care and equipment less three percent of Annual Income (provided the amount so calculated does not exceed the employment income earned) PLUS medical expenses as defined below.

For elderly and disabled families only:

- d) **Medical Expense Deduction** - A deduction of un-reimbursed Medical Expenses, including insurance premiums, anticipated for the period for which Annual Income is computed.

Medical expenses include but are not limited to: services of physicians and other health care professionals, services of health care facilities, insurance premiums (including the cost of Medicare), prescription and non-prescription medicines, transportation to and from treatment, dental expenses, eyeglasses, hearing aids and batteries, attendant care (unrelated to employment of family members), and payments on accumulated medical bills. To be considered by housing authority for the purpose of determining a deduction from income the expenses claimed must be verifiable.

- For elderly families without handicapped expenses: The amount of the deduction shall equal total medical expenses less three percent of annual income.
 - For elderly families with both handicapped and medical expenses: The amount of the deduction is calculated as described in paragraph c) - Handicapped Expenses, on previous page.
- e) Elderly/Disabled Household Exemption- An exemption of \$400 per household.

C. Mandatory Disallowance of Earned Income (MEID)

Disallowance of earned income from rent determinations for persons with disabilities became effective April 20, 2001. Between April 20, 2001 and March 15, 2002, the disallowance was available only to disabled members of disabled families. Technical amendments were published February 13, 2002, extended the disallowance to all qualifying family members with disabilities effective March 15, 2002. Exclusions of income during participation in training programs under 24 CFR 5.609 © (8) (v) is still applicable. LHA will take all necessary steps to ensure those families eligible for the mandatory earned income disallowance receives the disallowance.

Background pertaining to MEID:

The Reform Act exempts earned income for public housing residents who qualify under certain circumstances. After The Reform Act became law, HUD directed PHAs to exclude in full or in part increases in earned income when calculating a family's income-based rent in certain situations. In January 2001, HUD extended this mandatory exclusion to certain families in other programs, including the Section 8 Housing choice Voucher Program.

In response to a family's increase in earned income a PHA must now:

- Determine how the P.H.A.'s policies will impact MEID
- Determine whether the family qualifies for MEID
- Calculate and report income exclusions on Form HUD-50058
- Maintain track of exclusion period
- Document income exclusions and exclusion periods
- Explain income exclusion to the family

The annual income for qualified families may not be increased as a result of increases in earned income of a family member who is a person with disabilities beginning on the date on which the increase in earned income begins and continuing for a cumulative

12-month period. After the disabled family receives 12 cumulative months of the full exclusions, annual income will include a phase-in of half the earned income excluded from annual income.

This disallowance applies to participants in the voucher program; it does not apply for purposes of admission to the program.

Note: initially, HUD defined "qualified family" as a disabled family receiving Section 8 assistance whose annual income increased due to one of the reasons which are listed below, meaning that only families whose head, spouse or co-head was disabled qualified for the disallowance. However, effective March 15, 2002, families are no longer required to meet the definition of disabled family in order to qualify for the disallowance. A "qualified family" is a family receiving Section 8 assistance and whose annual income increases due to one of the following reasons:

- Employment of a family member who is a person with disabilities, and was previously unemployed for one or more years prior to employment. The HUD definition of "previously unemployed" includes a person with disabilities who has earned in the previous 12 months no more than the equivalent earnings for working 10 hours per week for 50 week at the minimum wage. Minimum wage is the prevailing minimum wage in the State or locality.
- Increased earnings by a family member who is a person with disabilities, and a participant in any economic self-sufficiency or job-training program.
- New Employment or increased earnings by a family member, who is a person with disabilities, and within the past 6 months, has received assistance, benefits or services under any state program for temporary assistance (TANF, Welfare-to-Work).
Not limited to cash assistance
Includes one-time payments, wage subsidies, transportation assistance
Total amount over a six-month period must be at least \$500.

Initial 12 Month Exclusion

During the cumulative 12-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 PHA will exclude from annual income of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over the prior income of that family member

Second 12 Month Exclusion and Phase-in

During the second cumulative 12-month period after the expiration of the initial cumulative 12-month period (previously referred to) the PHA must exclude from annual income of a qualified family 50 percent of any increase in income of a family member who is a person with disabilities as a result of employment over income of that family member prior to the beginning of such employment.

If the period of increased income does not last for 12 consecutive months, the disallowance period may be resumed at any time within the 48-month period, and continued until the disallowance has been applied for a total of 12 month of each disallowance (the initial 12-month full exclusion and the second 12-month phase-in exclusion).

Maximum 4 year Disallowance

The earned income disallowance is limited to a lifetime of 48-month period for each family member who is a person with disabilities. For each family member who is a person with disabilities, the disallowance only applies for a maximum of 12 month of full exclusions of incremental increase, and a maximum of 12 months of phase-in exclusion during the 48-month period starting from the date of the initial exclusion.

HUD's Five Allowable Deductions From Annual Income Are:

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

All applicable income of every family member who is on the lease must be computed. Additionally, the LHA must count the income of the spouse or the head of the household if that person is temporarily absent, even if that person is not on the lease.

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

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

D. Family Absence from the Unit

This section provides guidelines addressing situation when the family is absent from the unit for a certain period of time, but has not moved out of the unit. In cases where the family has moved out of the unit without notifying the LHA or absent from unit indefinitely, the LHA will terminate assistance in accordance with relevant termination Procedures contained in this Administrative Plan.

NOTE: The family may be absent from the unit for brief periods. For longer periods this Administrative Plan establishes the policy on the length of time the family may be absent from the assisted unit and procedure to follow.

Families are required both to notify the LHA before they move out of a unit and to give the LHA information about any family absence from the unit.

- Families must notify the LHA [in writing 15 days prior to leaving unit] if they are going to be absent from the unit for more than 30 consecutive days. Unless there are extenuating circumstances [death in family, emergency hospitalization, etc] then family may notify LHA less than or after the 15 days.

If the entire family is absent from the assisted unit for more than **60*** consecutive days, the unit will be considered to be vacated and the assistance will be terminated.

- *If it is determined that the family is absent from the unit longer than the time specified in this Plan, the LHA will not continue assistance payments.
- *If it is determined that the family is absent from the unit [and has notified the LHA in writing in accordance with procedures described in this Administrative Plan] the LHA will continue assistance payments for a maximum of 4 months, not to exceed 180 calendar days.

NOTE:* Extenuating circumstances will be considered on a case by case basis. In accordance with HUD regulations 24 CFR 982.312 (a), the family may not be absent from the unit for a period of more than 180 consecutive calendar days in any circumstance, or for any reason.

Refer to Section XIII for the definition of "Absence".

In order to determine if the family is absent from the unit, the LHA may:

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

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

- If the absence, which resulted in termination of assistance, was due to a person's disability, and the LHA can verify that the person was unable to notify the LHA in accordance with the family's responsibilities, and if funding is available, the LHA may reinstate the family as an accommodation if requested by the family.

Housing assistance payments (HAP) terminate if the family is absent for longer than the maximum period allowed. The term of the HAP Contract and assisted lease also terminate.

NOTE: The owner must reimburse the LHA for any housing assistance payment for the period after the termination.

The family must supply any information or certification requested by the LHA to verify that the family is residing in the unit, or relating to family absence from the unit. The family must cooperate with the LHA for this purpose. It is the responsibility of the family

to promptly notify the LHA of absence from the unit, including any information requested on the purposes of family absences.

Absence of Any Member

Any member of the household will be considered permanently absent if she/he is away from the unit for 6 consecutive months or 180 calendar days except as otherwise provided in this policy.

Absence due to Medical Reasons

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the LHA will seek advice from a reliable source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than 180 consecutive days, the family member will not be considered permanently absent.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the LHA's "Absence of Entire Family" policy.

Absence due to Incarceration

If the sole member is incarcerated for more than 180 consecutive days, she/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if she/he is incarcerated for 6 consecutive months or 180 days.

- The LHA will determine if the reason for incarceration is for drug-related or violent criminal activity.

(8). Foster Care and Absences of Children

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

If the time period is to be greater than 6 months from the date of removal of the children, the Voucher size will be reduced. If all children are removed from the home permanently, the voucher size will be reduced in accordance with the LHA's subsidy standards.

Absence of Adult

If neither parent remains in the household nor the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the LHA will treat that adult as a visitor for the first 30 days.

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

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

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

- The caretaker will be allowed to remain in the unit, as a visitor, until a determination of custody is made.
- The LHA will transfer the voucher to the caretaker, in the absence of a court order, if the caretaker has been in the unit for more than 90 calendar days/3 months and it is reasonable to expect that custody will be granted.

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

If a member of the household is subject to a court order that restricts him/her from the home for more than 6 months, the person will be considered permanently absent.

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

- The family will be required to notify the LHA in writing within 10 calendar days when an adult family member moves out. The notice must contain a certification by the family as to whether the adult is temporarily or permanently absent.

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

Time extension will be granted as an accommodation upon request by a person with a disability.

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

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

- A student (other than head of household or spouse) who attends school away from home but lives with the family during school recesses may, at the family's choice, be considered either temporarily or permanently absent. If the family decides that the member is permanently absent, income of that member will not be included in total household income, the member will not be included on the lease, and the member will not be included for determination of Voucher size.
- Full time students who attend school away from the home and live with the family during school recess will be considered temporarily absent from the household.
- Full time students who attend school away from the home and live with the family during school recess will be considered permanently absent from the household.

Visitors

Any adult not included on the HUD 50058 who has been in the unit more than **10** consecutive days, or a total of **30 calendar** days in a 12-month period, will be considered to be living in the unit as an unauthorized household member.

- Absence of evidence of any other address will be considered verification that the visitor is a family member.
- Statements from neighbors and/or the landlord will be considered in making the determination.
- Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.
- The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the family and the LHA will terminate assistance since prior approval was not requested for the addition.

Minors and college students who were part of the family but who now live away from home during a school year and are not considered members of the household may visit for up to **10** days per year without being considered a member of the household.

In a joint custody arrangement, if the minor is in the household less than 90 calendar days per year, the minor will be considered to be an eligible visitor and not a family member.

Reporting Additions to Owner and LHA

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

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

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

In the event that a visitor continues to reside in the unit after the maximum allowable time, the family must report it to the LHA in writing within 5 calendar days of the maximum allowable time.

- Families are required to report any additions to the household in writing to the LHA within 10 calendar days before the move-in date.

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

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

Reporting Absences to the LHA

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

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

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

E. Averaging Income

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

- Average known sources of income that vary to compute an annual income, or
- Annualize current income and conduct an interim reexamination if income changes.

If there are bonuses or overtime, which the employer cannot anticipate for the next twelve months, bonuses and overtime received the previous year will be used.

Income from the previous year may be analyzed to determine the amount to anticipate when third party or check-stub verification is not available.

If by averaging, an estimate can be made for those families whose income fluctuates from month to month; this estimate will be used so that the housing payment will not change from month to month.

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

F. Minimum Income

There is no minimum income requirement. Families who report zero income are required to complete a written certification every **30-calendar** day.

G. Income of person permanently Confined to Nursing Home

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

Exclude the income of the person permanently confined to the nursing home and give the family no deductions for medical expense of the confined family member.

H. Regular Contributions and Gifts

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

Any contribution of gift received every **2** months or more frequently will be considered a "regular" contribution or gift. If the family's expenses exceed its known income, the LHA will question the family about contributions and gifts.

I. Alimony and Child Support

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

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

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

- The LHA receives verification from the agency responsible for enforcement or collection.
- The family furnishes documentation of child support or alimony collection action filed through a child support enforcement/collection agency, or has filed an enforcement or collection action through an attorney.

It is the family's responsibility to supply a certified copy of the divorce decree.

J. Lump-Sum Receipts

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

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

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

- The LHA uses a calculation method, which calculates retroactively, or prospectively depending on the circumstances.
- The LHA will calculate prospectively if the family reported the payment within 10 calendar days and retroactively to date of receipt if the receipt was not reported within that time frame.
- The LHA will always calculate prospectively.
- The LHA will always calculate retroactively to date of receipt.
- The LHA will calculate retroactively if the receipt was not reported for two (2) re-certifications.

K. Prospective Calculation Methodology

If the payment is reported on a timely basis, the calculation will be done prospectively and will result in an interim adjustment calculated as follows:

1. The entire lump-sum payment will be added to the annual income at the time of the interim.
2. The LHA will determine the percentage of the year remaining until the next annual re-certification as of the date of the interim (three months would be 25% of the year).

3. At the next annual re-certification, the LHA will apply the percentage balance (75% in this example) to the lump sum and add it to the rest of the annual income.
 4. The lump sum will be added in the same way for any interims, which occur prior to the next annual re-certification.
- If amortizing the payment over one year will cause the family to pay more than 30% of the family's adjusted income (before the lump sum was added) for Total Tenant Payment, the LHA and family may enter into a Repayment Agreement, with the approval of Section 8 Administrator/Executive Director, for the balance of the amount over the 30% calculation. The beginning date for this Repayment Agreement will start as soon as the one-year is over.

L. Retroactive Calculation Methodology

1. The LHA will go back to the date the lump-sum payment was received, or to the date of admission, whichever is closer.
 2. The LHA will determine the amount of income for each certification period, including the lump sum, and recalculate the tenant rent for each certification period to determine the amount due the LHA
- The family must pay or has the choice of paying this "retroactive" amount to the LHA in a lump sum (family circumstances at the present time will be a considering factor as to hardship)
 - At the LHA's option, the LHA may enter into a Repayment Agreement with the family.

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

Attorney Fees

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

M. Contributions to Retirement Funds- Assets

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

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

N. Assets Disposed of For Less Than Fair Market Value

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

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

The LHA's minimum threshold for counting assets disposed of for less than Fair Market value is [amount]. If the total value of assets disposed of within a one-year period is less than [amount], they will not be considered an asset.

O. Child Care Expenses

Childcare expenses for children under 13 may be deducted from annual income if they enable an adult to work or attend school full time.

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

- Childcare expenses cannot be allowed as a deduction if there is an adult household member capable of caring for the child who can provide the childcare. Examples of those adult members who would be considered unable to care for the child include:
 - * The abuser in a documented child abuse situation, or
 - * A person with disabilities or older person unable to take care of a small child, as verified by a reliable knowledgeable source.

Allow ability of deductions for childcare expenses is based on the following guidelines:

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

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

Amount of Expense: The LHA will [survey the local care providers in the community/collect data] as a guideline. If the hourly rate materially exceeds the guideline, the LHA may calculate the allowance using the guideline.

P. Medical Expenses

- When it is unclear in the HUD rules as to whether or not to allow an item as a medical expense, IRS Publication 502 will be used as a guide.
- Nonprescription medicines must be doctor-recommended in order to be considered a medical expense.

- Nonprescription medicines will be counted toward medical expenses for families who qualify if the family furnishes legible receipts.
- Acupressure, acupuncture and related herbal medicines, and chiropractic services will be considered allowable medical expenses, if confirmed by doctor.

Q. Pro-ration of Assistance for "Mixed" Families

Applicability

Pro-ration of assistance must be offered to any "mixed" applicant or participant family. A "mixed" family is one that includes at least one US citizen or eligible immigrant and any number of ineligible members.

"Mixed" families that were participants on June 19, 1995, and that do not qualify for continued assistance must be offered prorated assistance. Applicants mixed families are entitled to prorated assistance. Families that become mixed after June 19, 1995 by addition of an ineligible member are entitled to prorated assistance.

Prorated Assistance Calculation

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

Reduction in Benefits

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

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

R. Utility Allowance and Utility Reimbursement Payments

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

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

Where the Utility Allowance exceeds the family's Total Tenant Payment, the LHA will provide a Utility Reimbursement Payment for the family each month. The check will be made out directly to the tenant [unless the tenant has agreed, in writing, to a payment to the utility company].

SECTION VII. VERIFICATION AND/OR CERTIFICATION OF INFORMATION

INTRODUCTION

This section outlines the procedure for verification and certification of information provided by applicants and program participants as required by the Department of Housing and Urban Development (HUD) and LHA discretionary policies. The verification requirements are designed to maintain program integrity. However, prior to making any verification inquiries LHA will ascertain that the applicant/participants household has signed all necessary documents.

All information from each applicant must be verified and/or certified depending on the circumstances governing the situation. Any information relative to the acceptance or rejection of an applicant must be documented and placed in the applicant's file. This may include reports of interviews, letters, or telephone conversations with reliable sources. At a minimum, those entered will include the date; the source of the information, including the name and title of the individual contacted and resume of the information received. Sources of information may include, but not limited to, the applicant (by means of interview or home visits), landlords, employers, family social workers, parole officers, drug treatment centers, clinics, physicians or police officers, court records, police departments, building code inspectors, INS, where necessary. As a condition of admission or continued occupancy, the Authority shall require the family head and other appropriate members to sign a HUD approved release form and consent authorizing any depositor or private source of income, or any Federal, State, or local agency to furnish and release information to the Authority and to HUD.

A. Methods of Verification and/or Certification of Information:

The LHA must maintain accurate information and documentation regarding the determination of income eligibility, and allowances. Family rent can only occur with full verification of all factors related to income and family circumstances.

The tenant file must include third party verification of the following factors:

- Reported family annual income;
- The value of assets;

- Expense related to deductions from annual income and;
- Other factors that affect the determination of adjusted income.

Income- Income is one of the main factors in determining a family's eligibility for housing and among the most likely to be subject to misrepresentation or error. Consequently, the Authority must establish adequate methods of verifying income (including applicable deductions and exemptions) which may include:

Third-party written verification- the bank, employer, agency, etc. completes, signs, and returns information pertinent to the applicant or tenant directly to the Authority.

Third-party written verification will not be accepted if hand carried by the family.

Acceptable third-party verification received directly from the provider can include:

- IRS Tax forms
- Written verification of TANF income from appropriate welfare agency
- Child support payments cancelled checks and/or award letters
- Pay stubs or earnings
- Signed receipts or paid invoices for childcare expenses
- Receipts for medical expenses or insurance premiums.

Third-party oral verification- Consists of direct contact with a reliable source i.e. the bank, employer, agency, etc., provides information in person, or over the phone to the appropriate staff member. The staff person then documents the file completely, including identifying all parties, the date, and the content of the information.

Third-party employment verification forms should at minimum include:

- Regular and overtime hours anticipated
- Overtime hours for the past 12 months
- Total pay anticipated for the next 12 months
- Current pay rate
- Anticipated pay rate increases
- Hourly rate or salary
- YTD earnings

The social security and supplemental security income verification system provides third-party verification of SS and SSI.

Resources available for PHAS to obtain verifications

- Tenant Assessment Sub-system (TASS)
- State wage information collection agencies
- Credit Bureau Association (CBA) credit reports
- The Work Number (800-966-9566; or www.theworknumber.com)
- Internal Revenue Service (IRS) Letter 1722

Document Review- In some instance Third-party verification is not possible. Therefore, a review of documentation provided by family such as benefit checks, income tax returns, etc.

Verification of Pregnancy- In those instances where an immediate determination of pregnancy cannot be determined, LHA/owners may wish to require the applicant to obtain a physician's certificate.

The LHA will allow two (2) weeks for return of third-party verification and one (1) week to obtain other types of verification before going to the next method.

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

Third Party Written Verification

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

The LHA will accept Faxed documents on case-by-case basis.

The LHA will accept photocopies on a case-by-case basis.

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

- The LHA will not delay the processing of an application beyond 10 days because a third party information provider does not return the verification in a timely manner.

Review of Documents

Original documents should be viewed since photocopied information can be altered.

This method of verification should only be used:

- When the third-party verification is not possible.
- When the third-party source cannot or will not provide the required verification within four weeks.
- To provide the basis for a provisional determination that will be subject to third-party verification before a final determination.

Self-Certification/Self-Declaration

When verification cannot be made by third-party verification or review of documents, families will be required to submit a self-certification.

Self-certification means a notarized statement/affidavit statement under penalty of perjury and must be witnessed

B. Release of Information

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

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

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

C. Computer Matching

INSTRUCTION: The 1988 McKinney Act legislation authorized State wage record keepers to release to both HUD and PHA'S information pertaining to wages and unemployment compensation. How PHA'S access this information varies. Most PHA'S that do computer matching have signed an agreement with the appropriate State agency so that they can compare the name and social security number of applicants and participants with the records of the State agency.

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

Factors to be verified (all factors affecting eligibility and the family's payment must be verified)

D. Alimony or Child Support Payments

Acceptable methods of verification include, in this order:

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

- The LHA will conduct interim reevaluations every 90 days and require the participant to provide a log with the information about customers and income.
- If childcare services were terminated, a third-party verification will be sent to the parent whose child was cared for.

Recurring Gifts

The family must furnish a self-certification, which contains the following information:

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

Zero Income Status

- Families claiming to have no income will be required to execute verification forms to determine that forms of income such as unemployment benefits, AFDC, SSI, etc. are not being received by the household.
- The LHA will request information from the State Employment Development Department.
- The LHA will request information from IRS (1722 letter).
- The LHA may check records of other departments in the jurisdiction (such as government utilities) that have information about income sources of customers

Full-Time Student Status

Only the first \$480 of the earned income of full time students, other than head or spouse, will be counted towards family income.

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

Verification of full time student status includes:

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

E. Verification of Assets

Family Assets

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

1. Verification forms, letters, or documents from a financial institution or broker.
2. Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.
3. Quotes from a stockbroker or realty agent as to net amount family would receive if they liquidated securities or real estate.

4. Real estate tax statements if the approximate current market value can be deduced from assessment.
5. Financial statements for business assets.
6. Copies of closing documents showing the selling price and the distribution of the sales proceeds.
7. Appraisals of personal property held as an investment.
8. Family's self-certification describing assets or cash held at the family's home or in safe deposit boxes.

Assets disposed of for less than Fair Market Value (FMV) during two years preceding effective date of certification or re-certification.

For all Certifications and Re-certifications, the LHA will obtain the Family's certification as to whether any member has disposed of assets for less than fair market value during the two years preceding the effective date of the certification or re-certification.

If the family certifies that they have disposed of assets for less than fair market value, verification [or certification] is required that shows: (a) all assets disposed of for less than FMV, (b) the date they were disposed of, (c.) the amount the family received, and (d) the market value of the assets at the time of disposition. Third party verification will be obtained wherever possible.

For attendant care:

- a. A reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.
- b. Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or stubs from the agency providing the services.

Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months.

Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bill that will continue over all or part of the next 12 months.

Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses. LHA may use this approach for "general medical expenses" such as non-prescription drugs and regular visits to doctors or dentists, but not for one-time, nonrecurring expenses from the previous year.

The LHA will use mileage at the HUD rate, or cab, bus fare, or other public transportation cost for verification of the cost of transportation directly related to medical treatment.

Social Security Numbers- Documentation necessary to verify SSN of an individual who is required to disclose his/her SSN are:

A valid Social Security Card issued by the Social Security Administration of the Dept. of Health and Human Services.

A State Driver's License that displays the Social Security Number of the individual.

W2 or 1099 Forms that displays Social Security Number of the individual.

Pay stubs that display Social Security Number of the individual.

Government checks, i.e., Social Security, Disability, SSI, checks, etc.

Medicaid or Medicare Card.

Or such other evidence of the Social Security Number, including one or more alternate documents or such other substantiation of the Social Security Number.

Reason for rejection of Social Security verification/certification documentation:

- Timeliness of submission (over time allotted)
- Third-party verification
- Documents that appear to have been tampered with
- If an individual who is required to execute a certification is less than 18 years of age and certification is not executed by parent or guardian or (in accordance with Administrative instructions issued by HUD).

G. Restriction on Assistance to Non-Citizens- Effective Date 6/19/95, codified in 24CFR Part 5, Subpart E.

Eligibility for Assistance:

In order to determine the family type and eligibility status of any family, the eligibility of each individual in the family must be first established.

Individuals will fall into one these categories:

Citizens

- Eligible immigrants 62 or older assisted on or before 6/19/95.
- Other eligible immigrants
- Ineligibles
- Non-citizen students on student VISA
- **Ineligibles:** Non-contending
 - Ineligible

a) Verification Requirements

Unlike the third-party verification process for income eligibility, a declaration of citizenship or eligible immigrant status by the persons in the household is all that is needed for:

- Persons who claim citizenship status by executing a signed declaration (Section 214 Status)

- Persons 62 and older who claim eligible immigration status and were receiving assistance as of 6/19/95 by executing a signed declaration (verify age)
- Persons who declare themselves ineligible or don't contend eligibility status

Verification is required for all non-citizens who claim eligible immigration status.

Exception for persons 62 and over who were receiving assistance as of 6/19/95.

b) Documentation Required:

- Resident Alien Card (I-551)
- Alien Registration Receipt Card (1-151)
- Arrival-Departure Record (I-94)
- Temporary Resident Card (1-688)
- Employment Authorization Card (I-688B)
- Receipt issued by the INS for issuance of replacement of any of the above documents that shows individual's entitlement has been verified.

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

- Eligible Immigration Documents (Originals Only)
 - Resident Alien Card (I-551)
 - Receipt Alien Registration Card (1-151)
 - Arrival-Departure Record (I-93)
 - Temporary Resident Card (1-688)
 - Employment Authorization Card (I-588B)
 - INS receipt for a replacement card

G. Verifying Non-Financial Factors

Verification of Legal Identity

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

The documents listed below will be considered acceptable verification of legal identity for adults. If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

- Certificate of Birth, naturalization papers
- Church issued baptismal certificate
- Current, valid Driver's license
- US military discharge (DD 214)
- US passport
- Voter's registration
- Company/agency Identification Card
- Department of Motor Vehicles Identification Card
- Hospital records

Documents considered acceptable for the verification of legal identity for minors may be one or more of the following:

- Certificate of Birth
- Adoption papers
- Custody agreement
- Health and Human Services ID
- School records

If none of these documents can be provided, a third party who knows the person may, at the LHA's discretion, provide verification.

Verification of Marital Status

[This would be used to determine spouse for income and deduction and non-citizen purposes ONLY]

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

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

Verification of marriage status is a marriage certificate.

Verification of Permanent Absence of Adult Member

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

1. Husband or wife institutes divorce action.
2. Husband or wife institutes legal separation
3. Order of protection/restraining order obtained by one family member against another.
4. Proof of another home address, such as utility bills, canceled checks for rent, drivers license, or lease or rental agreement, if available.
5. Statements from other agencies such as social services or a written statement from the landlord or manager that the adult family member is no longer living at that location.
- *6. If no other proof can be provided, the LHA will accept a self-certification from the family.
7. If the adult member is incarcerated, a document from the court or prison should be obtained stating how long they will be incarcerated.

Verification of Change in Family Composition

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

Verification of Disability

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

Medical Need for Larger Unit

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

H. Verification of Allowable deductions from income

Child Care Expenses

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

Medical Expenses

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

1. Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and (b) extent to which those expenses will be reimbursed by insurance or a government agency.
2. Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.
3. Written confirmation from Social Security Administration's written of Medicare premiums to be paid by the family over the next 12 months. A computer printout will be accepted.
4. For attendant care:
 - a. A reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.
 - b. Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of

canceled checks the family used to make those payments) or stubs from the agency providing the services.

5. Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months.
6. Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next 12 months.
7. Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses.
8. LHA will use mileage at the HUD rate, or cab, bus fare, or other public transportation for verification of the cost of transportation directly related to medical treatment (receipts required).

SECTION VIII: VOUCHER ISSUANCE AND BRIEFING

INTRODUCTION

The objectives of this Section are designed to assure that families selected to participate in the housing choice voucher program are successful in obtaining an acceptable housing unit, and that they are armed with sufficient knowledge to derive maximum benefit from the program and comply with program requirements.

A. Issuance of Vouchers

The voucher is the family's authorization to search for housing.

The voucher is a document between the LHA and the tenant outlining tenant's obligations under the program.

The LHA will issue Vouchers to applicants whose eligibility has been determined and has been briefed on program requirements or when the participant family wishes to move to another unit with tenant-based assistance. The issuance of Vouchers must be within the \$ amount set by the ACC budget.

When the housing choice voucher is issued, the applicant or participant must be given information on the minimum the family is expected to continue to housing costs and the maximum subsidy that the LHA can pay. The family has the option of selecting a unit with a rent that is more or less than the LHA payment standard, the final calculation of the family's share of the housing costs and the HAP amounts cannot be completed until the family has selected a unit.

Except for special admissions, participants must be selected from the LHA Waiting List. The LHA must select participants from the waiting list in accordance with admission policies set forth in this plan.

B. Briefing Types and Required Attendance

Initial Applicant Briefing

When the LHA selects a family to participate in a tenant-based program, the LHA must give the family an oral briefing. The family must be provided with complete and accurate information on how the program works, what their unit selection options are and the variables that affect the amount the family will be required to contribute to its total housing costs. The briefing presentation includes information on the following subjects:

- How program works
- Family and owner responsibilities
- Where the family may lease a unit including renting a dwelling unit inside or outside LHA jurisdiction

- For family's that qualify to lease a unit outside LHA jurisdiction under portability procedures, the briefing must include an explanation of how portability works.

The LHA may not discourage the family from choosing to live anywhere in the LHA's jurisdiction or outside the LHA jurisdiction under portability procedures.

- If the family is presently living in a high poverty census tract in the LHA's jurisdiction, the briefing must also explain the advantages of moving to an area that does not have a high concentration of poor families.
- In briefing a family that includes any disabled person, the LHA must take appropriate steps to ensure effective communication in accordance with 24 CFR 8.6
- In briefing a welfare-to-work family the LHA must include specifications of any local obligations of work family and an explanation that failure to meet these obligations is grounds for LHA denial of admission or termination of assistance.

A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in individual meetings. Briefings for the Voucher Program will be held separately. Briefings will be conducted in English.

The purpose of the briefing is to explain the documents in the Voucher holder's packet to families so that they are fully informed about the program. This will enable them to utilize the program to their advantage, and it will prepare them to discuss it with potential owners and property managers.

The LHA will not issue a Voucher to a family unless the household representative has attended a briefing and signed the Voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend two (2) scheduled briefings, without prior notification and approval of the LHA, may be denied admission based on failure to supply information needed for certification. The LHA will conduct individual briefings for families with disabilities at their home, upon request by the family, if required for reasonable accommodation.

Briefing Packet/Information Packet

The documents and information provided in the briefing packets for the Voucher program will comply with all HUD requirements. [The LHA also includes other information and/or materials, which are not required by HUD] When a family is selected to participate in the voucher program, the LHA must provide the family with a packet that includes information on the following subjects:

1. The term of the voucher, and the LHA policy for requesting extensions to the term of the voucher or suspensions of the voucher.
2. The Family Handbook [a guide to the section 8 housing choice voucher program]
3. A description of the method used to calculate the assistance payment, information on payment standards and utility allowances.
4. How the LHA determines total tenant payment for a family.
5. How the maximum allowable rent is determined [including the rent reasonableness standard].

6. Guidance and materials to assist the family in selecting a unit, such as proximity to employment, public transportation, schools, shopping, and the accessibility of services. Guidance will also be provided to assist the family to evaluate the prospective unit, such as the condition, whether the rent is reasonable, average utility expense, energy efficiency, and security.
7. The boundaries of the geographical area in which the family may lease a unit including an explanation of portability.
8. The LHA model lease and HUD lease addendum and LHA sample lease.
9. The Request for Lease Approval form [key receipt form], and a description of the procedure for requesting approval for a unit.
10. The LHA policy on providing information about families to prospective owners.
11. The Subsidy Standards, when and how exceptions are made [and how the voucher size relates to the unit size selected].
12. The HUD brochure, "A Good Place to Live" on how to select a unit that complies with HQS.
13. The HUD brochure on lead-based paint B [and information about where blood level testing is available].
14. Information on federal, State and local equal opportunity laws [including the pamphlet "Fair Housing: It's Your Right" and other information about fair housing laws and guidelines, including the "take one, take all" law]; the form for reporting suspected discrimination [and the phone numbers of the local fair housing agency and the HUD enforcement].
15. A list of landlords or other parties willing to lease to assisted families or help in the search [and/or known units available for the size voucher issued].
16. If the family includes a person with disabilities, notice that the LHA will provide [assistance in locating accessible units and] a list of available accessible units known to the LHA
17. The Family Obligations under the program including any obligations of a welfare-to-work family.
18. The grounds for termination of assistance because of family action or failure to act.
19. When the LHA is required to offer an informal hearing, how to request the hearing, and the hearing procedures.
20. An Owner's Handbook, an HQS checklist and sample contract.
21. Procedures for notifying the LHA and/or HUD of program abuses such as side payments, extra charges, violations of tenant rights, and owner failure to repair.
22. A family handbook including the family's rights as a tenant and a program participant.
23. Requirements for reporting changes between vouchers.
24. Information on security deposits and legal referral services.

Other Information to be Provided at the Briefing

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

The briefing presentation emphasizes:

Family and owner responsibilities

Where a family may lease a unit inside and outside its jurisdiction

How portability works for families eligible to exercise portability

Advantages to moving to area with low concentration of poor families if the family is living in high poverty census tract in the LHA's jurisdiction

- Exercising choice in residency.
- Choosing a unit carefully and only after due consideration.
- The Family Self Sufficiency program and its advantages (if applicable).

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

- "Smart Move" Meeting
- A "Smart Move" meeting is held for participants who wish to move before they give notice to the landlord and are reissued a Voucher.
- The meeting is conducted to inform families of the move process and to minimize claims (for contracts effective prior to October 2, 1995) or charges against security deposits (for new contracts). All participants who plan to move are strongly encouraged but may not be required to attend.

Move Briefing

- A move briefing will be held for participants who will be reissued Vouchers to move, and who have re-certified within the last 120 days, and have given notice of intent to vacate to their landlord. This briefing includes incoming and outgoing portable families.
- Families failing to attend a scheduled move briefing [3 times] will be denied a new Voucher based on failure to provide required information.

Owner Briefing

- Briefings are held for owners annually. All new owners receive a personal invitation and current owners are notified by mail. Prospective owners are also welcome. The purpose of the briefing is to assure successful owner participation in the program.

C. Encouraging Participation in Areas Without Low Income or Minority Concentration

At the briefing, families are encouraged to search for housing in non-impacted areas and the LHA will provide assistance to families who wish to do so.

The assistance provided to such families includes:

- Direct contact with landlords.
- Counseling with the family.
- Providing information about services in various non-impacted areas.

- Meeting with neighborhood groups to promote understanding.
- Formal or informal discussions with landlord groups.
- Formal or informal discussions with social services agencies
- Meeting with rental referral companies or agencies
- Meeting with fair housing groups or agencies

The Housing Authority will maintain lists of available housing submitted by owners in all neighborhoods within the Housing Authority's jurisdiction to ensure greater mobility and housing choice to very low-income households. The lists of owners will be provided at briefings.

D. Assistance to Families Who Claim Discrimination

Fair Housing Laws

In compliance with Section 147 of the National Affordable Housing Act, no owner who has entered into a contract for housing assistance payments under this section on behalf of any tenant in a multifamily building (more than four units) shall refuse to lease any available dwelling unit in any multifamily building owned by the same owner to Voucher holder solely because of their status as a Voucher holder.

- Local Fair Housing office. If HUD Fair Housing makes a finding of The LHA provides the family with a complaint form and the location of the discrimination against an owner, the LHA will restrict the owner from future participation.
- The LHA provides the family with HUD discrimination complaint form and directs the family to report suspected discrimination to HUD.

Take One- Take All: In compliance with Section 174 of the National Affordable Housing Act, if an owner who already has a unit in any multifamily building (more than four units) denies a Voucher holder admission to any multifamily building solely on the basis of their status as a Voucher holder, [the owner will be reported to HUD Fair Housing Complaints Office] [and barred from future participation].

E. Security Deposit Requirements

Leases Effective Prior to October 2, 1995

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

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

For the Voucher Program, the owner, at his/her discretion, could have collected a Security Deposit in an amount not to exceed one (1) months rent (LHA Policy)

- The greatest of 30% of adjusted monthly income or \$50 for non-lease-in-place families.
- The amount charged to unassisted tenants [up to a maximum of (amount not to exceed one month's rent)] (Rent to Owner) (may not exceed the maximum allowed under state or local law.)
- The greater of 30% of adjusted monthly income or [amount].
- Other [state policy]

Leases Effective on or after October 2, 1995

- Security deposits charged by owners may not exceed those charged to unassisted tenants (or the maximum prescribed by State or local law.)
- Security deposits charged by owners may be any amount the owner wishes to charge (but not more than the maximum prescribed by State or local law.)

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

F. Term of Voucher

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

Expirations

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

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

Suspensions

The LHA must decide whether to suspend or roll over the Voucher.

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

Extensions

- The LHA will grant extensions vouchers (on a case-by-case basis).
- A family may request an extension of the Voucher time period. All requests for extensions must be received prior to the expiration date of the Voucher.

- Extensions are permissible at the discretion of the LHA up to a maximum of 120 calendar days, primarily for these reasons:
 - ◆ Extenuating circumstances such as hospitalization or a family emergency for an extended period of time, which has affected the family's ability to find a unit within the initial sixty-day period. Verification is required.
 - ◆ The LHA is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of the LHA, throughout the initial sixty-day period. A completed search record is required.
 - ◆ The family was prevented from finding a unit due to disability accessibility requirements or large size (4) bedroom unit requirement. The Search Log/record becomes part of the required verification.
 - ◆ If the vacancy rate for rental housing in the jurisdiction is less than 50 percent, extensions will be granted automatically on request up to a total of 120 days.
- The LHA extends in one or more increments. Unless approved by the Executive Director or designee no more than 2 extensions of 30 days or less will be granted and never for a total of more than an additional sixty days without HUD approval.

The LHA will request HUD approval to extend the Voucher beyond an additional 60 days.

NOTE: All requests for extensions must be done in writing.

Assistance to Voucher Holders

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

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

- After the first 30 calendar days of the search, the family is required to maintain a search record and report to the LHA every 10-calendar day.

G. Certification/Voucher Issuance Determination for Split Households

In those instances when a family assisted under the Section 8 program becomes divided into two otherwise eligible families due to divorce, legal separation, or the division of the family, and the new families cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, the

LHA shall consider the following factors to determine which of the families will continue to be assisted:

1. Which of the two new family units has custody of dependent children.
2. Which family member was the head of household when the Voucher was initially issued (listed on the initial application).
3. The composition of the new family units, and which unit contains elderly or disabled members.
4. Whether domestic violence was involved in the breakup.
5. Which family members remain in the unit?
6. Recommendations of social service professionals.

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

If documentation is not provided, the LHA will terminate assistance on the basis of failure to provide information necessary for a re-certification.

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

H. Remaining Member of Tenant Family- Retention of Voucher

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

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

In order for a minor child to continue to receive assistance as a remaining family member:

1. The courts has to have awarded emancipated minor status to the minor, or
2. The LHA has to have verified that social services and/or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the child/children for an indefinite period.

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

SECTION IX: REQUEST FOR ASSISTANCE OF TENANCY APPROVAL AND CONTRACT EXECUTION

INTRODUCTION

This section identifies the procedures and key documents that set forth the responsibilities of all parties involved in the housing choice voucher program and outline the reasons for termination of assistance for families as a result of a family's action or lack of action; as well as the disapproval of owner by LHA.

A. Request For Tenancy Approval

When a family is selected, or when a participant family wants to move to another unit, LHA will issue a voucher to the family. The family may search for a unit.

When a family finds a suitable unit and the owner is willing to lease the unit under the program, the family must submit to the LHA the following:

- A completed Request for Tenancy Approval (HUD-52517A) signed by both the participant and the landlord [the request must be submitted during the term of the voucher].
- A copy (landlord may use own lease) of the proposed lease, including the HUD-prescribed tenancy addendum.

Note: The LHA has the discretion whether to permit the family to submit more than one request at a time.

The LHA specifies the procedure for requesting approval of tenancy. The family must submit the request in the form and manner required by LHA for review and approval.

Approval Of Assisted Tenancy

Program Requirements

The LHA may not give approval for the family the assisted tenancy or execute a HAP Contract, until the LHA has determined that all the following meet program requirements:

1. The unit is an eligible type of housing
2. The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan)
3. The lease includes the tenancy addendum;
4. The security deposit amount is approvable (will check if reasonable)
5. The rent to owner is reasonable.
6. At the initial leasing of a unit for which the gross rent exceeds the payment standard, the family share (TFC) does not exceed 40% of adjusted income.
7. The proposed lease complies with HUD and LHA requirements [and State and Local Law].
8. The owner is approvable, and **there are no conflicts of interest.**

B. Eligible Type of Housing

In accordance with 24 CFR 982.353 (a) the family may receive tenant-based assistance to lease a unit located:

- Anywhere within the initial LHA's jurisdiction
- Outside the initial LHA's jurisdiction under the portability requirements.

The family may select the dwelling unit they have been residing in prior to participation in the program if the unit is approvable. This is known as leasing-in-place.

The authority may not directly or indirectly reduce a family's opportunity to select among available units other than the exceptions identified in 24 CFR 982.353(f), such as:

- The housing is ineligible
- The housing does not meet housing quality standards.
- The rent to owner exceeds reasonable rent.

The regulations do not prohibit lease-purchase arrangements, but approval of a unit, the lease and the terms of the lease must meet normal program requirements.

- The rent must be reasonable
- The tenant cannot make any extra payments.

However, if the family takes title to the unit section 8 assistance is terminated.

PHA functions as required under the program rule:

- Determine rent reasonableness (and communicate the results to the family and the PHA)
- Assist the family in rent regulations
- Monitor HQS compliance (and communicate the results to the family and the PHA)

HUD must approve the independent agency.

The independent agency may be a unit of local government for the P.H.A.'s jurisdiction.

- If the PHA is a unit of such local government, the independent agency may be another HUD-approved independent agency.

The PHA may compensate the independent agency from the P.H.A.'s administrative fee income for services performed.

C. Portability

Portability is a term used to describe a family's ability to rent a dwelling unit outside the jurisdiction of the initial PHA and receive Section 8 tenant-based assistance.

A voucher holder or participant family has the right to receive tenant-based voucher assistance to lease a unit outside the initial PHA jurisdiction, anywhere in the USA in the jurisdiction of a PHA with tenant-based assistance.

When discussing portability the following terms are used:

- **Initial PHA** – the PHA administering the housing programs when the participant with a voucher moves to another area.
- **Receiving PHA** – the PHA administering the housing programs that accepts a participant from another PHA.
- **Jurisdiction** – the geographic area within the boundaries where a public housing agency is authorized to function.
- **Absorbs** – refers to the receiving PHA incorporating into its program a family who has exercised portability by moving from another P.H.A.'s jurisdiction into its jurisdiction. By the receiving PHA absorbing the family into its program, the initial PHA will be able to use the voucher it originally issued to the family to assist another family in its jurisdiction.
- **“Living within the P.H.A.'s jurisdiction at the Time the Family Applied for Assistance”** - for portability issues, this is defined as having a domicile (legal residence of household head or spouse in accordance with State and local laws) in the P.H.A.'s jurisdiction. Generally, transient residence (e.g., short term motel stays) does not meet the domicile test.
- **“Admitted to the Program”** – for portability issues, admission is defined as the effective date of the first housing assistance payment contract (HAP) for a family (first day of initial lease term) in a tenant-based program.

Limitations that are allowed under the Portability Provisions – The PHA may not provide portability assistance if the family has moved out of its assisted unit in violation of the lease.

Portability does not apply to families assisted in the project-based program. A PHA may establish a policy in its administrative plan prohibiting any move (both within and outside the P.H.A.'s jurisdiction) by a family during the initial lease term. The authority has the discretion to establish a policy in the administrative plan prohibiting more than one move (both within and outside the P.H.A.'s jurisdiction) during any one-year period.

Portability: Administration by Receiving PHA

When a family moves under portability to an area outside the initial PHA jurisdiction, the receiving PHA must administer assistance for the family if a PHA with a tenant-based program has jurisdiction in the area where the unit is located. The receiving PHA does not re-determine eligibility for a portable family that was already receiving assistance in the initial PHA Section 8 tenant-based program. However, for a portable family that was not already receiving assistance in the PHA tenant-based program, the initial PHA must determine whether the family is eligible for admission to the receiving PHA voucher program.

Families are limited to moves to areas with a PHA administering a voucher program.

- If there is more than one PHA with jurisdiction in an area where a family wishes to exercise portability, the initial PHA may designate which shall be the receiving PHA.

Residency: If neither the head of household nor the spouse of an assisted family already had a "domicile" (legal residence) in the jurisdiction of the initial PHA at the time the family first submitted an application for assistance with the initial PHA, the following applies during the 12-month period from the time the family is admitted to the program:

- The family may lease a unit anywhere in the initial P.H.A.'s jurisdiction;
- The family does not have a right to portability;
- The initial PHA may choose to allow portability during this period.

Income limit restrictions for New Admissions

For admissions to the program, the family must be income-eligible in the area where the family initially leases a unit with assistance under the Program.

- The income limit of the receiving PHA is used for these families

If the PHA jurisdiction contains more than one income limit area, the PHA is to use the highest applicable income limit for an area in the PHA jurisdiction for issuing a voucher. The income limit for admission is the income for the area in which the family initially leases a unit.

Income limit restrictions for Participants

If a portable family is a participant in the initial PHA tenant-based program, income eligibility is not re-determined when the family moves to the receiving PHA program under portability procedures.

INITIAL AND RECEIVING PHA RESPONSIBILITIES

Responsibilities of initial PHA

- Advise the family how to contact and request assistance from the receiving PHA.
- Advise the family that they must promptly contact the receiving PHA and comply with receiving P.H.A.'s procedures for incoming portable families.
- Promptly notify the receiving PHA to expect the family.

- If the family has not yet been admitted to the program, determine whether a family is income eligible in the area where the family wants to lease a unit.
- Send to the receiving PHA the following documents:
 1. The current HUD-50058
 2. Copies of the income verification for the current HUD-50058
 3. Copies of the citizen/eligible immigrant verification
 4. A copy of the family's voucher
 5. The Portability Form, HUD-52665, with Part I completed
 6. Family Self-Sufficiency information if the family is participating in FSS (Optional)
- Pay the receiving PHA 80% of the initial P.H.A.'s ongoing administrative fee.
- Reimburse the receiving PHA for the HAP payment made in behalf of the family.
- Pay or reimburse the receiving PHA for other applicable amounts due.
- Make payment to the receiving PHA per the Portability Billing Form.

NOTE: As a result of Notice PIH 2004-7, LHA made modifications to its bedroom size voucher designation without adversely affecting voucher allocation in order to continue housing low-income families and to fit within the reduced funding levels.

Responsibilities of Receiving PHA

- The receiving PHA does not re-determine eligibility for a portable family that was already receiving assistance in the initial PHA tenant-based program.
- Must provide assistance when a family has a right to lease up under portability.
- The receiving P.H.A.'s selection preferences do not apply.
- The receiving P.H.A.'s waiting list is not used.
- The receiving PHA may opt to screen using the receiving P.H.A.'s screening criteria only if the family is not current participant.
- Must promptly notify the initial PHA whether it will bill the initial PHA for assistance or absorb the family.
- The receiving PHA must issue a voucher to the family.
- The voucher cannot expire before any expiration date of any initial PHA voucher. The receiving PHA decides whether to extend or suspend.
- The family must submit a request for approval of tenancy to the receiving PHA during the term of the receiving PHA voucher.
- Promptly inform the initial PHA if absorbing.
- Determine the family unit size based on the subsidy standards of the receiving PHA.
- Promptly notify the initial PHA if the family fails to submit a request for tenancy approval within the term of the voucher.
- Promptly notify the initial PHA if the family has leased an eligible unit under the program.
- To provide tenant-based assistance for portable families, the receiving PHA must perform all PHA program functions such as re-examinations of family income and composition.
- At any time the initial PHA or receiving PHA may make a determination to deny or terminate assistance to the family in accordance with program regulations.

- The receiving PHA may deny or terminate assistance for action or inaction of the family.
- If a HAP contract is executed, the receiving PHA must:
 1. Bill the initial PHA within six months from the date the initial PHA issued a voucher.
 2. Send the documents listed below to the initial PHA:
 - The portability Form, HUD-52665, with the applicable sections of Part II-B completed.
 - A current HUD-50058 if item 3 or 4 are completed on Part II-B of the Portability Billing Form.

NOTE: In accordance with 24CFR 982.355 (c)(7) and as the receiving PHA must determine the family unit size for the portable family. According to Lodi Housing Authority Administrative Plan, in order for Lodi Housing Authority to continue assisting as many low-income families as possible without taking drastic measures such as rescinding or shelving vouchers, etc. if the PHA's Administrative Plan stipulates a different voucher allocation, we do not want receiving PHA's to violate their own Administrative Plan. Therefore, PHA's have the following alternatives:

1. Either absorb the portable family;
2. Fund the difference between LHA's determination of family unit size and the determination of your PHA's family unit size; or
3. Administer the portability as received.

Portability Billing Form – Effective October 2, 1995, PHAs are required to use a standardized billing form for all portability billing activity to the initial PHA. The Form is HUD-52665. The Portability Form is the only required information that the receiving PHA must submit to the initial PHA with the exception of items called for on the Portability Form.

Sanctions for Delinquent Payments – If a receiving PHA experiences billing reimbursement difficulties it should first try to resolve the problem with the initial PHA. For a more detailed description of other sanctions for delinquent payments, please refer to Notice PIH 95-56 & 96-65.

D. Disapproval of Request for Tenancy

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

The owner will be given 30 calendar days if the disapproval is as a result of a failure of unit inspection.

If disapproval is as a result of high rent, need to be corrected/resolved same day.

When, for any reason, a Request for Tenancy is not approved, the LHA will furnish another Request for Tenancy form to the family along with the notice of disapproval so that the family can continue to search for eligible housing.

The time limit on the Voucher will be suspended while the Request for Tenancy is being processed.

Actions before lease term: All of the following must always be completed before the beginning of the initial term of the lease for a unit:

- The LHA has inspected unit and has determined that the unit complies with HQS;
- The Landlord and the tenant have executed the lease (including the HUD-prescribed tenancy addendum, and the lead-based paint disclosure information as required in 35.13 (b))
- The LHA must approve the leasing of the unit according to program requirements

Once the LHA has inspected the unit determine whether the unit satisfies the HQS, and notify the family and owner of its determination.

The unit must be inspected within 15 days after the family and the owner have submitted a request for tenancy.

The 15-day clock is suspended during any period when the unit is not available for inspection.

E. Lease Requirement

The tenant must have the legal capacity to enter into a lease under the State and local law. "Legal Capacity" means that the tenant is bound by terms of the lease and may enforce the terms of the lease against the owner.

The tenant and the owner must enter a written lease for the unit, the owner's HAP contract with the LHA must contain the owner's certification that:

- If the owner uses a standard lease form for unassisted tenancies on the premises, the lease for this assisted tenancy is in the same standard form.
- The term and conditions of the lease are consistent with State and local law.

The lease form used by the owner sets:

- The renewal term (LHA may require an initial term of the year)
- Tenant termination notice
- Owner rent increases periods.

The lease must detail all of the following:

- The name of the owner and tenant
- The address of the unit rented (including the apartment number)
- The term of the lease (initial and any provisions for renewal)
- The amount of the monthly rent to owner
- Specifications about which utilities and appliances are to be supplied by the owner and which are to be supplied by the family

Rent to owner must be reasonable.

The initial term of the lease

The initial term of the lease must be for at least one year. However, the LHA may approve a shorter term if the LHA determines that:

- A shorter term would improve housing opportunities for the tenant; **and**
- Shorter terms are prevailing market practice.

During the initial term of the lease, the owner may not raise the rent.

The LHA may approve the lease if there is less than one year remaining from the beginning of the lease to the end of the last funding increment under the ACC.

The HAP contract form required by HUD shall include an addendum (the "tenancy addendum"), that sets forth:

- The tenancy requirements for the program; and
- The composition of the household as approved by the LHA (family members and any LHA-approved live-in aide).

All provisions in the HUD-required tenancy addendum must be added word-for-word to the owner's standard form lease that is used by the owner for unassisted tenants. The tenant shall have the right to enforce the tenancy addendum against the owner, and the terms of the tenancy addendum shall prevail over any other provisions of the lease.

The LHA will review the lease, particularly noting the provability of optional charges and compliance with regulations and State/local law. Responsibility for utilities, appliances and optional services must correspond to those provided on the Request For Assisted Approval. LHA may decline to approve the lease if it does not comply with regulations and State/local laws.

Owners may either submit their own lease or permit the LHA to furnish the lease.

In cases where the owner's lease is used, the HUD lease addendum must be attached and executed.

The LHA will encourage owners to use a sample lease provided by the LHA, which includes the HUD-mandated language. House Rules of the owner may be attached to the lease as an addendum, provided they are approved by the LHA to ensure they do not violate any fair housing HUD provisions.

F. Separate Agreements

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

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

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

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

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

- The LHA will not approve separate agreements for modifications to the unit for persons with disabilities. The modifications are usually within the dwelling and are critical to the use of the dwelling.

- If the owner makes modification to the unit, the costs should be recovered through the rent collected, not by having the tenant pay for the modifications. Exception would be considered if the modifications are such that they most likely would be removed if the tenant moved out.

Changes in the Lease and Rent

If the tenant and owner agree to changes in the lease, the changes must be in writing, and the owner must immediately give the LHA a copy of changes. The lease must still be in accordance with HUD requirements.

The owner must notify the LHA of rent changes at least 60 days before the changes are to be effective. Rent changes are subject to rent reasonableness requirements.

The LHA must approve a new lease and execute a new HAP contract in the following cases:

- There are changes in tenant-or owner-supplied utilities or appliances.
- There are changes governing the term of the lease.
- The family moves to a new unit (even is the unit is in the same building or complex).

LHA approval of tenancy and execution of a new HAP contract are not required for the following:

- Changes in family composition
- Change in amount of rent to owner

G. Term of the lease and HAP Contract

The term of the HAP contract begins on the first day of the lease term.

The HAP contract terminates if any of the following occur:

- The owner or tenant terminates the lease.
- The LHA terminates the HAP contract.
- The LHA terminates assistance for the family.

Other Leasing Matters

Security Deposit – The owner may collect a security deposit from the tenant.

The LHA may prohibit security deposits in excess of:

- Private market practice
- Amounts charged by the owner of unassisted tenants

When a tenant moves out, the owner, subject to State or local law, may use the security deposit, including interest on the deposit, as reimbursement for any:

- Damages to the unit
- Other amounts the tenant owes under the lease

The owner must give the tenant a written list of all items and amounts charged against the security deposit.

After deducting any reimbursements, the owner must promptly refund the unused of the security deposit to the tenant

If the security deposit is not sufficient to cover amounts the family owes under the lease, the owner may seek to collect the balance from the tenant.

H. Initial Inspections

Units are inspected are inspected using Housing Quality Standards (HQS). The housing quality standards are minimum nationwide standards applying to all units in the Section 8 Existing Housing Program.

Acceptability criteria variations may be approved by HUD only if such variations either:

- Meet or exceed the performance requirements or
- Significantly expand affordable housing opportunities for families assisted under the program.

HUD will not approve any acceptability criteria variation if HUD believes that the variation is likely to adversely affect the health or safety of participant families or severely restrict housing choice.

Note: Refer to Section X "Housing Quality Standards and Inspections."

I. Tenant Screening and Information to Owners

The LHA is required to provide prospective owners with (1) the address of the applicant as shown in LHA records; and (2) the names and addresses of the current and previous landlord if known.

The LHA will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection (LHA's discretionary policy).

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

When a family wants to lease a dwelling unit, the LHA may offer the owner other information in the LHA's possession, about the family, including information about tenancy history of family members, or about drug trafficking by family members.

LHA option and Owner responsibility

The LHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. However, the LHA may opt to screen applicants for family behavior or suitability for tenancy. The screening of applicants will be conducted in accordance with policies set forth in this administrative plan.

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before the LHA approval of the tenancy, the LHA must inform the owner that screening and selection for tenancy is the responsibility of the owner.

The owner is responsible for screening of families on the basis of their tenancy histories. An owner may consider a family's background with respect to such factors as:

- Payment of rent and utility bills;
- Taken care of unit and premises:
- Respecting the rights of other residents to the peaceful enjoyment of their housing:
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others: and
- Compliance with other essential conditions of tenancy.

LHA information about the tenant.

LHA must provide the owner with the following:

- The family's current and prior address (as shown in the LHA files);
- The name and address (if known to the LHA) of the landlord at the family's current and prior address.

When a family wants to lease a dwelling unit, the LHA may offer the owner other information in the LHA possession, about the family,

The LHA may provide documented information regarding tenancy history for the past 3 years to prospective landlords [upon written request from the landlord].

The LHA will provide the following information: based on documentation in its possession:

- * Eviction history
- * Damage to rental units
- * Other aspects of tenancy history [specify]
- * Drug Trafficking by family members

The information will be provided for the last 3 years. The information will be provided in writing.

In accordance with 24 CFR 982.307 (3) The LHA must give the family a statement of the LHA policy on providing information to owners. The statement must be included in the information packet that is given to a family selected to participate in the program.

The LHA policy will give the same types of information to all families and to all owners.

J. DISAPPROVAL OF OWNER BY LHA

The LHA **must not** approve an assisted tenancy if the LHA has been informed (by HUD or otherwise) that the owner is debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

When directed by HUD, the LHA **must not** approve an assisted tenancy if:

- (1) The federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements, and such action is pending; or
- (2) A court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.

In its administrative discretion, the LHA may deny approval of an assisted tenancy for any of the following reasons:

- (1) The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- (2) The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

- (3) The owner has engaged in any drug-related criminal activity or violent criminal activity;
- (4) The owner has a history or practice of non-compliance with HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;
- (5) The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of household, a guest or another person under the control of any member of the household that;
 - (i) Threatens the right to peaceful enjoyment of the premises by other residents;
 - (ii) Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing;
 - (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or
 - (iv) Is drug-related criminal activity or violent criminal activity;
- (6) The owner has a history or practice of renting units that fail to meet State or local housing codes; or
- (7) The owner has not paid State or local real estate taxes, fines or assessments.

The LHA **must not** approve a unit if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family; unless the LHA determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities. This restriction against LHA approval of a unit only applies at the time a family initially receives tenant-based assistance for occupancy of a particular unit, but does not apply to LHA approval of a new tenancy with continued tenant-based assistance in the same unit.

Nothing in this rule is intended to give any owner any right to participate in the program.

For purposes of this section, "owner" includes a principal or other interested party.

K. TERMINATION OF TENANCY BY OWNER

During the term of the lease, the owner may not terminate tenancy except on the following grounds:

- Serious or repeated violations of the terms and conditions of the lease, including but not limited to failure to pay rent or other amounts due under the lease.
- Violations of Federal, State, or local law that impose obligations on the tenant in connection with the occupancy or use of the unit or premises.
- Other good cause.

Terminations of tenancy for other good cause include:

- Not accepting an offer of a new lease or revision.
- A family history of disturbance to neighbors, destruction of property, or living or housekeeping habits which result in damage to the unit or premises.
- The owner desires to use the unit for personal or family use, or for a purpose other than a residential rental unit.

- A business or economic reason such as sale of the property, renovation, or the desire to lease the unit at a higher rental.

Nonpayment by the LHA is not grounds for termination of the lease, since the family is not responsible for the portion under the HAP contract.

- LHA failure to pay HAP to the owner is not a violation of the lease.

During **the initial lease term**, the owner **may not** terminate the tenancy for "other good cause", unless the owner is terminating the tenancy because of something the family did or failed to do.

Owner notice – Notice of grounds

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Eviction notice – Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under State or local law to commence an eviction action.

The owner must give LHA a copy of any owner eviction notice to the tenant.

Eviction by court action – The owner may only evict the tenant from the unit by instituting a court action.

L. TERMINATION FOR CRIMINAL ACTIVITY

Drug Criminals

The lease must provide that the owner may terminate tenancy for drug-related criminal activity engaged in by any:

- Tenant, household member, or guest on or near the premises
- Other person under the tenant's control on the premises.

The lease must provide that the owner may terminate tenancy when a household member:

- Is illegally using a drug
- Has a pattern of illegal drug use that interferes with the health, safety or right to peaceful enjoyment of the premises by other residents.

Other Criminals

The lease must provide that the owner may terminate tenancy if a tenant, household member, guest or other person under the tenant's control engages in:

- 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)
- 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.
- Violent criminal activity:
 1. On or near the premises by a tenant, household member or guest.
 2. On the premises by any other person under the tenant's control

The lease must provide that the owner may terminate tenancy if a tenant is:

- Fleeing to avoid prosecution for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees (in the case of New Jersey, is a high misdemeanor)
- Violating a condition of probation or parole imposed under Federal or State law.

Evidence of Criminal Activity

The owner may terminate tenancy for criminal activity (as covered in the tenancy addendum) whether or not the person has been arrested or convicted for the particular activity, if the owner determines that the tenant has engaged in the criminal activity (24 CFR 982.310(c)(3)).

The owner must evict through judicial action.

There is no need to satisfy the standard of proof used for a criminal conviction.

Termination Decisions By Owner

In accordance with 24 CFR 982.310 (h)(1) the owner can decide whether to terminate the tenancy if the law and regulation authorize, but don't require, the action to be taken.

Exclusion Of Culpable Member

If a member of a household has committed an offending action (or failure to act) for which owner termination is authorized, the owner can require the leaseholder to exclude the culpable member from the household in order for family tenancy to continue.

Rehabilitation

If an owner is considering termination of tenancy due to the use of illegal drugs or alcohol abuse by a household member who is no longer using or abusing, the may take certain factors in consideration regarding the household member:

- Is the household member in question participating in a supervised drug or alcohol rehabilitation program?
- Has the household member completed a supervised drug or alcohol rehabilitation program?
- The household member has through some other method, been successfully rehabilitated.

The owner may require the household member to submit evidence of the one of the above-listed scenarios.

Nondiscrimination

The owner's decisions actions pertaining to termination of tenancy must not interfere with the fair housing and equal opportunity provisions as stipulated in 24 CFR 5.105.

Owner Notice to Terminate

Owner must give the tenant written notice of ground for termination of tenancy.

- Notice must be given at or before the beginning of the eviction action.

- Notice may be included or combined with any owner eviction notice under State law to the family.

Owner's eviction notice is a notice to vacate, or a complaint or pleading used under State or local law to start an eviction action.

Owner must give the LHA a copy of any owner eviction given to the family.

M. Termination of Tenancy by the Family

24 CFR 982.309 stipulates that the family may terminate tenancy in accordance with the lease and tenancy addendum.

N. HAP Contract Terminations

The HAP contract is a contract between the LHA and the owner.

The HAP contract terminates automatically 180 calendar days after the last housing assistance payment to the owner.

When an owner terminates the lease in accordance with the terms of the lease, housing assistance payments are terminated.

If the owner has started eviction proceedings, and the family continues to live in the unit, the LHA must continue to pay the owner until a court judgment or other process allows the owner to evict the tenant.

The LHA may continue payments until the family moves or is evicted from the unit. HAP contracts may be terminated by the LHA because the Consolidated ACC is insufficient to support continued assistance for families in the program.

Space Standards (violation)

If the authority determines that the unit does not meet HQS as a result of an increase in family size or composition, the authority must:

- Issue the family a new voucher, and
- Along with the family, find an acceptable unit as soon as possible.

If an acceptable unit is available for rental by the family, the authority must terminate the HAP contract.

When the authority terminates the HAP contract because of a violation of the HQS space standards:

- The authority must notify the family and the owner of the termination, and
- The HAP contract terminates at the end of the calendar month that follows the calendar month in which the authority gives such notice to the owner.

The family may move to a new unit.

Subsidy too big for family size (regular tenancy only)

The authority must notify the family that exceptions to the subsidy standards may be granted and give the circumstances that will be considered by the authority.

If an acceptable unit is available for rent by the family, the authority must terminate the HAP contract.

Owner breach of contract

Any of the actions listed below is a breach of the HAP contract by the owner:

- Owner violates any obligation under HAP contract, including HQS
- Owner has violated any obligation under any other HAP contract with Section 8
- Owner has committed fraud, bribery, or any other corrupt or criminal act involving a federal housing program
- Owner failed to comply with or committed fraud, bribery, or other corrupt or criminal act in connection with mortgages insured or loans made by HUD
- Owner engaged in drug-related criminal activity.

Termination of Family Assistance

As a result of a family's action or failure to act, LHA may terminate assistance to participants by:

- Refusing to enter into a HAP contract.
- Refusing to approve a lease.
- Terminating the HAP contract.
- Refusing to process or provide assistance under portability procedures.
- The LHA may deny or terminate assistance if any member of the family has been evicted from federally assisted housing in the last five years.

O. Mandatory Termination

The LHA **must** terminate assistance to a family for any of the reasons listed below:

- If the family has been evicted from housing assisted under the Section 8 program for serious violation of the lease.
- If any member of the family fails to sign and submit consent forms for obtaining information in accordance with program regulations.
- If a family member does not establish citizenship or eligible immigration status (the LHA must terminate based on Noncitizen Rule regulations and applicable informal hearing procedures).
- If the LHA determines that any member of the household has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing.

P. Termination of Tenancy by LHA

LHA **will** terminate assistance to a family for the following reasons:

- Family violates any family obligation.
- Any member of the family has been evicted from federally-assisted housing in the last five years.
- If a LHA has ever terminated assistance under the voucher program for any member of the family.
- If any family member commits fraud, bribery, or another corrupt or criminal act regarding any federal housing program.

- If any family member has engaged in or is arrested for any violent criminal activity (with or without conviction) based on a preponderance of evidence.
- If any family member has engaged in or is arrested for any drug-related criminal activity with or without conviction based on a preponderance of evidence.
- If any family member has engaged in or has been arrested for being a sex offender regardless of conviction based on a preponderance of evidence.
- If any family member has engaged in or is arrested for alcohol abuse and pattern of alcohol abuse may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
- If the family currently owes rent or other amounts to the LHA or to another LHA in connection with Section 8 or public housing programs.
- If the family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for:
 - Rent
 - Damage to unit
 - Other amounts owed by family under the lease.

The LHA may offer a family the opportunity for a repayment agreement. The LHA may prescribe the terms of the agreement.

- If the family breaches an agreement with the LHA to pay amounts owed to the LHA, or amounts paid to an owner by a LHA.
- If the family is a FSS participant and fails to comply, without good cause, with the FSS Contract of Participation.
- If the family has engaged in or threatened abusive or violent behavior towards LHA personnel.
- If the family fails to fulfill its obligations under the Section 8 welfare-to-work voucher program.

When deciding to terminate assistance because of action or failure to act by members of the family, the LHA has the discretion of considering circumstances.

When the LHA has termination decisions for a family with a member that includes a disabled person are subject to consideration of reasonable accommodations in accordance with 24 CFR Part 8.

In a termination decisions, the LHA must also be consistent with fair housing and equal opportunity provisions in accordance with 24 CFR Part 5.105.

Use of criminal record to terminate – Before a LHA's decision to terminate assistance for criminal activity is enforced, the LHA **must**:

- Notify the household of the proposed action, based on information about such activity.
- Provide the family member/tenant the subject of the record and a copy of the criminal record.
- Provide the family with an opportunity to dispute the accuracy and relevance of the record.

Q. Termination of assistance as a result of information obtained from a SWICA or Federal Agency – Income matching:

- IRA data matched with HUD 50058
- State wage match

- TEVS verification

The family must immediately furnish the LHA with any letter or other notice by HUD to a member of the family that provides information concerning the amount or verification of family income.

The LHA must:

- Verify accuracy of the income information received from the family.
- Change the amount of HAP or terminate assistance as appropriate.

R. Family absence from the unit – “Absence” means that no member of the family is residing in the unit.

The family may be absent from the unit for brief periods of time.

The family **may not** be absent from the unit for a period of more than **180 consecutive** calendar days for any reason.

The LHA may allow absence for a lesser period on a case-by-case basis.

Housing assistance payments, HAP contract and assisted lease terminate if the family is absent for longer than 180-day maximum.

The owner must reimburse the LHA for any HAP paid to cover the time after termination.

Upon request by the LHA, the family must:

- Supply any requested information or certification to verify that the family is residing in the unit, or relating to family absence from the unit.
- Promptly notify the LHA of absences from the unit, including information on purposes of absence.

The LHA may set up a verification process to verify family occupancy or absence, including:

- Letters to the family's unit
- Phone calls
- Home visits
- Questions to landlords or neighbors.

S. Informal hearings – Program participants will be afforded with the opportunity for an informal hearing to consider whether certain LHA decisions are in accordance with the law, HUD regulations, and LHA policies.

Notice to family - The LHA must notify the family that the family may ask for an explanation of the basis of the LHA's determination of:

- The family's annual or adjusted income and its use to compute the HAP.
- Appropriate utility allowance (if any) for tenant-paid utilities from the LHA's schedule.
- Family voucher size under the LHA's subsidy standards.

INTRODUCTION

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

This Section describes procedures for implementing HQS, conducting different HQS inspections, and setting standards for the timeliness of repairs. Additionally, this Section explains the responsibilities of the owner and family, and the consequences for noncompliance with HQS by the owner and the family. The minimum standards may be enhanced at the discretion of the LHA, provided that by doing so, LHA does not overly restrict the number of units available for leasing.

A. Guidelines/Types of Inspection

LHA program must meet the performance and acceptability criteria for the following key aspects of housing quality in accordance with 24CFR 982-401a, 982.405:

- (a) Sanitary facilities;
- (b) Food preparation and refuse disposal;
- (c) Space and security;
- (d) Thermal environment;
- (e) Illumination and electricity;
- (f) Structure and materials;
- (g) Interior air quality;
- (h) Water supply;
- (i) Lead-based paint;
- (j) Access;
- (k) Site and neighborhood;
- (l) Sanitary condition; and
- (m) Smoke detectors.

All program housing must meet the HQS performance requirements both at commencement of assisted occupancy, and throughout the assisted tenancy.

Efforts will be made to encourage owners to provide housing above HQS minimum standards.

The LHA adheres to the acceptability Criteria in the program regulations and HUD Inspection Booklet.

Housing Authority Periodic Unit Inspection

- 1) The LHA is required to inspect the unit leased to a family at least annually, and at other times as needed, to determine if the unit meets HQS.
- 2) Supervisory quality control HQS inspections must be conducted.
- 3) In Scheduling Inspections, the LHA must consider complaints and any other information brought to the attention of the LHA
- 4) The owner must be notified by the LHA of any defects shown by the inspection.
- 5) The LHA may not charge the family nor the owner for initial inspection or re-inspection of the unit.

Inspections

The LHA conducts an inspection in accordance with Housing Quality Standards at least annually, 90 calendar days prior to the anniversary month of the contract. Special inspections may be scheduled between anniversary dates.

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

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

The family must allow the LHA to inspect the unit at reasonable times with reasonable notice. [24 CFR 982.51 (d)]

Inspections will be conducted on business days only.

Reasonable hours to conduct an inspection are between 9 a.m. and 3 p.m.

The LHA will notify the family in writing at least **five (5) calendar** days prior to the inspection.

Inspection: The family and owner are notified of the date and time of the inspection appointment by mail. If the family is unable to be present, they must reschedule the appointment so that the inspection is completed within 30 calendar days.

- If the family does not contact the LHA to reschedule the inspection, or if the family misses 2 inspection appointments, the LHA will consider the family to have violated a Family Obligation and their assistance will be terminated in accordance with the termination procedures in the Plan.
- Re-inspection: The family and owner are mailed a notice of the inspection appointment by mail. If the family is not at home for the re-inspection appointment, a card will be left at the unit and another appointment is automatically scheduled. The appointment letter contains a warning of abatement (in the case of owner responsibility), and a notice of the owner's responsibility to notify the family.
- The family is also notified that it is a Family Obligation to allow the LHA to inspect the unit. If the family was responsible for a breach of HQS, "Denial or Termination of Assistance," they will be advised of their responsibility to correct.
- All Inspections: The family will be mailed a notice that the inspection is due and asked to call to schedule an appointment within 5 calendar days. If they do not call, they will be sent a second notice, with a copy to the owner. If they still fail to

schedule the appointment, a notice of termination of assistance will be sent. If the family still does not contact the LHA within the time period allowed to request a hearing, assistance will be terminated.

Time Standards for Repairs

1. Emergency items, which endanger the family's health or safety, must be corrected within 24 hours of notification.
2. For non-emergency items, repairs must be made within 30 calendar days.
3. For major repairs, the Executive Director/ Section 8 Administrator may approve an extension beyond 30 calendar days.

B. Emergency Repair Items

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

- * Lack of security for the unit
- * Waterlogged ceiling in imminent danger of falling
- * Major plumbing leaks or flooding
- * Natural gas leak or fumes
- * Electrical problem which could result in shock or fire
- * No heat when outside temperature is below [number] F. and temperature inside unit is below [number] F.
- * Utilities not in service
- * No running hot water
- * Broken glass where someone could be injured
- * Obstacle which prevents tenant's entrance or exit
- * Lack of functioning toilet
- The LHA may give a short extension (not more than 24 additional hours) whenever the responsible party cannot be notified or it is impossible to affect the repair within the 24-hour period.
- In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to affect the repair, proper authorities will be notified by the LHA

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

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

C. Consequences If Owner Is Responsible (Non-emergency Items)

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

NOTE: Unless an extension is approved.

Abatement

A Notice of Abatement will be sent to the owner, and the abatement will be effective from the day after the date of the failed inspection. The notice is generally for 30 calendar days, depending on the nature of the repair(s) needed.

The LHA will inspect abated units within 10 calendar days of the owner's notification that the work has been completed.

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

- The LHA will advise owners of their responsibility to notify the tenant of when the re-inspection will take place.
- The family will be notified of the re-inspection date and requested to inform the owner.

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

- The LHA will reduce payments in lieu of abatement in the following cases:
 - * The owner has a good history of HQS compliance.
 - * The failed items are minor in nature.
 - * There is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services.
 - * The owner makes a good faith effort to make the repairs.
 - * The repairs are expensive (such as exterior painting or roof repair) and the owner needs time to obtain the funds.
 - * The repairs must be delayed due to climate conditions.
 - * The extension will be made for a period of time not to exceed 30 calendar (if applicable) days. At the end of that time, [At the LHA's discretion,] if the work is not completed, the LHA will begin the termination of assistance.

D. Termination of Contract

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

If repairs are completed before the effective termination date, the termination may be rescinded by the LHA if the tenant chooses to remain in the unit. Only 1-2 Housing Quality Standards inspections will be conducted after the termination notice is issued.

E. Owner and Family Responsibility; and LHA Remedies

1. Owner Obligation

- a) Owner must maintain unit in accordance with HQS.

- b) If owner fails to maintain dwelling unit in accordance with HQS, the LHA must take prompt and vigorous action to enforce the owner obligations. LHA remedies for such breach of the HQS include termination, suspension, or reduction of housing assistance payments and termination of the HAP Contract.
- c) The authority must **NOT** make any housing assistance payments for a dwelling unit that fails to meet HQS, unless the owner corrects the defect within the period specified by LHA (non-emergency 30 calendar days, emergency 24 hours) and the LHA verifies the correction.
- d) The owner is not responsible for a breach of HQS the owner does not cause and for which the family is responsible. The LHA may terminate assistance to a family because of HQS breach caused by the family.

2. Family Obligation

- a) The family is responsible for a breach of the HQS that is caused by any of the following:
 - 1) The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the tenant;
 - 2) The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the tenant; or
 - 3) Any member or guest damages the dwelling unit or premises (damages beyond "ordinary wear and tear").
 - 4) If an HQS breach caused by the family is life threatening, the family must correct defect within 24 hours. For other family-caused defects, the family must correct the defect within no more than 30 calendar days (or any LHA approved extension).
 - 5) If the family has caused a breach of HQS, the LHA must take prompt and vigorous action to enforce the family obligations. The LHA may terminate assistance for the family in accordance with 24 CFR 982.552

The inspector will make a determination of owner or family responsibility during the inspection. The owner or tenant may appeal this determination to a mediator within 10 days of inspection.

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

F. Initial HQS Inspection

The Initial Inspection will be conducted to:

- Determine if the unit and property meet the HQS defined in this Plan.
- Document the current condition of the unit as a basis to evaluate whether the future condition of the unit exceeds normal wear and tear.

- Document the information to be used for determination of rent-reasonableness.

If the unit fails the initial Housing Quality Standards inspection, the family and owner will be advised to notify the LHA once repairs are completed.

On an initial inspection, the owner will be given up to 45 days to correct the items noted as Fail, at the Inspector's discretion, depending on the amount and complexity of work to be done.

The owner will be allowed up to 2 re-inspections for repair work to be completed.

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

G. Annual HQS Inspection

Rent Increases

The LHA will conduct an inspection using the Housing Quality Standards at least annually, prior to the anniversary month of the contract. Rent increase requests in the Voucher program will not be approved if the unit is in a failed condition.

H. Special/Complaint Inspections

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

The LHA may also conduct a special inspection based on information from third parties such as neighbors or public officials.

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

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

I. Quality Control Inspections

Quality Control inspections will be performed by the Section 8 Administrator on at least 5 percent of the units of each inspector. The purpose of Quality Control inspections is to ascertain that each inspector is conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in application of the HQS.

SECTION XI. OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS

INTRODUCTION

The LHA is responsible to ensure that the rents charged by owners are reasonable based upon objective comparables in the rental market. When the LHA has determined that the unit meets the minimum HQS, that the lease is approvable, and that the rent is reasonable, it will make timely payments to the owner and notify the owner of the procedures for rent adjustments in the Voucher programs. The rent to owner is limited only by rent reasonableness. The only other limitation on rent to owner is the maximum rent standard at initial occupancy.

At the initial time the PHA approves a tenancy for initial occupancy of a dwelling unit by a family with tenant-based assistance under the program, and where gross rent of the unit exceeds the applicable payment standard for the family, the family share must not exceed 40 percent of the family's adjusted monthly income. The determination of adjusted monthly income must be based on verification information received by the PHA no earlier than 60 days before the PHA issues a voucher to the family.

A. Owner Approvals

Prior to executing a HAP contract and processing payments, the LHA must first determine that the owner of the assisted unit is eligible to participate in the housing choice voucher program.

The authority must not approve an owners' participation in the program if:

- HUD or another party informs the authority that the owner is debarred, suspended, or subject to a limited denial of participation.
- HUD informs the authority that the federal government has instituted an administrative or judicial action against the owner for a violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending; or
- HUD informs the authority that a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.

B. Conflicts of Interest

The LHA **must not** execute a HAP contract when the owner of the unit is a relative of the family to be assisted, unless approving such a tenancy would provide reasonable accommodation for a disabled family member. Prohibited owner-family relationships include, parent, child, grandparents, grandchild, sister, or brother of any member of the assisted family.

An authority must not approve HAP contracts in which any of the following parties have a current interest or will have an interest for one year thereafter:

- Present or former member or officer of the PHA, except a participant commissioner;
- Employee of the PHA or any contractor, subcontractor, or agent of the PHA who formulates policy or influences program decisions;

- Public official, member of a governing body, or state or local legislator who exercises functions or responsibilities related to the programs; or
- Member of the U.S. Congress.

HUD may waive the conflict of interest requirements for good cause. P.H.A.'s must submit waiver request to the HUD field office.

The PHA must not execute the HAP contract until the HUD field office makes a decision on the waiver request.

C. Owner Payment in the Voucher Program

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

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

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

D. Making Payments to Owners

Once the HAP Contract is executed, the LHA begins processing payments to the landlord. The effective date and the amount of the LHA payment are communicated to the landlord by the caseworker. A HAP Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made manually to the HAP Register for the following month. The Section 8 Department to the owner disburses checks each month.

Owner may not pick up checks at LHA.

Checks will only be disbursed on the first of each month. Exceptions may be made with the approval of the Section 8 Administrator in cases of hardship (discretionary policy). When a lease term begins after the first of the month, the housing assistance payment for the first month is pro-rated for a partial month.

Checks that are not received will not be replaced until a written request has been received from the payee and a stop payment has been put on the check (discretionary policy).

E. Rent Reasonableness Determinations

The LHA shall certify for each unit for which it approves a lease that the contract rent for Unit is:

- 1) Reasonable in relation to rents currently being charged for comparable units on the private unassisted market, taking into

account, location, size, type, quality, amenities, facilities and management and maintenance services of such unit.

- 2) Not in excess of rents currently being charged by the owner for comparable unassisted units.

For an assisted unit that is subject to local rent control, comparable units are rent controlled units. However, for unassisted unit that is not subject to local rent control while is assisted (regardless of whether the unit would be subject to such control it were not assisted) Comparable units are units that are not subject to local rent control.

The LHA maintains for three (3) years all certifications and relevant documentation under this paragraph for HUD inspection/ review.

The LHA maintains a notebook, which includes data on unassisted units for use by staff in making rent reasonableness determinations. The data is updated on an ongoing basis and purged when it is more than 12 months old.

- The LHA uses an "appraisal" method and tests the subject unit against selected units in the same area with similar characteristics. Adjustments are made for favorable and unfavorable differences between the subject unit and the comparables. Amenities, services, and facilities are given dollar values (discretionary policy).

F. Payment Standards for the Voucher Program

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

G. Adjustments to Payment Standards

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

H. Establishing Payment Standard Amounts

The L.H.A may establish the payment standard amount for a unit at any level between 90% and 110% of the published FMR for that unit size.

LHA does not need HUD approval to establish payment standards in the "basic range". The LHA may establish a separate payment standard within the basic range for a designated part of an FMR.

The LHA may establish a higher payment standard within the basic range (90% - 110%) if required as a reasonable accommodation for a family that includes a person with disabilities.

- **In a volatile market, the LHA may review the Standards more frequently but will only adjust them annually.**

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

Assisted Families' Rent Burdens

The LHA will review reports showing the percent of income used for rent by Voucher families to determine the extent to which the rent burden is more than 50% of income.

Availability of Suitable Vacant Units Below the Payment Standard

The LHA will review its rents reasonableness database and vacancy rate data to determine whether there is an ample supply of vacant units **[in areas without minority concentration/poverty-impacted]** below the Payment Standard.

Quality of Units Selected

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

LHA Decision Point

The LHA will review the quality and size of units where the Rents to Owner are above the Payment Standard by more than **25%** if more than **50%** of families have selected above-range units or have selected larger units than the Voucher size, the LHA may elect not to increase the Payment Standard or continue the analysis.

If the analysis continues, the LHA will divide those rents between contracts within the first year and after the first year. If the Rents to Owner are more than **25%** above the average, in any bedroom size, the LHA will continue the analysis. If not, the LHA may elect not to increase the Payment Standard for certain bedroom sizes.

I. Rent to Owner Increases

The LHA may review a sample of the units to determine how often owners are increasing rents after the first year of the lease and the average percent of increase by bedroom size. The sample will be divided into units with and without the highest cost utility included. LHA allows the amount provided by the rent leveling board for multi-dwellings and 1,2,3, family dwellings.

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

J. Payment Standard Amount

The Payment Standard is an amount used to calculate the monthly housing assistance payment.

Each payment standard amount is based on the published Section 8 Existing Fair Market Rent. The LHA must establish a separate Payment Standard amount by unit size i.e.: Single Room occupancy, zero-bedroom, one-bedroom, etc. for each Fair Market Rent (FMR) area within LHA's Jurisdiction.

Payment Standard Schedule

The Payment Standard schedule is a list of the Payment Standard amounts for each unit in a FMR area within the LHA's Jurisdiction. The LHA has adopted and maintains a payment standard schedule for each FMR area in the LHA's Jurisdiction. The LHA may have only one Payment Standard Schedule for each FMR area. Each Payment Standard Schedule may have only one payment standard amount for each unit size in the FMR area.

Each payment standard amount on the schedule may not be less than 90 percent of the published Section 8 Existing Housing Fair Market Rent (in effect when the payment standard amount is adopted) for the unit size, nor more than the FMR or HUD-approved Community-wide exception (in effect when the payment standard amount is adopted) for the unit size.

Increasing payment standard amounts on the payment standard schedule.

The LHA, in its discretion, may adopt annual increases of payment standard amounts on the Payment Standard schedule so that families can continue to afford to lease units with assistance under the Housing Voucher Program.

Decreasing Payment Standard Amounts on the Payment Standard Schedule

When revised Section 8 Existing Housing Fairs are published for effect in the Federal Housing Register and any FMR or HUD-approved community-wide exception rent is lower than the corresponding payment standard amount on the LHA's Payment Standard Schedule, the LHA must adopt a new payment standard amount not more than the revised FMR or the HUD-approved Community wide exception rent.

Lowering of the Payment Standard

Statistical analysis may reveal the Payment Standard should be lowered; in which case, the Payment Standard should not be less than 80% of the current FMR. If the FMR is lowered, the Payment Standard may not exceed the FMR except in those cases where

families are held harmless until they move to a different dwelling unit or have a change in family composition, which would affect their Voucher size.

Financial Feasibility

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

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

File Documentation

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

Rent Adjustment

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

- **With a sixty-day notice to the family and a copy to the LHA The LHA will advise the family as to whether the rent is reasonable and shall approve or disapprove the rent increase.**
- **After 60 (calendar) days notice following the LHA's approval of the increase.**

SECTION XII RECERTIFICATIONS

INTRODUCTION

This Section outlines LHA's policy for conducting annual re-certifications, inspections, and interim re-certifications. These activities are conducted in accordance with HUD program requirements. HUD requires that LHA re-certify the income, household composition of participating families and inspect the assisted unit at least annually. Federal guidelines require that family report any change of income or family composition as they occur to LHA. This Section outlines the reporting requirements and procedures for the interim re-certifications that pertain to these changes.

A. Regular re-examinations

The LHA must examine the income and composition of all families at least once every 12 months. After consultation with the family and verification of information, the LHA must make the appropriate adjustments in accordance with 24 CFR 813 to total tenant payment, and determine whether the family's unit size is still appropriate. The LHA must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment (TTP). At the time of the annual re-examination of family income and composition, the LHA shall require the family to submit any certification, release, information or documentation as the LHA or HUD determine to be necessary.

B. Annual Activities

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

1. Re-certification of Income and Family Composition
2. HQS Inspection

The LHA produces a monthly listing of units under contract to ensure that timely reviews of contract rent, housing quality, and factors related to Total Tenant Payment can be made. Requests for rent adjustments and other monetary changes will be transmitted to the Section 8 Department.

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

C. Annual Re-certification/ Re-examination

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

When families move to another dwelling unit:

- An annual re-certification will be scheduled (unless a re-certification has occurred in the last 120 calendar days) and the anniversary date will be changed.
- The anniversary date for the re-certification will not be changed but the new anniversary date will apply to inspection and owner rent adjustment.

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

Re-examination Notice to the Family

The LHA will maintain a re-examination tracking system and the household will be notified by mail of the date and time for their interview at least 120 days in advance of the anniversary date. If requested as an accommodation by a person with a disability, the LHA will provide the notice in an accessible format. The LHA will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

Procedure

The LHA procedure for conducting annual re-certifications will be:

- **Schedule the date and time of appointments and mail a notification to the family.**

Persons with Disabilities

Persons with Disabilities, who are unable to come to the LHA's office, will be granted an accommodation of conducting the interview **at the person's home**, upon verification that the accommodation requested meets the need presented by the disability.

Collection of Information

The LHA will allow the family to complete the re-certification form.

RE-CERTIFICATION LETTER

ATTENTION TENANTS

YOU **MUST** HAVE AVAILABLE FOR REVIEW AT THE TIME OF OUR INSPECTION, **ALL REQUIRED ITEMS CHECKED BELOW**. YOUR **FAILURE** TO DO SO **WILL** BE VIEWED AS LACK OF COOPERATION AND WILL RESULT IN **TERMINATION** PROCEDURES FROM THE RENTAL ASSISTANT PROGRAM.

DOCUMENTATION REQUIRED

- ☐ TWO RENT RECEIPTS/ CANCELED CHECKS (LATEST)
- ☐ **FIXED INCOME FROM:**
SOCIAL SECURITY SSI PENSIONS DISABILITY
WELFARE {AGENCY GRANT LETTER} OTHER
- ☐ **SS/SSI BENEFIT LETTER MUST BE PROVIDED AT RE-**
CERTIFICATION. IF LOST OR MISPLACED, CALL (1-800-772-1213) TO
OBTAIN COPY.
- ☐ FOUR PAY STUBS (LATEST)
- ☐ INCOME TAX RETURN/ 1040 FORM (LATEST)
- ☐ W-2 FORM(S) (LATEST)
- ☐ NAME AND ADDRESS OF EMPLOYER (S)
- ☐ UNEMPLOYMENT BENEFITS VERIFICATION
- ☐ DOCUMENTATION OF SUPPORT PAYMENTS (COURT ORDER OR DIVORCE DECREE)
- ☐ **DOCUMENTATION OF ASSETS AND INCOME**
SAVING ACCOUNTS PASS-BOOK CHECKING ACCOUNTS BONDS
SAVINGS CERTIFICATES STOCKS CERTIFICATES PENSIONS ETC.
- ☐ **MEDICAL EXPENSE DOCUMENTATION**
 - ☐ DOCTOR CERTIFICATION LETTER
 - ☐ PHARMACISTS CERTIFICATION LETTER
 - ☐ MEDICAL INSURANCE
 - ☐ DISABLE/ HANDICAP OR MEDICAL ASSISTANCE APPARATUS
- ☐ CHILD CARE EXPENSE
- ☐ LIFE LINE
- ☐ REQUEST FOR IRS LETTER (1722)
- ☐ FULL TIME STUDENT VERIFICATION
- ☐ BIRTH CERTIFICATE (ALL HOUSEHOLD MEMBERS)
- ☐ SOCIAL SECURITY NUMBERS (ALL)
- ☐ LANDLORD SS# OR ID#
- ☐ **IF CHECKED ACCESS IS NEEDED TO ENTER BOILER/WASHROOMS**

-

ANY AND ALL OTHER INCOME MUST BE REPORTED

**SUCH AS OVERTIME PAY, ANYONE OUTSIDE OF HOUSEHOLD
CONTRIBUTING FOR FOOD, ELECTRIC, SCHOOLING, CAR
PAYMENT/INSURANCE ETC.**

D. Requirements to Attend

The following family members will be required to attend the re-certification interview:

- The head of household only

If the household is unable to attend the interview:

- The appointment will be rescheduled
- The spouse or any adult may re-certify for the family, provided that the head comes in within 30 calendar days to re-certify

E. Failure to Respond to Notification to Re-certify

The written notification must state which family members are required to attend the interview. The family may call to request another appointment date up to 30 calendar days prior to the interview.

If the family does not appear for the re-certification interview, and has not rescheduled or made prior arrangements with the LHA, the LHA will not reschedule a second appointment.

If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, the LHA will

- Not schedule a third appointment, and
- Terminate assistance to the family, and offer them an informal hearing.

- * **The Executive Director/Designee may make exceptions to these policies if the family is able to document an emergency situation that prevented them from canceling or attending the appointment.**

Documents Required From the Family

In the notification letter to the family, the LHA will include instructions for the family to bring the following:

- Documents to support any preference claims
- Documentation of income for all family members
- Documentation of liquid and non-liquid assets

- Documentation of any deductions/allowances
- Personal Declaration Form completed by head of household
- Other [Name]

F. Verification of Information

The LHA will follow the verification procedures and guidelines described in this Plan.

Verifications for re-examinations must be less than 120 calendar days old.

LHA will use the same procedures for obtaining and verifying information provided that were used during admission.

- Head of household, spouse (regardless of age) and each additional adult living in the household must sign a form HUD-9886, Authorization for Release of information/Privacy Act Notice, of the time of initial, interim or annual re-examination.

- Documentation must be obtained in tenant file regarding third party verification of the following factors, or if third party verification was not obtained:

- ◆ Reported family annual income
- ◆ Value of assets
- ◆ Expenses related to deductions from annual income
- ◆ Other factors directly affecting the determination of adjusted income.

The LHA will compare information on the family reports to the most recent information on file to identify any discrepancies and request explanation of some, if applicable.

Families and owners will be notified in writing of the results of the re-examination and effective date of the change.

Families will be given reasonable notice of any rent increase (usually 30 days prior to the first of the month).

Continued qualification as family with disabilities.

A household must continue to qualify as a disabled family at re-examination in order to continue receiving the Disabled Household deductions.

After admission, a person with disabilities who "recovers" can remain in assisted housing, but is no longer considered a "disabled family", and cannot qualify for deductions allowed family members with disabilities.

Procedures to Follow for Families Eligible for Continued Assistance are:

- Re-examine income and family composition
- Annual unit inspections is conducted
- The owner's rent is reviewed for rent reasonableness and comparability
- The family and owner are notified of changes in subsidy and Tenant Rent.

Assistance under the contract is automatically continued if the family is eligible, unless the HAP Contract is terminated, the lease is terminated, or a new lease is offered.

- Families who intend to move are usually briefed and issued a new Voucher and applicable package.
- A new lease and Contract are prepared and executed if a family moves.

In accordance with Lease Addendum 3/96, Section 11, and Voucher Addendum 3/96, Section 12, the owner may offer the tenant a new lease at any time after the first term. The owner must give the tenant written notice of the offer of a new lease at least 60 days before the proposed beginning of the new lease term.

Tenant Rent Increases

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

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

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

Tenant Rent Decreases

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

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

G. Reporting Interim Changes

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

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

H. Interim Re-examination Policy

Residents are required to report all changes in family composition status, or income to the caseworker within ten (10) calendar days of the occurrence. Failure to report within the 10 calendar days may result in a retroactive rent charge.

Not all changes in family income between re-examinations will result in a rent change.

Rent shall be adjusted either upward or downward in cases of unanticipated changes in family circumstances. Such changes may include but are not limited to:

- *If family has an increase/decrease in income which is \$60.00 over or under.
- Loss or addition of family member
- Commencement or termination of public assistance
- Rent formulas or procedures are changed by Federal Law or Regulation
- Gain or loss of employment
- Gain or loss of family member qualifying as a full-time student

***Exceptions will be made in hardship cases. Re-determinations will be conducted for lesser amounts. Family must provide documentation supporting claim for re-determination. Each case will be considered on its own merit.**

Interim re-examinations will be conducted as necessary in accordance with changes in program requirements or administrative procedures.

LHA Errors

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

Other Interim Reporting Issues

An interim re-examination does not affect the date of the annual re-certification. An interim re-examination will be scheduled for families with zero income every 90-calendar day.

If there is a change from benefit income to employment income, the LHA will defer the family's rent increase for six months, or until the annual re-examination, in order to encourage families to move to self-sufficiency.

- This incentive will only be provided once to any family member.
- If the family member leaves the job without good cause after six months and before twelve months, the rent will be calculated retroactively to include the employment income.
- This incentive is not provided to persons who work seasonally.

In the following circumstances, the LHA may conduct the interim re-certification by mail:

- Changes that will not result in change in tenant rent or voucher size.

- Changes in incomes that are normal for the family, such as seasonal employment.
- As a reasonable accommodation when requested.

Any changes reported by participants other than those listed in this section **[will be notated in the file by the staff person but]** will not be processed between regularly scheduled annual re-certifications.

Notification of Results of Re-certifications

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

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

Timely Reporting of Changes in Income (and Assets)

Standard for Timely Reporting of Changes

The LHA requires that families report interim changes to the LHA within 10 calendar days of when the change occurs. Any information, document or signature needed from the family, which is needed to verify the change, must be provided within 10 calendar days of the change.

- * An exception will be made for AFDC recipients who obtain employment. In such cases, families will have to report within five (5) days of receipt of the Notice of Action from AFDC that shows the full adjustment for employment income.

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

Procedures when the Change is Reported in a Timely Manner

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

Increases in the Tenant Rent are effective on the first of the month following at least thirty days' notice.

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

- * The change may be implemented based on documentation provided by the family, pending third-party written verification.
- * The change will not be made until the third party verification is received.

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

If the family does not report the change within five working days as described under Timely Reporting, the family will have caused an unreasonable delay in the interim re-examination processing and the following guidelines will apply:

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

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

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

"Processed in a timely manner" means that the change goes into effect on the date it should when the family reports the change in a timely manner. If the change cannot be made effective on that date, the change is not processed by the LHA in a timely manner.

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

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

Reporting of Changes in Family Composition

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

Increases in Family Size

Increases other than by birth, adoption or court-awarded custody must have the prior approval of the owner and the LHA

- * Families who need a larger Voucher because of voluntary additions will have lower priority on the Transfer List than other families who are required to change unit size.

If a change due to birth, adoption, court-awarded custody, or need for a live-in attendant requires a larger size unit due to overcrowding; the change in Voucher shall be made effective immediately. The LHA may determine whether to issue a Voucher in this instance based on funding availability. If there is no funding availability in either program, the family will be placed on the Transfer list.

I. Continuance of Assistance for "Mixed" Families

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

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

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

All unpaid rent, damage, and vacancy loss claim forms must be fully complete when they are submitted, and they must be submitted within **10 calendar** days of the date the owner learned of the move-out.

SECTION XIII: GLOSSARY

Glossary of Terms in Subsidized Housing

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

ACC RESERVE ACCOUNT (FORMERLY "PROJECT RESERVE"). Account established by H.U.D. from amounts by which the maximum payment to the HA under the consolidated ACC (during an HA fiscal year) exceeds the amount actually approved and paid. This amount is used as the source of additional payments for the program.

ADJUSTED INCOME. Annual income, less allowable H.U.D. deductions.

ADMINISTRATIVE FEE. Fee paid by HUD to the HA for administration of the program.

ADMINISTRATIVE FEE RESERVE (Formerly "Operating reserve"). Account established by HA from excess administrative fee income. The administrative fee reserve must be used for housing purposes.

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

ANNUAL CONTRIBUTIONS CONTRACT (ACC). A written contract between HUD and an HA. Under the contract HUD agrees to provide funding for operation of the program, and the HA agrees to comply with HUD requirements for the program

ANNUAL INCOME. The anticipated total Annual Income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

ANNUAL INCOME AFTER ALLOWANCES. The Annual Income (described above) less the HUD-approved allowances.

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

"AS-PAID" STATES. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

ASSETS. (See Net Family Assets.)

CONTRACT RENT. In the Section 8 Certificate Program, Contract Rent is the total rent paid to the owner, including the tenant payment and the HAP payment from PHA.

DEPENDENT. A member of the family household (excluding foster children) other than the family head or spouse, who is under 18 years of age or is a Disabled Person or Handicapped Person, or is a full-time student 18 years of age or over.

DISABILITY ASSISTANCE EXPENSE. Anticipated costs for care attendants and auxiliary apparatus for disabled family members, which enable a family member (including the disabled family member) to work.

DISABLED PERSON. A person who is any of the following:

- (1) A person who has a disability as defined in section 223 of the Social Security Act. (42 U.S.C. 423).
- (2) A person who has a physical, mental, or emotional impairment that:
 - (i) Is expected to be of long-continued and indefinite duration;
 - (ii) Substantially impedes his or her ability to live independently; and
 - (iii) Is of such a nature that ability to live independently could be improved by more suitable housing conditions.

- (3) A person who has a developmental disability as defined in section 102 (7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 (7)).

DISABLED FAMILY. A family where the head or spouse meets any of the above criteria for disabled person.

DISPLACED PERSON/FAMILY. A person or family displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized under federal disaster relief laws.

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

DRUG-RELATED CRIMINAL ACTIVITY. The illegal manufacture, sale, distribution, use, or the possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802)).

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

ELDERLY HOUSEHOLD. A family whose head or spouse or whose sole member is at least 62 years of age; may include two or more elderly persons living together or one or more such persons living with another person who is determined to be essential to his/her care and well-being.

ELDERLY PERSON. A person who is at least 62 years old.

ELIGIBILITY INCOME. May 10, 1984, regulations deleted Eligibility Income, per se, because Annual Income is now for eligibility determination to compare to income limits.

ELIGIBLE FAMILY (Family). A family is defined by the HA in the administrative Plan, which is approved by HUD.

EXCEPTIONAL MEDICAL OR OTHER EXPENSES. Prior to the regulation change in 1982, this meant medical and/or unusual expenses as defined in Part 889, which exceeded 25% of the Annual Income. It is no longer used.

EXCEPTION RENT. In the certificate program an initial rent (contract rent plus any utility allowance) in excess of the published FMR. In the certificate program the exception rent is approved by HUD, or the HA under prescribed conditions, and is used in determining the initial contract rent. In the voucher program HA may adopt a payment standard up to the exception rent limit approved by HUD for the HA certificate program.

EXCESS MEDICAL EXPENSES. Any medical expenses incurred by elderly or disabled families only in excess of 3% of Annual Income which are not reimbursable from any other source.

EXTREMELY LOW-INCOME FAMILY. A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.

FAIR MARKET RENT (FMR). The rent including the cost of utilities (except telephone) that would be required to be paid in the housing market area to obtain privately owned existing decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. Fair market rents for existing housing are established by HUD for housing units of varying sizes (number of bedrooms) and are published in the **Federal Register**.

FAMILY. "Family" includes but is not limited:

- (a) An Elderly Family or Single Person as defined in 24 CFR 5.403 (b)
- (b) The remaining member of a tenant family, and
- (c) A Displaced Person

***(d) ["family" can be further defined by the HA.]**

FAMILY OF VETERAN OR SERVICE PERSON. A family is a "family of veteran or service person" when:

1. The veteran or service person (a) is either the head of household or is related to the head of the household; or (b) is deceased and was related to the head of the household, and was a family member at the time of death.
2. The veteran or service person, unless deceased, is living with the family or is only temporarily absent unless she/he was (a) formerly the head of the household and is permanently absent because of hospitalization, separation, or desertion, or is divorced; provided, the family contains one or more persons for whose support she/he is legally responsible and the spouse has not remarried; or (b) not the head of the household but is permanently hospitalized; provided, that she/he was a family member at the time of hospitalization and there remain in the family at least two related persons.

FAMILY SELF-SUFFICIENCY PROGRAM (FSS PROGRAM). The program established by an HA to promote self-sufficiency of assisted families, including the provision of supportive services.

FAMILY SHARE. The amount calculated by subtracting the housing assistance payment from the gross rent.

FAMILY UNIT SIZE. The size of the Certificate or Voucher issued to the family based on the HA's subsidy standards.

FEDERAL PREFERENCE. LHA has adopted the preferences as LHA Preference for admission of applicant families that are any of the following:

- (1) Involuntary displaced.

- (2) Living in substandard housing (including families that are homeless or living in a shelter for the homeless).
- (3) Paying more than 50 percent of family income for rent.

FEDERAL PREFERENCE HOLDER. Now known as LHA Preference Holder. An applicant that qualifies for LHA Preference (formerly a federal preference)

FMR/EXCEPTION RENT LIMIT. The Section 8 existing housing fair market rent published by HUD headquarters or any exception rent. In the certificate program the initial contract rent for a dwelling unit plus any utility allowance may not exceed the FMR/exception rent limit (for the dwelling unit or for the family unit size). In the voucher program the HA may adopt a payment standard up to the FMR/exception rent limit.

FOSTER CHILD CARE PAYMENT. Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

FULL-TIME STUDENT. A person who is attending school or vocational training on a full-time basis.

FUNDING INCREMENT. Each commitment of budget authority by HUD to an HA under the consolidated annual contributions contract for the HA program.

GROSS FAMILY CONTRIBUTION. Changed to Total Tenant Payment.

GROSS RENT. The sum of the Contract Rent and the utility allowance. If there is no utility allowance, Contract Rent equals Gross Rent.

GROUP FAMILY CONTRIBUTION. Changed to Total Tenant Payment.

GROSS RENT. The sum of the Contract Rent and the utility allowance. If there is no utility allowance, Contract Rent equals Gross Rent.

GROUP HOME. A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two or twelve persons who are elderly or persons with disabilities (including any live-in aide).

HAP CONTRACT. (See Housing Assistance Payments contract.)

HEAD OF HOUSEHOLD. The head of household is the person who assumes legal and financial responsibility for the household and is listed on the application as head.

HOUSING AGENCY. A state, county, municipality or other governmental entity or public body authorized to administer the program. The term "HA" includes an Indian housing authority (IHA). ("PHA" and "HA" mean the same thing.)

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974. Act in which the U.S. Housing Act of 1937 (sometimes referred to as the Act) was re-codified, and which added the Section 8 Programs.

HOUSING ASSISTANCE PAYMENT. The monthly assistance payment by an HA. The total assistance payment consists of:

- (1) A payment to the owner for rent to owner under the family's lease.
- (2) An additional payment to the family if the total assistance payment exceeds the rent to owner. The additional payment is called a "utility reimbursement" payment.

HOUSING ASSISTANCE PAYMENTS CONTRACT. (HAP contract). A written contract between an HA and an owner in the form prescribed by HUD headquarters, in which the HA agrees to make housing assistance payments to the owner on behalf of an eligible family.

HOUSING ASSISTANCE PLAN. (1) A Housing Assistance Plan submitted by a local government participating in the Community Development Block Program as part of the block grant application, in accordance with the requirement of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD. **(2)** A Housing Assistance Plan meeting the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD.

HOUSING QUALITY STANDARDS (HQS). The HUD minimum quality standards for housing assisted under the tenant-based programs.

HUD REQUIREMENTS. HUD requirements for the Section 8 programs. HUD requirements are issued by HUD headquarters as regulations. Federal Register notices or other binding program directives.

HURRA. The Housing and Urban/Rural Recovery Act of 1983 legislation that resulted in most of the 1984 HUD Regulation changes to the definition of income, allowances, and rent calculations.

IMPUTED ASSET. Asset disposed of for less than Fair Market Value during two years preceding examination or re-examination.

IMPUTED INCOME. HUD passbook rate x total cash value of assets. Calculation used when assets exceed \$5,000.

INCOME. Income from all sources of each member of the household as determined in accordance with criteria established by HUD.

INCOME FOR ELIGIBILITY. Annual Income.

INDIAN. Any person recognized as an Indian or Alaska Native by an Indian Tribe, the federal government, or any State.

INDIAN HOUSING AUTHORITY (IHA). A housing agency established either:

- (1) By exercise of the power of self-government of an Indian Tribe, independent of State law, or
- (2) By operation of State law providing specifically for housing authorities for Indians.

INTEREST REDUCTION SUBSIDIES. The monthly payments or discounts made by HUD to reduce the debt service payments and, hence, rents required on Section 236 and 221 (d)(3) BMIR projects. Includes monthly interest reduction payments made to mortgages of Section 236 projects and front-end loan discounts paid on BMIR projects.

INVOLUNTARILY DISPLACED PERSON. Involuntarily Displaced Applicants are applicants who meet the HUD definition for the federal preference.

LANDLORD. This term means either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

LARGE VERY LOW INCOME FAMILY. Prior to the 1982 regulations, this meant a very low-income family, which included six or more minors. This term is no longer used.

LEASE. A written agreement between an owner and an eligible family for the leasing of housing unit.

The Section 8 Certificate and Voucher program have an Addendum to Lease that has mandatory language which must be incorporated into any lease the HA uses. The Addenda are different for the Certificate and Voucher Programs.

LIVE-IN AIDE. A person who resides with an elderly person or disabled person and who:

- (1) Is determined to be essential to the care and well being of the person.
- (2) Is not obligated for the support of the person.
- (3) Would not be living in the unit except to provide necessary supportive services.

LOCAL PREFERENCE. A preference used by the HA to select among applicant families without regard to their LHA preference status.

LOW-INCOME FAMILY. A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. For admission to the certificate program, HUD may establish income limits higher or lower than 80 percent of the median income for the area on the basis of its finding that such variations are necessary because of the prevailing levels of construction costs or unusually high or low family incomes.

MARKET RENT. The rent HUD authorizes the owner of the FHA insured/subsidized multi-family housing to collect from families ineligible for assistance. For unsubsidized units in an FHA-insured multi-family project in which a portion of the total units receive project-based rental assistance, under the Rental Supplement or Section 202/Section 8 Programs, the Market Rate Rent is that rent approved by HUD and is the Contract Rent for a Section 8 Certificate holder. For BMIR units, Market Rent varies by whether the project is a rental or cooperative.

MEDICAL EXPENSES. Those total medical expenses, including medical insurance premiums, that are anticipated during the period for which Annual Income is computed, and that are not covered by insurance. A deduction for Elderly Households only. These

allowances are given when calculated adjusted income for medical expenses is in excess of 3% of Annual Income.

MINOR. A member of the family household (excluding foster children) other than the family head or spouse who is under 18 years of age.

MONTHLY ADJUSTED INCOME. 1/12 of the Annual Income after Allowances or Adjusted Income.

MONTHLY INCOME. 1/12 of the Annual Income.

NEGATIVE RENT. Now called Utility Reimbursement. A negative Tenant Rent results in a Utility Reimbursement Payment (URP)

NET FAMILY ASSETS. Value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles and is excluded from the definition.

NET FAMILY CONTRIBUTION. Former name for Tenant Rent.

OCCUPANCY STANDARDS [Now referred to as Subsidy Standards] Standards established by an HA to determine the appropriate number of bedrooms for families of different sizes and compositions.

OWNER. Any persons or entity having the legal right to lease or sublease housing.

PARTICIPANT. A family that has been admitted to the HA's certificate program or voucher program. The family becomes a participant on the effective date of the first HAP contract executed by the HA for the family (First day of initial lease term).

PAYMENT STANDARD. The amount used to calculate the housing assistance a family will receive in the HA's Housing Voucher Program.

PUBLIC ASSISTANCE. Welfare or other payments to families or individuals based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

PUBLIC HOUSING AGENCY (PHA). A state, county, municipality, or other governmental entity or public body authorized to administer the programs, the term "PHA" includes an Indian housing Authority (IHA) ("PHA" and "HA" mean the same thing.) In this rule, a "PHA" is referred to as a "housing agency" (HA).

RANKING PREFERENCE. A preference used by the HA to select among applicant families that qualify for LHA preference.

RECERTIFICATION. Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported. There are annual and interim re-certifications.

REGULAR TENANCY. In the Certificate program: A tenancy other than an over-FMR tenancy.

REMAINING MEMBER OF TENANT FAMILY. Person left in assisted housing after other family members have left and become unassisted.

RENT TO OWNER. The total monthly rent payable to the owner under the lease for the unit. Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

RESIDENT ASSISTANT. A person who lives in an Independent Group Residence and provides on a daily basis some or all of the necessary services to elderly, handicapped, and disabled individuals receiving Section 8 housing assistance and who is essential to these individuals' care or well-being. A Resident Assistant shall not be related by blood, marriage or operation of law to individuals receiving Section 8 assistance nor contribute to a portion of his/her income or resources towards the expenses of these individuals.

RESPONSIBLE ENTITY. For the public housing and Section 8 tenant-based assistance, project-based certificate assistance and moderate rehabilitation program, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

SECRETARY. The Secretary of Housing and Urban Development.

SECURITY DEPOSIT. A dollar amount, which can be applied to unpaid rent, damages or other amounts to the owner under the lease.

SERVICE PERSON. A person in the active military or naval service (including the active reserve) of the United States.

SINGLE PERSON. A person living alone or intending to live alone.

SPECIAL ADMISSION. Admission of an applicant that is not on the HA waiting list or without considering the applicant's waiting list position.

SPECIAL HOUSING TYPES. See Subpart M of 24 CFR 982, which states the special regulatory requirements for SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

SPOUSE. The husband or wife of the head of the household.

SUBSIDIZED PROJECT. A multi-family housing project (with the exception of a project owned by a cooperative housing mortgage corporation or association) which receives the benefit of subsidy in the form of:

1. Below-market interest rates pursuant to Section 221 (d)(3) and (5) or interest reduction payments pursuant to Section 236 of the National Housing Act; or
2. Rent supplement payments under Section 101 of the Housing and Urban Development Act of 1965; or

3. Direct loans pursuant to Section 202 of the Housing Act of 1959; or
4. Payments under the Section 23 Housing Assistance Payments Program pursuant to Section 23 of the United States Housing Act of 1937 prior to amendment by the Housing and Community Development Act of 1974;
5. Payments under the Section 8 Housing Assistance Payments Program pursuant to Section 8 of the United States Housing Act after amendment by the Housing and Community Development Act unless the project is owned by a Public Housing Agency;
6. A Public Housing Project.

SUBSIDY STANDARDS. Standards established by an HA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

SUBSTANDARD UNIT. HUD defines substandard housing for use as a LHA preference (formerly federal preference).

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

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

TENANT RENT. The amount payable monthly by the family as rent to the unit owner (Section 8 owner or PHA in public housing).

TOTAL TENANT PAYMENT (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

UNIT. Residential space for the private use of a family.

UNUSUAL EXPENSES. Prior to the change in the 1982 regulations, this was the term applied to the amounts paid by the family for the care of minors under 13 years of age or for the care of disabled or handicapped family household members, but only where such care was necessary to enable a family member to be gainfully employed.

UTILITIES. Utilities means water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection and sewage services. Telephone service is not included as a utility.

VERY LOW INCOME FAMILY. A Lower-Income Family whose Annual Income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the Certificate and Voucher Programs.

VETERAN. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

WAITING LIST. A list of families organized according to HUD regulations and HA policy who are waiting for subsidy to become available.

WELFARE ASSISTANCE. Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, state, or local governments.

WELFARE RENT. This concept is used ONLY for Section 8 Certificate tenants who received welfare assistance on an "AS-PAID" basis. It is not used for the Housing Voucher Program.

- (1) If the agency does NOT apply a ratable reduction, this is the maximum a public assistance agency COULD give a family for shelter and utilities, NOT the amount the family is receiving at the time the certification or re-certification is being processed.
- (2) If the agency applies a ratable reduction, welfare rent is a percentage of the maximum the agency could allow.

Glossary of Terms Used in the Noncitizens Rule

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

CITIZEN. A citizen or national of the United States.

EVIDENCE. Evidence of citizenship or eligible immigration status means the documents, which must be submitted to evidence citizenship or eligible immigration status.

HA. A housing authority - either a public housing agency or an Indian housing authority or both.

HEAD OF HOUSEHOLD. The adult member of the family who is the head of the household for purpose of determining income eligibility and rent.

HUD. Department of Housing and Urban Development.

INS. The U.S. Immigration and Naturalization Service.

MIXED FAMILY. A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status.

NATIONAL. A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

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

PHA. A housing authority that operates Public Housing.

RESPONSIBLE ENTITY. The person or entity responsible for administering the restrictions on providing assistance to non-citizens with ineligible immigration status specified in Section 214.

SECTION 214. Section 213 restricts HUD from making financial assistance available for non-citizens unless they meet one of the categories of eligible immigration status specified in Section 214.

SPOUSE. Spouse refers to the marriage partner, either a husband or wife, who is someone you need to divorce in order to dissolve the relationship. It includes the partner in a common-law marriage. It does not cover boyfriends, girlfriends, significant others, or "co-heads." "Co-head" is a term recognized by some HUD programs, but not by public and Indian housing programs.