

# PORTLAND HOUSING AUTHORITY

## **Administrative Plan**

### Section 8 Programs

Effective July 1, 2010

Portland Housing Authority  
14 Baxter Blvd.  
Portland, ME 04101

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## Chapter 1

### STATEMENT OF POLICIES AND OBJECTIVES

#### **INTRODUCTION**

The Section 8 Program was enacted as part of the Housing and Community Development Act of 1974, which re-codified the U.S. Housing Act of 1937. The Act has been amended from time to time, and its requirements, as they apply to the Section 8 Assistance Programs, is described in and implemented throughout this Administrative Plan. The Section 8 Assistance Programs are federally funded and administered for the City of Portland by the Portland Housing Authority through its Section 8 housing office.

Administration of the Section 8 Assistance Programs and the functions and responsibilities of the Housing Authority (HA) staff shall be in compliance with the HA's Personnel Policy and the Department of Housing and Urban Development's (HUD) Section 8 Regulations as well as all Federal, State and local Fair Housing Laws and Regulations.

#### **Jurisdiction**

The jurisdiction of the HA is the City of Portland and a ten mile radius excluding the City of South Portland.

#### **A. HOUSING AUTHORITY MISSION STATEMENT (PHA-5Year Plan)**

The Portland Housing Authority will provide quality affordable housing opportunities. We will partner with those we serve and appropriate agencies to enhance the quality of life in our community and challenge all to achieve excellence.

#### **B. HOUSING AUTHORITY GOALS**

The Portland Housing Authority shall maintain its status as a high performing housing authority under PHAS and under SEMAP.

- Educate the staff on the requirements of SEMAP.
- Adopt operational policies and procedures necessary to achieve the SEMAP goal.
- Incorporate SEMAP standards into employee performance evaluations.
- Provide the media with at least 3 positive stories about Section 8 a year and have a S8 Representative speak to at least two public groups each year.
- Take all necessary steps to prevent program fraud.

The Portland Housing Authority shall improve its collaborations with its community agency partners in order to assist our residents and those in need of housing assistance.

- Enhance the Portland Housing Authority Web Site to provide additional information to our partners.
- Increase the usage of interagency meetings and roundtables with our partners.
- Streamline the process our partners need to utilize to effectively work with PHA.
- Maintain a Section 8 "point of contact" to provide better service and a more timely response to our partners and the people we serve.
- With the help of our agency partners, the Portland Housing Authority will work to streamline the process it uses to house people.

The Portland Housing Authority shall work with HUD, City and State to create more affordable Housing Units.

- Investigate every possible HUD funding opportunity and apply for funding that is appropriate.
- Encourage development partners and mixed financing opportunities.
- Work with city government to create more affordable rental housing.
- Develop and implement a landlord outreach program to keep Landlords informed of PHA Policy and HUD Regulations.

### **C. PURPOSE OF THE PLAN**

The purpose of the Administrative Plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local objectives. The Plan covers both admission and continued participation in the Housing Choice Voucher, Special Housing and Moderate Rehabilitation Programs. Policies are the same for both programs unless otherwise noted.

The HA is responsible for complying with all changes in HUD regulations pertaining to these programs. If such changes conflict with this Plan, HUD regulations will have precedence. The Portland Housing Board of Commissioners must approve the original Plan and any changes and a copy provided to HUD.

This Administrative Plan is a supporting document to the PHA Agency Plan, and is available for public review as required by CFR 24 Part 903.

Applicable regulations include but are not limited to in whole or in part:

:

24 CFR Part 1:	Non-Discrimination
24 CFR Part 5:	General Program Requirements
24 CFR Part 8:	Non-discrimination
24 CFR Part 35:	Lead-Based Paint
24 CFR Part 100:	Discriminatory Conduct
24 CFR Part 103:	Fair Housing Complaint Processing
24 CFR Part 982:	Section 8 Tenant-Based Assistance
24 CFR Part 983:	Project-Based Voucher Program

Local rules that are made part of this plan are intended to promote local housing objectives consistent with the intent of the federal housing legislation.

### **D. ADMINISTRATIVE FEE RESERVE**

The Executive Director, CEO of the Portland Housing Authority, will approve all expenditures from the Administrative Fee Reserve.

### **E. RULES AND REGULATIONS**

This Administrative Plan is set forth to define the HA's local policies for operation of the housing programs in the context of Federal laws and Regulations. All issues related to Section 8 not addressed in this document are governed by: Federal regulations, HUD Memos, Notices and guidelines, or other applicable law. The policies in this Administrative Plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

## **F. TERMINOLOGY**

The Housing Authority of Portland is referred to as "HA" or "Housing Authority" throughout this document.

"Family" is used interchangeably with "Applicant" or "Participant" and can refer to a single person family.

"Tenant" is used to refer to participants in terms of their relation to landlords.

"Landlord" and "owner" are used interchangeably.

"Non-citizens Rule" refers to the regulation effective June 19, 1995 restricting assistance to U.S. citizens and eligible immigrants.

The Section 8 Programs are also known as the Housing Choice Voucher Program, "Special Housing Types" and Moderate Rehabilitation Program

"HQS" means the Housing Quality Standards required by regulations as enhanced by the HA.

See Glossary for other terminology.

## **G. FAIR HOUSING POLICY**

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

The HA shall not deny any family or individual the opportunity to apply for or receive assistance under the Section 8 Programs on the basis of race, color, sex, religion, creed, national or ethnic origin, age, familial or marital status, handicap or disability or sexual orientation.

To further its commitment to full compliance with applicable Civil Rights laws, the HA will provide Federal/State/local information to Section 8 Participants regarding "discrimination" and any recourse available to them if they are victims of discrimination. Such information will be made available during the family briefing session, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made a part of the Voucher holder's briefing packet and available upon request at the front desk.

All Housing Authority staff will be required to attend fair housing training and informed of the importance of affirmatively furthering fair housing and providing equal opportunity to all families, including providing reasonable accommodations to persons with disabilities, as part of the overall commitment to quality customer service. Fair Housing posters are posted throughout the Housing Authority's office(s), including in the lobby and interview rooms and the equal opportunity logo will be used on all outreach materials. Staff will attend local fair housing update training sponsored by HUD and other local organizations to keep current with new developments.

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

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

The HA's office is accessible to persons with disabilities. The TTD/TDY telephone number provides accessibility for the hearing impaired. AT&T interpreter service and contracted interpreter services are available for LEP families.

## **H. REASONABLE ACCOMMODATIONS POLICY**

It is the policy of this PHA 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 families.

A participant with a disability must first ask for a specific change to a policy or practice as an accommodation of their disability before the PHA will treat a person differently than anyone else. The PHA's policies and practices will be designed to provide assurances that persons with disabilities will be given reasonable accommodations, upon request, so that they may fully access and utilize the housing program and related services. The availability of requesting an accommodation will be made known by including notices on PHA forms and letters. This policy is intended to afford persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those who do not have disabilities and is applicable to all situations described in this Administrative Plan including when a family initiates contact with the PHA, when the PHA initiates contact with a family including when a family applies, and when the PHA schedules or reschedules appointments of any kind.

- Section 8 Reasonable Accommodation Procedures must be followed at all times.

To be eligible to request a reasonable accommodation, the requester must first certify (if apparent) or verify (if not apparent) that they are a person with a disability under the following ADA definition:

A physical or mental impairment that substantially limits one or more of the major life activities of an individual;

A record of such impairment; or

Being regarded as having such an impairment

*Note: This is not the same as the HUD definition used for purposes of determining allowances.*

Rehabilitated former drug users and alcoholics are covered under the ADA. However, a current drug user is not covered. In accordance with 5.403, individuals are not considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence. Individuals whose drug or alcohol addiction is a material factor to their disability are excluded from the definition. Individuals are considered disabled if disabling mental and physical limitations would persist if drug or alcohol abuse discontinued.

Once the person's status as a qualified person with a disability is confirmed, the PHA will require that a professional third party, competent to make the assessment, provides written verification that the person needs the specific accommodation due to their disability and the change is required for them to have equal access to the housing program. If the PHA finds that the reason for the request does not deny equal access to the housing program the PHA will deny the request.

If the PHA finds that the requested accommodation creates an undue administrative or financial burden, the PHA will deny the request and/or present an alternate accommodation that will still meet the need of the person.

- An undue administrative burden is one that requires a fundamental alteration of the essential functions of the PHA (i.e., waiving a family obligation).
- An undue financial burden is one that when considering the available resources of the agency as a whole, the requested accommodation would pose a severe financial hardship on the PHA.

The PHA will provide a written decision to the person requesting the accommodation within a reasonable time. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, they may request an informal hearing to review the PHA's decision.

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

The reasonable accommodation will be reviewed each year if the original accommodation was based on a condition that was determined to be of short term. The accommodation will be re-verified if the situation warrants such.

### **Verification of Disability**

The PHA will verify disabilities under definitions in the Fair Housing Amendments Act of 1988, Section 504 of the 1973 Rehabilitation Act, and Americans with Disabilities Act.

### **Applying for Admission**

All persons who wish to apply for any of the PHA's programs must submit a *pre*-application, as indicated in our public notice.

To provide specific accommodation to persons with disabilities, upon request, the information may be mailed to the applicant.

The full application is completed at the eligibility appointment in the applicant's own handwriting, unless assistance is needed, or a request for accommodation is requested by a person with a disability. Applicants will be interviewed in order to review the information on the full application form. Verification of disability as it relates to 504, Fair Housing, or ADA reasonable accommodation will be requested at this time. The full application will also include questions asking all applicants whether reasonable accommodations are necessary.

## **I. TRANSLATION OF DOCUMENTS AND INTERPRETER SERVICE**

The Housing Authority, with a reasonable notice, will provide for persons with Limited English Proficiency (LEP).

In determining whether it is feasible to provide translation of documents written in English into other languages, the HA will consider the following factors:

Number of LEP applicants and participants in the HA's jurisdiction,

Estimated cost to PHA per client of translation of English written documents into the other language, and

The availability of local organizations that provide translation services.

In recognition of our diverse client population, the Portland Housing Authority provides appropriate translation and interpretation services to make its programs accessible to LEP applicants and participants.

## **J. SERVICE AND ACCOMMODATIONS POLICY**

This policy is applicable to all situations described in this Admissions and Continued Occupancy Policy when a family initiates contact with the PHA, when the PHA initiates contact with a family, including when a family applies, and when the PHA schedules or reschedules appointments of any kind. It is the policy of this HA to be service-directed in the administration of our housing programs and to exercise and demonstrate a high level of professionalism while providing housing services to the families within our jurisdiction. The HA's policies and practices will be designed to assure that all persons with disabilities will be provided reasonable accommodation so that they may fully access and utilize the housing programs and related services. The availability of specific accommodations will be made known by including notices on PHA forms and letters to all families, and all requests will be verified so that the HA can properly accommodate the need presented by the disability.

### **Undue Burden**

Requests for reasonable accommodation from persons with disabilities will be granted upon verification that they meet the need presented by the disability and they do not create an "undue financial and administrative burden" for the HA, meaning an action requiring "significant difficulty or expense". This standard is not specifically defined in the Act.

In determining whether accommodation would create an undue burden, the following guidelines will apply:

The nature and cost of the accommodation needed;

The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; and

The number of persons employed at such facility, the number of families likely to need such accommodation, the effect on expenses and resources, or the likely impact on the operation of the facility as a result of the accommodation.

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

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

The Housing Authority utilizes organizations, which provide assistance for hearing and sight-impaired persons when needed.

A list of known accessible units will be provided.

The HA will refer families who have persons with disabilities to agencies in the community that offer services to persons with disabilities.

### **Reasonable Accommodation**

Sometimes people with disabilities may need a reasonable accommodation in order to take full advantage of the Portland Housing Authority's housing programs and related services. When such accommodations are granted, they do not confer special treatment or advantage for the person with a disability; rather, they make the program accessible to them in a way that would otherwise not be possible due to their disability. This policy clarifies how people can request accommodations and the guidelines the Portland Housing Authority will follow in determining whether it is reasonable to provide a requested accommodation. Because disabilities are not always apparent, the Portland Housing Authority will ensure that all applicants/tenants are aware of the opportunity to request reasonable accommodations.

### **Communication**

Anyone requesting a Reasonable Accommodation will receive a Request for Reasonable Accommodation form.

Notifications of re-examination, inspection, appointment or eviction will include information about requesting a reasonable accommodation. Any notification requesting action by the tenant will include information about requesting a reasonable accommodation.

### **Questions to Ask in Granting the Accommodation**

- A. Is the requester a person with disabilities? For this purpose, the definition of person with disabilities is different than the definition used for admission. The Fair Housing definition used for this purpose is:

*A person with a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment or is regarded as having such an impairment.*

*(The disability may not be apparent to others, i.e., a heart condition).*

If the disability is not apparent or documented, the Portland Housing Authority will obtain verification that the person is a person with a disability.

- B. Is the requested accommodation related to the disability? If it is apparent that the request is related to the apparent or documented disability, the answer to this question is yes. If it is not apparent, the Portland Housing Authority will obtain documentation that the requested accommodation is needed due to the disability. The Portland Housing Authority will not inquire as to the nature of the disability.
- C. Is the requested accommodation reasonable? In order to be determined reasonable, the accommodation must meet two criteria:
1. Would the accommodation constitute a fundamental alteration? The Portland Housing Authority's business is housing. If the request would alter the fundamental business that the Portland Housing Authority conducts, that would not be reasonable. For instance, the Portland Housing Authority would deny a request to have the Portland Housing Authority do grocery shopping for a person with disabilities.
  2. Would the requested accommodation create an undue financial hardship or administrative burden? Frequently the requested accommodation costs little or nothing. If the cost would be an undue burden, the Portland Housing Authority may request a meeting with the individual to investigate and consider equally effective alternatives.

### **Re-certification by Mail**

The PHA may permit the family to submit annual and interim re-certification forms through the mail when the PHA has determined that the request is necessary as a reasonable accommodation. The mail-in packet will include notice to the family of the HA's deadline for returning the completed forms to the HA.

If there is more than one adult member in the household, but only one is disabled, re-certifications will not be processed through the mail. In such cases, the able adult family members will be required to come in for the appointment but will be allowed to take the necessary forms home to the member with a disability for completion and signature.

### **Home Visits**

When requested and where the need for reasonable accommodation has been established, the PHA will conduct home visits to residents to conduct annual and interim re-certifications.

Requests for home visit re-certifications must be received by the PHA at least 10 working days before the scheduled appointment date in order for the request to be considered.

The HA will not consider home visit re-certifications which are requested after the scheduled appointment has been missed.

### **Other Accommodations**

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

The HA will refer families who have persons with disabilities to agencies in the community that offer services to persons with disabilities.

#### **K. 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 areas of measurement for the following HUD SEMAP indicators.

- Selection from the Waiting List
- Reasonable Rent
- Determination of Adjusted Income
- Utility Allowance Schedule
- HQS Quality Control Inspections
- HQS Enforcement
- Expanding Housing Opportunities
- Payment Standards
- Timely Annual Re-examinations
- Correct Tenant Rent Calculations
- Pre-Contract HQS Inspections
- Annual HQS Inspections
- Lease-up
- Family self-sufficiency Enrollment and Escrow Account Balances
- Bonus Indicator De-concentration

The new PH Reform Act decreases the required size of the PHA's FSS program by one for each family that fulfills its obligations under the contract of participation. The Expanding Housing Opportunities indicator only applies to PHAs who operate within a Metropolitan Statistical Area (MSA.)

Supervisory quality control reviews will be performed by a PHA Supervisor or other qualified person other than the person who performed the work, as required by HUD, on the following SEMAP factors:

- Selection from the waiting list
- Rent reasonableness
- Determination of adjusted income
- HQS Enforcement
- HQS Quality Control

The annual sample of files and records will be drawn in an unbiased manner, leaving a clear audit trail. The minimum sample size to be reviewed will relate directly to each factor.

#### **L. RECORDS FOR MONITORING PHA PERFORMANCE**

In order to demonstrate compliance with HUD and other pertinent regulations, the PHA will maintain records, reports and other documentation in accordance with HUD requirements and in a manner that will allow an auditor, housing professional or other interested party to follow, monitor and or assess the PHA's operational procedures objectively and with accuracy and in accordance with SEMAP requirements with internal supervisory audits.

## **M. PRIVACY OF INFORMATION**

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

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

Any and all information which would lead one to determine the nature and/or severity of a person's disability must be kept in a separate folder and marked "confidential" or returned to the family member after its use. The personal information in this folder must not be released except on an "as needed" basis in cases where an accommodation is under consideration. The Director of Housing Services or designee must approve all requests for access and granting of accommodations based on this information.

The PHA's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files will be stored in a secure location, which is only accessible by authorized staff.

PHA 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.

## **N. FAMILY OUTREACH**

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

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

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

## **O. OWNER OUTREACH**

The PHA makes a concerted effort to keep private owners informed of legislative changes in the tenant-based program, which are designed to make the program more attractive to owners. This includes informing participant owners of applicable legislative changes in program requirements.

The PHA encourages owners of decent, safe and sanitary housing units to lease to Section 8 families.

The PHA encourages participation by owners of suitable units located outside areas of low poverty or minority concentration.

The PHA attends meetings with participating owners to improve owner relations and to recruit new owners.

The PHA 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/units will be provided at the front desk, mailed on request and provided at briefings.

The staff of the PHA 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 PHA has active participation in a community-based organization(s) comprised of private property and apartment owners and managers.

The PHA encourages program participation by owners of units located outside areas of poverty or minority concentration. The PHA periodically evaluates the demographic distribution of assisted families to identify areas within the jurisdiction where owner outreach should be targeted. The purpose of these activities is to provide more choice and better housing opportunities to families. Voucher holders are informed of a broad range of areas where they may lease units inside the PHA's jurisdiction and given a list of landlords or other parties who are willing to lease units or help families who desire to live outside areas of poverty or minority concentration.

The PHA shall periodically:

- Request the HUD Field Office to furnish a list of HUD-held properties available for rent.

- Develop working relationships with owners and real estate broker associations.

- Establish contact with civic, charitable or neighborhood organizations which have an interest in housing for low-income families and public agencies concerned with obtaining housing for displacements.

- Explain the program, including equal opportunity requirements and nondiscrimination requirements, including Fair Housing Amendments Act of 1988 and Americans with Disabilities Act, to real estate agents, landlords, and other groups that have dealings with low-income families or are interested in housing such families.

## Chapter 2

### ELIGIBILITY FOR ADMISSION

#### INTRODUCTION

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

#### A. ELIGIBILITY FACTORS

The PHA accepts applications only from Families whose head or spouse is at least 18 years of age or is an emancipated minor under State Law.

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

HUD eligibility criteria:

An applicant must be a "family" (as defined by the PHA).

An applicant must be within the appropriate Income Limits.

An applicant must furnish Social Security Numbers for all family members.

Only family member who are citizens, nationals, or non citizens who have eligible status under any of the categories set forth in Sec. 214 of the Housing and Community Act of 1980 (24USC 1436a(a)) may receive assistance.

The Family's initial eligibility for placement on the waiting list will be made in accordance with the following preliminary eligibility factor:

An applicant's income must be at or below 50% of medium (very low income).

#### B. FAMILY COMPOSITION

To receive assistance the applicant must qualify as a "Family". A family may be a single person or a group of persons.

A Family with minor(s) or dependent(s)

A group of persons living together which includes minor children or dependent persons. These minors and dependents must be the legal responsibility of an adult member of the family. One or two persons living together (neither is a minor child or dependent) and the head of household or spouse is pregnant is considered a family with minor(s).

A minor child is an unemancipated person under the age of 18 years.

A dependent is a disabled person of any age or any other person who is 18 years of age or older who is claimed as a dependent under IRS rules.

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

#### **Elderly/Disabled Family**

A single elderly or disabled person who lives alone or intends to live alone; two or more elderly and/or disabled persons living together; or two or more persons living together and an elderly or disabled person is the head of household or spouse.

(An elderly or disabled family is any family in which the head or spouse (or sole member) qualifies under the \$400 mandatory deduction.)

#### **Single Person Family**

A single person who does not qualify as an elderly person or disabled person who lives alone or intends to live alone.

#### **Other Family**

Two or more individuals who are not related by blood, marriage, adoption or other operation of law but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family; or two related adults one of whom is not a dependent under IRS rules.

#### **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**

Spouse means the husband or wife of the head of household. The spouse is: the marriage partner who, in order to dissolve the relationship, would have to be divorced. It includes the partner in a common law marriage and domestic partners. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

#### **Co-Head**

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.

#### **Domestic Partner**

Domestic partner shall mean a person who is neither married nor related by blood or marriage; it is the persons sole spousal equivalent irrespective of their genders; lives together with the person in the same residence and intends to do so indefinitely; are responsible for each other's welfare. A domestic partner relationship may be demonstrated by any three of the following types of documentation:

- a) A joint lease,
- b) Designation of the domestic partner as beneficiary of life insurance,

- c) Domestic partnership agreement,
- d) Powers of attorney for property and/or health care,
- e) Joint ownership of either a motor vehicle, checking account or credit account

### **Live-in Attendants**

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

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

Is not obligated for the support of the person(s).

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:

Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.

Live-in aides are not subject to Non-Citizen Rule requirements.

Live-in aides may not be considered as a remaining member of the tenant family.

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.

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

The PHA will approve a live-in aide if needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability. Approval of a live-in aide for reasonable accommodation will be in accordance with CFR 24 Part 8 and the reasonable accommodations section in Chapter 1 of this administrative plan.

Verification must include the hours the care will be provided.

The HA will refuse to approve a particular person as a live-in aide or may withdraw such approval if:

The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;

The person commits drug-related criminal activity or violent criminal activity; or

The person currently owes rent or other amounts to the HA or to another HA in connection with any federal housing assistance program.

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

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

Which family member applied as head of household.

Which family unit retains the children or any disabled or elderly members.

Restrictions that were in place at the time the family applied.

Certification of the 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 HA.

### **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.

When both parents are on the Waiting List and both are trying to claim the child, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

## **C. INCOME LIMITATIONS**

To be eligible for assistance, an applicant must:

Have an Annual Income at the time of admission that does not exceed the very low-income limits for occupancy established by HUD.

To be income eligible the applicant must be a family in the very low income category, which is a family whose income does not exceed 50 percent of the area median income. The HA will not admit families whose income exceeds 50 percent of the area median income except those families included in any of the following categories:

A low-income family that is continuously assisted under the 1937 Housing Act. An applicant is continuously assisted if the family has received assistance under any 1937 Housing Act program within 120 days of voucher issuance. Programs include any housing federally assisted under the 1937 Housing Act.

A low-income family physically displaced by rental rehabilitation activity under 24 CFR part 511.

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

A low-income non-purchasing family residing in a project subject to a home-ownership programs under 24 CFR 248.173.

A low-income family or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of mortgage insurance contracts under 24 CFR 248.165.

A low-income family that qualifies for Voucher assistance as a non-purchasing family residing in a project subject to a resident home ownership program

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

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

#### **D. MANDATORY SOCIAL SECURITY NUMBERS**

Families are required to provide verification of Social Security Numbers for all family members prior to admission, if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program. PHA requires the opportunity to view the Social Security Number for each family member and a copy be made of the document with it.

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

Persons who have not been issued a Social Security Number must make application for one and produce the card or Social Security letter to verify its issuance within sixty (60) days of the request.

#### **E. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS**

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

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

Citizens of Freely Associated States are eligible for both public housing and Section 8, "Citizens of the Republic of Marshall Islands, the Federated States of Micronesia, or the Republic of Palau. However, they are not entitled to housing assistance in preference to any United States citizen or national resident within Guam."

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

All members ineligible. Applicant families that include only ineligible members are ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Non-citizen Student. Defined by HUD in the non-citizen regulations is not eligible for assistance.

Illegal Alien. Not eligible for assistance.

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

#### **Verification of Status Before Admission**

The HA will not provide assistance to families prior to the verification of citizenship/eligible immigration status of the family pursuant to this section.

#### **F. OTHER CRITERIA FOR ADMISSIONS**

A family will be denied admission to the program if any member of the family fails to sign and submit consent forms for obtaining information required by the PHA, including Form HUD-9886.

The HA will apply the following additional criteria as grounds for denial of admission to the program.

The family must not have violated any family obligation and/or been evicted for a serious violation of the Lease during a previous participation in Section 8, Public Housing or other HUD Housing Program for three years prior to final eligibility determination.

The HA may make an exception, if the family member who violated the family obligation is not a current member of the household on the application or if a family member was a victim of domestic violence, dating violence, or stalking and the violation of family obligations was the result of the actions of the perpetrator of the domestic violence, dating violence or stalking. That an applicant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of admission of an otherwise qualified applicant.

The family must pay any outstanding debt owed PHA or another HA as a result of prior participation in any federal housing program prior to admission. Only if the family is in good standing with any current payment agreement made with PHA or another HA for a previous debt incurred, will PHA allow participation in its Section 8 Programs.

The HA will check criminal history for all adults in the household to determine whether any member of the family has violated any of the prohibited behaviors as referenced in "Denial or Termination of Assistance" Chapter 15.

If any applicant deliberately misrepresents the information on which eligibility or tenant rent is established, the HA may deny assistance and may refer the family file/record to the proper authorities for appropriate disposition. (See Program Integrity Addendum).

#### **G. TENANT SCREENING**

The HA will take into consideration any of the criteria for admission described in "Denial or Termination of Assistance" Chapter 15.

The HA will not screen family behavior or suitability for tenancy. The HA will not be liable or responsible to the owner or other persons for the family's behavior or the family's conduct in tenancy.

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

The owner is responsible for screening families based on their tenancy histories, including such factors as:

Payment of rent and utility bills

Caring for a 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

Compliance with other essential conditions of tenancy

The PHA upon request will give the owner:

The family's current and prior address as shown in the PHA's records; and

The name and address (if known by the PHA) of the landlord at the family's current and prior address.

The HA will advise and assist families to file a complaint if they believe they have been discriminated against by an owner. The HA may also report the owner to HUD (Fair Housing/Equal Opportunity) or the Maine Human Rights Commission.

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

Changes that occur during the period between issuance of a voucher and lease up may affect the family's eligibility or share of the rental payment. Changes must be reported prior to execution of the lease, addendum to lease and HAP Contract. Failure to report changes may result in termination from the program.

#### **I. 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. See "Complaints and Appeals" chapter for additional information about reviews and hearings.

#### **J. PROHIBITED ADMISSIONS CRITERIA**

Admission to the program may not be based on where the family lives before admission to the program. However, families who do not reside in PHA's jurisdiction at the time of application must lease up in the PHA jurisdiction for 12 months prior to eligibility for portability. Admission to the program may not be based on

Where a family lives prior to admission to the program.

Where the family will live with assistance under the program.

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.

Whether a family decides to participate in a family self-sufficiency program; or

Other reasons as listed in the "Statement of Policies and Objectives" chapter under the Fair Housing and Reasonable Accommodations sections.

#### **K. INCOME TARGETING**

In each fiscal year, at least 75 percent of the PHA's new admissions to the Voucher program must have incomes that do not exceed 30% of the area median income (extremely low income) as published by HUD. The income targeting requirements apply to the total of admissions to PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the PHA's waiting list for the programs.

When requested, HUD may approve different targeting requirements for the PHA, if providing tenant-based assistance for a preservation prepayment or an owner opt out would interfere with the PHA's income targeting requirements.

## Chapter 3

### APPLYING FOR ADMISSION

#### **INTRODUCTION**

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

#### **A. OVERVIEW OF THE APPLICATION TAKING PROCESS**

The purpose of application taking is to permit the HA to gather information and determine placement on the waiting list. The application will contain questions designed to obtain pertinent program information.

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

When the applicable waiting list is open, any family asking to be placed on the waiting list for a Section 8 rental assistance program will be given the opportunity to complete an application.

Applications will be mailed to interested families upon request.

The application process will involve two phases. The first is the "initial" application for assistance (referred to as pre-application). This first phase results in the family's placement on the waiting list.

The pre-application will be dated, time-stamped, and referred to the PHA's eligibility office where it will be screened for preliminary eligibility criteria (see Chapter 2 Section A).

The second phase is the "final determination of eligibility" (final eligibility). The full application takes place when the family reaches the top of the waiting list. At this time the HA ensures that verification of all HUD and HA eligibility factors is current in order to determine the family's eligibility for the issuance of a Housing Choice Voucher Program or admission to a unit under the Moderate Rehabilitation or Project-Based Voucher Programs.

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

The HA will utilize the following procedures for opening/closing of waiting lists:

The HA may open or close a list by local preference category.

The HA may, at its discretion, restrict application opening, suspend application intake, and close a wait list in whole or in part.

When the HA opens a waiting list, the HA will advertise through public notice in the Portland newspapers.

Notice *may* also be posted at:

NAACP	PINE TREE LEGAL
ASPIRE (DHS)	PROP
PROP Headstart	Community Health Services
Portland Adult Education	City Public Health
East End Children's Workshop	Training Resource Center (TRC)
Preble Street Resource Center	YWCA
YMCA	Southern Maine Area Agency on Aging
Refugee Resettlement Program	United Way
City of Portland Social Services	Family Crisis Center

The notice will contain:

The programs for which applications will be taken.

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

A brief description of the program.

Limitations, if any, on whom may apply.

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

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

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover and new allocations over the next 12 months. When the period for accepting applications is over, the HA will add the new applicants to the list by:

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

The HA *may* stop applications if there are enough applicants to fill anticipated openings for the next 12 months. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

The HA will give at least seven days notice prior to closing the list.

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

When the waiting list is open:

**Depending upon the composition of the waiting list with regard to family types and preferences and to better serve the needs of the community, at times the HA may only accept applications from any family claiming preference(s).**

When the application is submitted to the HA:

It establishes the family's date and time of application for placement order on the waiting list.

### **C. "INITIAL" APPLICATION PROCEDURES**

The HA will utilize a Personal Declaration Form (*Pre-application*). The information is to be filled out by the applicant whenever possible. To provide specific accommodation for persons with disabilities, a staff person may complete the information over the telephone. It may also be mailed to the applicant. Translators will be provided for applicants with Limited English proficiency.

The purpose of the Initial Application is to permit the HA to preliminarily assess family eligibility or ineligibility and to determine placement on the waiting list. The Initial Application will contain questions designed to obtain the following information:

- Names of all members and age of all members
- Sex and relationship to Head of all members
- Street Address and phone numbers
- Mailing Address (If PO Box or no other permanent address)
- Amount(s) and source(s) of income received by household members
- Information to determine qualifications for allowances and deductions
- Information related to qualification for preferences
- Social Security Numbers
- Race/ethnicity
- Citizenship/eligible immigration status
- Arrests/Convictions for Drug Related or Violent Criminal Activity
- Request for Specific Accommodation needed to fully utilize program and services
- Program integrity questions regarding previous participation in HUD programs

Duplicate applications, including applications from a segment of an applicant household, will not be accepted.

Ineligible families will not be placed on the waiting list. Initial Applications will not require an interview. The information on the application will not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed and all information is verified. The only determination of preliminary eligibility will be a determination of current income. If it exceeds the VLI standards the family will be notified of a determination of ineligibility and given the opportunity for an informal review. The HA will investigate through available state and federal web sites to determine if a family or any family member owes money to PHA or another HA. If so the family will be notified and advised that final eligibility will be based in part on the debt having been cleared and in the ensuing period of time between this preliminary application and a final determination of eligibility they take the necessary steps to clear the debt.

#### **D. APPLICANT STATUS WHILE ON WAITING LIST**

Applicants are required to inform the HA in writing of changes in address. Applicants are also required to respond to requests from the HA to update information on their application and to determine their interest in assistance.

If after a review of the Initial Application the family is determined to be preliminarily eligible, they will be notified in writing or in an accessible format upon request as a reasonable accommodation.

The notice will contain the approximate date that assistance may be offered, and will further explain that the estimated date is subject to factors such as turnover and available funding.

This written notification of preliminary eligibility will be:

Mailed to the applicant by first class mail

If the family is determined to be ineligible based on the information provided in the Initial Application, the HA will notify the family in writing, state the reason(s), and inform them of their right to an informal review. Persons with disabilities may request to have an advocate attend the informal review as an accommodation. See Chapter 19, "Complaints and Appeals."

#### **E. TIME OF SELECTION** [24 CFR 982.204, 5.410]

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

When there is insufficient funding available for the family at the top of the list, the HA will not admit any other applicant until funding is available for the first applicant. Applicants will not be passed over on the waiting list (**see Ch.4-G – Order of Selection**).

**Based on the PHA's turnover and the availability of funding, groups of families will be selected from the waiting list to form a final eligibility "pool". Selection from the pool will be based on completion of verification.**

#### **F. COMPLETION OF A FULL APPLICATION/INTERVIEW**

After the preference is verified, when the HA is ready to select applicants, applicants will be required to:

Participate in a full application interview with a HA representative during which the applicant will be required to furnish complete and accurate information in writing by filling out an application certification form and to submit other documentation as required so the HA may determine final eligibility. The HA interviewer will review the form and the documentation with the applicant(s). The applicant will sign and certify that all information is complete and accurate.

All preferences claimed on the Full Application will be verified. The approval of the applicant's preference must exist in order for the applicant to be considered for further eligibility, because the placement of the applicant on the waiting list was determined in part by the claim for the preference.

#### **Requirement to Attend the Interview**

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

The head, spouse and any other adults 18 years of age or older are expected to attend the interview. If the head of household cannot attend the interview, the spouse may attend to complete the interview and certify for the family.

Any adults in the family that are absent from the interview will be required to review the information and to certify by signature that all of the information is complete and accurate within ten days of the interview.

**If an applicant fails to appear for a pre-scheduled full application interview, the HA will notify the applicant of the missed appointment and require the applicant to contact the HA within a specified period of time to schedule a second appointment. If the applicant fails to contact the HA during that period of time the application will be made inactive and withdrawn from the waiting list.**

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

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

Every adult household member must sign a consent form to release criminal conviction records and to allow HA to receive records and use them in accordance with HUD regulations.

If the HA determines at or after the interview that additional information or document(s) are needed, the HA will request the document(s) or information in writing. The family will be given 10 days to supply the information. If the information is not supplied in this time period, the HA will provide the family a notification of denial for assistance. (See Chapter, "Complaints and Appeals.")

#### **G. VERIFICATION** [24 CFR 982.201(e)]

Information provided by the applicant will be verified, using the verification procedures in Chapter Seven. Family composition, income, allowances and deductions, assets, full-time student status, eligibility and rent calculation factors, criminal activity, money owed and other pertinent information will be verified. Verifications may not be more than 60 days old at the time of issuance of Voucher or being housed in Mod Rehab or Project-Based Voucher units.

#### **H. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY** [24 CFR 982.201]

After the verification process is completed, the HA will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by the HA, and the current eligibility criteria in effect. If the family is determined to be eligible, the HA will mail a notification of eligibility. A briefing will be scheduled for the issuance of a voucher (or signing of a *Statement of Family Responsibility* for Mod Rehab, Project-Based Voucher or Home Ownership) and the family's orientation to the housing program.

## Chapter 4

### ESTABLISHING PREFERENCES AND MAINTAINING THE WAITING LIST

#### INTRODUCTION

It is the HA's objective to ensure that families are placed in the proper order on the waiting list and selected from the waiting list for admissions in accordance with the policies in this Administrative Plan.

This chapter explains the local preferences which the HA has adopted to meet local housing needs, defines the eligibility criteria for the preferences and explains the HA's system of applying them.

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

#### A. WAITING LIST

The PHA uses an automated system to maintain waiting lists for admission to its Section 8 Assistance Programs.

- Applicants for the Housing Choice Voucher, Project-Based Voucher, and Moderate Rehabilitation Programs are identified by codes in the automated system and are maintained on separate lists.

The PHA uses waiting lists that can be sorted by bedroom size for admission to its Section 8 Moderate Rehabilitation projects and for those Project-based Voucher projects when required.

Except for Special Admissions, applicants will be selected from a HA waiting list in accordance with policies and preferences and income targeting requirements defined in this Administrative Plan.

The PHA will maintain information that permits proper selection from a waiting list.

The lists contain the following information for each applicant:

Applicant Name

Family Unit Size (number of bedrooms family qualifies for under HA subsidy standards)

Date and time of application

Waiting list code(s)

Qualification for any local preference

Racial or ethnic designation of the head of household

## **B. WAITING LIST PREFERENCES**

Wait list selection will be by date and time of receipt of a completed application.

*PHA, under the direction of the Department of Housing and Urban Development, may give highest preference to receive tenant-based assistance to persons displaced by natural or national disaster as designated by the Federal Emergency Management Agency (FEMA) until such time that funds designated for this preference have been committed.*

**Families with minors or dependents and Elderly or Disabled families have the next highest preference. (See definitions of Family in Chapter 2.)**

## **C. INCOME TARGETING**

In accordance with the Quality Housing and Work Responsibility Act of 1998, each fiscal year the HA will reserve a minimum of seventy-five percent of its Section 8 new admissions for families whose income does not exceed 30 percent of the area median income. HUD refers to these families as “extremely low-income families.” The HA will admit families who qualify under the Extremely Low-Income limit to meet the income targeting requirement.

The HA’s income targeting requirement does not apply to low income families continuously assisted as provided for under the 1937 Housing Act.

The HA is also exempted from this requirement where the HA is providing assistance to low income or moderate income families entitled to preservation assistance under the tenant-based program as a result of a mortgage prepayment or opt-out.

## **D. SPECIAL ADMISSIONS**

HUD may award a HA program funding that is targeted for families living in specified units. The HA will admit these families under a Special Admission Procedure.

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

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

A family residing in a PHA housing development who has been approved for an administrative transfer by the Directors of both Public Housing and Section 8 or the Chief Executive Officer.

A family displaced because of demolition or disposition of a Public or Indian Housing Project.  
A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;

For housing covered by the Low Income Housing Preservation and Resident Home-Ownership Act of 1990;

A family residing in a project covered by a Project-Based Section 8 HAP Contract at or near the end of the HAP Contract term;

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

A family covered by a Moderate Rehabilitation HAP Contract at or near the end of the HAP Contract term.

## **E. TARGETED FUNDING**

When HUD awards special funding for certain family types, families who qualify are placed on the regular waiting list. When a specific type of funding becomes available, the waiting list is searched for the first available family meeting the targeted funding criteria.

Applicants who are admitted under targeted funding which are not identified as a Special Admission are identified by codes in the automated system.

## **F. PREFERENCE AND INCOME TARGETING ELIGIBILITY**

### **Change in Circumstances**

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

When an applicant claims a change in preference status, s/he will be placed on the waiting list in the appropriate order by date of preference verification if the newly claimed preference would enhance the position of the family on the waiting list. Otherwise the original date of application is unchanged.

The exception to this is, if at the time the family applied the waiting list was only open to families who claimed that preference. In such case, the applicant must verify that they were eligible for the first preference before they are returned to the waiting list with the new preference.

If the family's verified annual income, at final eligibility determination, does not fall under the Extremely Low Income limit and the family was selected for income targeting purposes before family(ies) with a higher preference, the family will be returned to the waiting list.

### **Cross-Listing of Different Housing Programs and Section 8**

The PHA will not merge its waiting lists. However, if the Tenant-based assistance list is open when the applicant is placed on the Public Housing Program, or the Project-Based Voucher or the Moderate Rehabilitation Program waiting list, the PHA must offer to place the family on its Tenant-Based Assistance list.

### **Other Housing Assistance**

'Other housing subsidy' means a housing subsidy other than assistance under the Voucher program. Housing subsidy includes subsidy assistance under a Federal (including public housing), State or local housing subsidy.

The HA may not take any of the following actions because an applicant has applied for, received, or refused other housing:

Refuse to list the applicant on the HA waiting list for tenant-based assistance;

Deny any admission preference for which the applicant is currently qualified;

Change the applicant's place on the waiting list based on preference, date and time of application, or other factors affecting selection under the HA selection policy; or

Remove the applicant from the waiting list.

## **G. ORDER OF SELECTION**

The HA's method for selecting applicants from a preference category leaves a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in the Administrative Plan.

### **Among Applicants with Equal Preference Status**

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

**Current PHA Public Housing residents may be selected to the degree that, at the discretion of the Executive Director, doing so does not adversely affect the PHA's Public Housing managerial or financial performance levels. Any Public Housing Applicants retained on the waiting list will be kept in their order of application and will be admitted, if eligible, as the above-mentioned circumstances allow.**

### **Refusal of Assistance When Offered**

The applicant may be allowed to refuse an initial offering of a Housing Choice Voucher if, for a reason stated in writing and approved by the Director, the applicant would be unable at the time of the offering to take the necessary steps to utilize the Voucher and receive assistance. The applicant must accept the next offering that occurs after an agreed interval of time or PHA will remove the applicant from the waiting list. If the Director denies this request for a first refusal the applicant will be notified and offered the opportunity for an informal review.

## **H. PREFERENCE DENIAL**

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

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

## **I. REMOVAL FROM WAITING LIST AND PURGING**

The waiting list will be purged once every Fiscal Year, by a mailing to all applicants to ensure that the waiting list is current and accurate. The mailing will ask for confirmation of continued interest.

Any mailings to the applicant, which require a response, will state that failure to respond within 10 days will result in the applicant's name being dropped from the waiting list.

If a letter is returned by the Post Office without a forwarding address, the applicant will be removed without further notice and the envelope and letter will be maintained in the file.

If no response is received within the allotted time period the applicant will be sent a second mailing that requests the same of them.

If the applicant fails to respond to this second mailing, the applicant will be removed from the waiting list without further notice.

An extension of ten days to respond will be granted, if requested and needed as a reasonable accommodation for a person with a disability.

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

A copy of all correspondence will be kept in the applicant's file.

If an applicant is removed from the waiting list for failure to respond, they will not be entitled to reinstatement unless the Director of Housing Services or his/her designee determines there were circumstances beyond the person's control.

Applicants are required to contact the HA in writing annually through this process to confirm their continued interest.

If applicants who claim that actions as a result of domestic violence, dating violence or stalking prevented them, at the time from responding to a purge letter, PHA may request certification of the claim and may reinstate the application.

Applicants may also request as a reasonable accommodation for a disabled person to reinstate an application if they believe their disability prevented them from responding to a purge letter in a timely manner.

## Chapter 5

### SUBSIDY STANDARDS

#### **INTRODUCTION**

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

#### **A. DETERMINING FAMILY UNIT or VOUCHER SIZE**

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

For subsidy standards, an adult is a person 18 years or older.

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

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

Generally, the HA assigns one bedroom to two people within the following guidelines:

Separate bedrooms will be allocated for persons of the opposite sex (other than adults who have a spousal relationship and children under 3 years of age).

Foster children will be included in determining unit size only if they are expected to be in the unit for at least 12 months.

Live-in aides will generally be provided a separate bedroom. No additional bedrooms are provided for the aide's family.

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, other than a spouse, who will be absent most of the time, such as a member who is away in the military.

Same sex minors separated by seven years should not be required to share a bedroom.

Space will not be provided for the addition of family members other than by birth, adoption, marriage, or court-awarded custody (see Section B for exceptions).

## **GUIDELINES FOR DETERMINING VOUCHER SIZE**

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

### **B. EXCEPTIONS TO SUBSIDY STANDARDS**

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

The HA will consider an exception upon request as an accommodation for persons with disabilities. Circumstances may dictate a larger size than the subsidy standards permit when persons cannot share a bedroom because of a need, such as a:

Verified medical or health reason; or

Elderly persons or persons with disabilities who may require a live-in attendant.

At the time of regular, annual HQS inspections the inspectors will be asked to report the use of each bedroom in a unit that has been identified as having been granted a larger voucher/reasonable accommodation (LGR VCH/RSN ACCD) in the Wright Computer System. The Director or his/her designee will review this information and decide if any the extra bedroom is being used for its intended purpose and if any action needs to be taken including immediate down-sizing of the subsidy and Voucher size.

### **Request for Exceptions to Subsidy Standards**

The family may request a larger bedroom sized Voucher than indicated by the HA's subsidy standards. Such a request must be made in writing within 10 days of the HA's determination of bedroom size. The request must explain the need or justification for a larger bedroom sized Voucher. Documentation verifying the need or justification will be required as appropriate.

Requests based on health related reasons must be verified by a doctor/medical/professional. (See Reasonable Accommodation)

### **HA Error**

If the HA errs in the bedroom size designation, the family will be issued a Voucher of the appropriate size.

### **Changes for Applicants**

The Voucher size is determined prior to the briefing by comparing the family composition to the HA subsidy standards. If an applicant requires a change in the Voucher size, the above referenced guidelines will apply.

**Changes for Participants**

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

**Under-Housed Families in the Moderate Rehabilitation or Project-based Voucher Programs**

If a unit does not meet HQS space standards due to an increase in family size (unit too small) the family would be considered “under housed”. The HA will issue a new Voucher or will assist the family in locating another suitable unit under the Moderate Rehabilitation or Project-Based Voucher program as required.

**C. UNIT SIZE SELECTED**

The family may select a different sized dwelling unit than the bedroom size indicated on the Voucher. There are three criteria to consider:

Subsidy Limitation: The subsidy for a family is based on the PHA's adopted payment standard and shall be the lower of:

The payment standard amount for the family Voucher bedroom size; or

The payment standard amount for the unit size rented by the family.

Utility Allowance: The Utility Allowance used to calculate the gross rent is based on the actual size of the unit the family selects, regardless of the size authorized on the family's Voucher.

Housing Quality Standards: The standards allow two persons per living/sleeping area and permit maximum occupancy levels (assuming a living room is used as a living/sleeping area) as shown in the table below. The levels may be exceeded if a room in addition to bedrooms and a living room is used for sleeping.

**\*HQS GUIDELINES FOR UNIT SIZE SELECTED**

<u>Unit Size</u>	<u>Maximum Number in Household</u>
0 Bedroom	1
1 Bedroom	4
2 Bedrooms	6
3 Bedrooms	8
4 Bedrooms	10
5 Bedrooms	12
6 Bedrooms	14

## Chapter 6

### FACTORS RELATED TO TOTAL TENANT PAYMENT AND FAMILY SHARE DETERMINATION

#### INTRODUCTION

The HA will use the methods as set forth in this Administrative Plan to verify and determine that family income at admission and re-examination is correct. The accurate calculation of Annual Income and Adjusted Income will ensure that families are not paying more or less money for rent than their obligation under the Regulations.

This Chapter defines the allowable expenses and deductions to be subtracted from Annual Income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). Income and TTP are calculated in accordance with 24 CFR regulations and further instructions set forth in HUD Notices and Memoranda. The formula for the calculation of TTP is specific and not subject to interpretation. The HA's policies in this Chapter address those areas which allow the HA discretion to define terms and to develop standards in order to assure consistent application of the various factors that relate to the determination of TTP.

#### A. INCOME AND ALLOWANCES

Income: Includes all monetary amounts, which are received on behalf of the family. For purposes of calculating the Total Tenant Payment HUD defines what is to be calculated and what is to be excluded in the federal regulations. In accordance with this definition, all income, which is not specifically excluded in the regulations, is counted.

Annual Income: is defined as the gross amount of income anticipated to be received by the family during the 12 months after certification or re-certification. Gross income is the amount of income prior to any HUD allowable expenses or deductions, and does not include income, which has been excluded by HUD. Annual income is used to determine whether or not applicants are within the applicable income limits.

Adjusted Income: is defined as the Annual Income minus any HUD allowable expenses and deductions

HUD has five allowable deductions from Annual Income:

1. **Dependent Allowance:** \$480 each for family members (other than the head or spouse) who are minors, and for family members who are 18 and older who are full-time students or who are disabled.
2. **Elderly/Disabled Allowance:** \$400 per family for families whose head or spouse is 62 or over or disabled.
3. **Allowable Medical Expenses:** Deducted for all family members of an eligible elderly/disabled family.
4. **Child Care Expenses:** Deducted for the care of children under 13 when child care is necessary to allow an adult member to work, attend school, or actively seek employment.
5. **Allowable Disability (Handicapped) Assistance Expenses:** Deducted for attendant care or auxiliary apparatus for persons with disabilities if needed to enable the individual or an adult family member to work.

## **B. DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS FOR PERSONS WITH DISABILITIES**

This section was 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 published February 13, 2002, extended the disallowance to all qualifying family members with disabilities effective March 15, 2002. Exclusion of income during participation in training programs under 24 CFR 5.609[c][8][v] is still applicable. HUD issued a final rule January 19, 2001 in the Federal Register effective for disabled families who are participants in the Section 8 Housing Choice Voucher Program on or after April 20, 2001. PHAs must take all necessary steps to ensure those disabled families eligible for the mandatory earned income disallowance receive the disallowance.

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 member receives 12 cumulative months of the full exclusion, annual income will include a phase-in of half the earned income excluded from annual income.

A family qualified for the Mandatory Earned Income Disallowance (MEID) is a family that is receiving tenant-based rental assistance under the Housing Choice Voucher Program; and

Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

Whose annual income increases, as a result of new employment or increased earnings of a family member, who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any State program for TANF provided that the total amount over a six-month period is at least \$500. The qualifying TANF assistance may consist of any amount of monthly income maintenance, and/or at least \$500 in such TANF benefits and services as one-time payments, wage subsidies and transportation assistance.

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 weeks at the minimum wage. Minimum wage is the prevailing minimum wage in the State or locality.

The HUD definition of economic self-sufficiency program is: any program designed to encourage, assist, train or facilitate economic independence of assisted families or to provide work for such families. Such programs may include job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as substance abuse or mental health treatment).

Qualifying increases are any earned income increases of a family member who is a person with disabilities during participation in an economic self-sufficiency or job training program and not increases that occur after participation, unless the training provides assistance, training or mentoring after employment.

The amount that is subject to the disallowance is the amount of incremental increase in income of a family member who is a person with disabilities. The incremental increase in income is calculated by comparing the amount of the disabled family member's income before the beginning of qualifying employment or increase in earned income to the amount of such income after the beginning of employment or increase in earned income.

### **Note:**

If PHA does not conduct interim re-exams when a household experiences an increase in income, the disallowance of earned income will always be retroactive to the date of the increase.

**Initial Twelve-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 Twelve-Month Exclusion and Phase-in**

During the second cumulative 12-month period after the expiration of the initial cumulative 12-month period referred to above, 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.

**Maximum Four Year Disallowance**

The earned income disallowance is limited to a lifetime 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 months of full exclusion 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.

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 months of each disallowance (the initial 12-month full exclusion and the second 12-month phase-in exclusion).

No earned income disallowance will be applied after the 48-month period following the initial date the exclusion was applied.

**Applicability to Child Care Expense Deductions**

The amount deducted for child care necessary to permit employment shall not exceed the amount of employment income that is included in annual income. Therefore, for disabled families entitled to the earned income disallowance, the amounts of the full and phase-in exclusions from income shall not be used in determining the cap for child care deductions.

**Tracking the Earned Income Exclusion**

The earned income exclusion will be reported on the HUD 50058 form. Documentation will be included in the family's file to show the reason for the reduced increase in rent.

Such documentation will include:

Date the increase in earned income was reported by the family

Name of the family member whose earned income increased

Reason (new employment, participation in job training program, within 6 months after receiving TANF) for the increase in earned income

Amount of the increase in earned income (amount to be excluded)

Date the increase in income is first excluded from annual income

Date(s) earned income ended and resumed during the initial cumulative 12-month period of exclusion (if any)

Date the family member has received a total of 12 months of the initial exclusion

Date the 12-month phase-in period began

Date(s) earned income ended and resumed during the second cumulative 12-month period (phase-in) of exclusion (if any)

Date the family member has received a total of 12 months of the phase-in exclusion

Ending date of the maximum 48-month (four year) disallowance period (48 months from the date of the initial earned income disallowance)

The PHA will maintain a tracking system to ensure correct application of the earned income disallowance.

### **Inapplicability to Admission**

The earned income disallowance is only applied to determine the annual income of families who are participants in the Housing Choice Voucher Program, and therefore does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable)

### **C. MINIMUM RENT AND MINIMUM FAMILY CONTRIBUTION**

The PHA may establish a minimum rent of fifty dollars (\$50.00) per month. The minimum rent refers to the TTP and includes the combined amount a family pays towards rent and/or utilities.

#### **Financial Hardships Affecting Minimum Rent**

The PHA may grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship. The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

#### **Financial Hardship Defined**

The financial hardship includes the following situations:

- 1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.
  - a. A hardship will be considered to exist only if the loss of eligibility was not due to the participant's action or inaction and has an impact on the family's ability to pay the minimum rent.
  - b. For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances stated below.
- 2) The family would be evicted because it is unable to pay the minimum rent. For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.
- 3) Family income has decreased because of changed family circumstances, including the loss of employment.
- 4) A death has occurred in the family. In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g. because of funeral-related expenses or the loss of the family member's income).

## **Implementation of Hardship Exemption**

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request. The PHA then determines whether the financial hardship exists and whether the hardship is temporary (expected to last 90 days or less) or long-term. When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP.

### **Determination of Hardship**

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent. The PHA will make the determination of hardship within 30 calendar days.

### **No Financial Hardship**

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended. The PHA will require the family to repay the suspended amount within 30 calendar days of the PHA's notice that a hardship exemption has not been granted.

### **Temporary Hardship**

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption. At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. In accordance with HUD requirements, the PHA will enter into a repayment agreement in accordance with the procedures found in Chapter 18 of this Plan. The PHA may determine that circumstances have changed and the hardship is now a long-term hardship.

### **Long-Term Hardship**

If the PHA determines that the hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term the family is not required to repay the minimum rent.

The hardship period ends when any of the following circumstances apply:

- 1) At an interim or reexamination, the family's calculated TTP is greater than the minimum rent.
- 2) For hardship conditions based on loss of income, the hardship conditions will continue to be recognized until new sources of income are received that are at least equal to anticipated income of \$1,999.

## **D. DEFINITION OF TEMPORARILY/PERMANENTLY ABSENT**

The HA must compute all applicable income of every family member who is on the lease, including those who are temporarily absent. In addition, the HA must count the income of the spouse or the head of the household if that person is temporarily absent.

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

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

### **Absence of Entire Family**

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

Families are required to notify the HA before they move out of a unit in accordance with the lease and to give the HA information about any family absence from the unit.

Families must notify the HA if they are going to be absent from the unit for more than 14 consecutive 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.

"Absence" means that no family member is residing in the unit.

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

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

A person with a disability may request an extension of time as an accommodation. If the absence which resulted in termination of assistance was due to a person's disability, and the HA can verify that the person was unable to notify the HA in accordance with the lease provisions regarding absences, and if a suitable unit is available, the HA may reinstate the family as an accommodation if requested by the family.

### **Absence of Any Member**

Any member of the household will be considered permanently absent if s/he is away from the unit for two consecutive months (60 days) in a 12 month period, except as otherwise provided in this Chapter.

### **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 HA will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than 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 HA's "Absence of Entire Family" policy.

### **Absence Due to Full-Time Student Status**

Full time students who attend school away 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 be included on the lease, and the member will not be included for determination of Voucher size.

### **Absence Due to Incarceration**

If any member of a household (including the head of household or sole member) is incarcerated for more than fourteen consecutive days, s/he may be considered permanently absent. The HA will determine the reason for incarceration and may take necessary steps to terminate assistance as outlined in Chapter 19 of this Plan.

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

If the family includes a child or children temporarily absent from the home due to placement in foster care, the HA will determine from the appropriate agency when the child/children will be returned to the home. The situation will be re-evaluated after 60 days.

If the time period is to be greater than six months from the date of removal of the child(ren), the family composition will be changed and the unit size will be adjusted in accordance with the HA's occupancy guidelines.

### **Absence of Adult (Caretaker for Children)**

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

If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, and the caretaker qualifies under Tenant Suitability criteria, the Voucher or lease will be transferred to the caretaker.

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

If the court has not awarded custody or legal guardianship, but the action is in process, the HA 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 HA will transfer the lease to the caretaker, in the absence of a court order, if the caretaker qualifies under the Tenant Suitability criteria and has been in the unit for more than 60 days and it is reasonable to expect that custody will be granted.

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

### **Other Absences**

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

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

### **Visitors**

***Any adult not included on the HUD 50058 who has been in the unit more than 14 consecutive days, or a total of 30 days in a 12-month period or as specified in the terms of the lease, whichever is less, may be considered to be living in the unit as an unauthorized household member.***

***In a joint custody arrangement if the minor is visiting in the Voucher household less than 50% of the time each year under the custody agreement, the minor will be considered to be an eligible visitor and not a family member.***

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

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

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

The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the family and the HA may terminate the subsidy and notify the family of their ineligibility to participate because prior approval was not requested for the additional person.

### **Reporting Additions to Owner and PHA**

Reporting changes in household composition to the PHA is both a HUD and a PHA requirement. The family obligations require the family to request PHA approval to add any other family member as an occupant of the unit and to inform the PHA of the birth, adoption or court-awarded custody of a child. Families are required to report any additions by birth, adoption or court-awarded custody to the household in writing to the PHA within 10 days of the move-in date of the child.

The family must request prior approval of all other additional household members in writing. If any new family member is added, the income of the additional member will be included in the family income as applicable under HUD regulations. If the family does not obtain prior written approval from the PHA, any person the family has been 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 PHA in writing within 10 days of the maximum allowable time and explain the overstay by the visitor.

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

### **Reporting Absences to the PHA**

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

***If any member leaves the household, the family must report this change to the PHA, in writing, within 10 days of the change. PHA provides a form to aid in the appropriate reporting of this change. The family must report the change if the member is considered permanently absent. The family member may report the change if the absence is considered temporary. PHA will determine if an interim rent determination is required.***

The PHA will conduct an interim evaluation for changes which affect the Total Tenant Payment in accordance with the interim policy

## **E. AVERAGING INCOME**

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

1. Average known sources of income that vary to compute an annual income, or
2. Annualize current income and may or may not allow an interim re-examination if the income changes

If an applicant or participant is employed in a regular full or part time job that goes on hiatus for a specific period every year, i.e. school employee, tourist service jobs, earnings will be entered as annual income and no interim recalculation will be processed when the job is on hiatus. (Each case of such income will be evaluated for application with this rule.)

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.

If by averaging an estimate can be made for those families whose income fluctuates from month to month, this estimate will be used so as to reduce the number of interim adjustments.

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 90 days.

## **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 HA will calculate the income by using the following methodology and use the income figure which would result in a lower payment by the family:

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

**OR**

2. Include the income of the person permanently confined to the nursing home and give the family the medical deductions allowable on behalf of the person in the nursing home, up to the adjusted income of the family member in the nursing home.

## **H. REGULAR CONTRIBUTIONS AND GIFTS**

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

Any contribution or gift received every third month or more frequently will be considered a "regular" contribution or gift, unless the amount is less than \$150.00 per year. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts. (See Chapter 7, "Verification Procedures," for further definition.)

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

## **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 HA will use the amount awarded by the court unless the family can verify that they are not receiving the full amount and verification of item(s) below are provided.

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

The HA receives verification from the agency responsible for enforcement or collection.

The family furnishes documentation of child support or alimony collection action filed through a child support enforcement/collection agency, or has filed an enforcement or collection action through an attorney.

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

## **J. LUMP SUM RECEIPTS**

Payments that are received in a single lump sum, such as Social Security, SSI, inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), lottery winnings, capital gains, proceeds from the sale of property and settlement for personal or property losses, are not included in income but may be included in assets only if they are retained by the family in a form recognizable as an asset (e.g. deposited in a savings or checking account).

Lump-sum payments caused by a delay in processing periodic payments or due to a dispute such as unemployment or welfare assistance are counted as income. In order to determine amount of retroactive tenant rent that the family owes, if any, as a result of this lump sum payment:

PHA uses a calculation method which calculates retroactively or prospectively depending on the circumstances.

### **Prospective Calculation Methodology**

If the payment is reported on a timely basis, the calculation will result in an interim or annual adjustment whichever is effective sooner.

### **Retroactive Calculation Methodology**

If the payment is not reported in a timely manner PHA will go back to the date the lump-sum payment was received, or to the date of admission, whichever is closer and determine the amount of income for each certification period for the amount of the periodic payment, and recalculate the tenant rent for each certification period to determine the amount due the HA in overpaid HAP.

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

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

## **Attorney Fees**

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

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

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

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

## **L. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**

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

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

The HA's minimum threshold for counting assets disposed of for less than Fair Market value is \$5,000. If the total value of assets disposed of within a one-year period is less than \$5,000, they will not be considered an asset.

#### **M. 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, or to actively seek employment.

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

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

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

**Child care for school:** The number of hours claimed for child care may not exceed the number of hours the family member is attending school, including reasonable travel time to and from school.

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

#### **N. 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. Non-prescription medicines must be doctor-recommended in order to be considered a medical expense.

#### **O. PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES**

##### **Applicability**

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

##### **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. Calculations for each housing program are performed on the HUD 50058.

#### **P. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS**

The PHA will not reduce the rental contribution for families whose welfare assistance is reduced specifically because of fraud by a family member in connection with the welfare program; failure to participate in an economic self-sufficiency program; or noncompliance with a work activities requirement.

However, the PHA will reduce the rental contribution if the welfare assistance reduction is a result of the expiration of a lifetime time limit on receiving benefits; or a situation where a family member has not complied with other welfare agency requirements or a situation where a family member has complied with welfare agency economic self-sufficiency or work activities requirements but cannot or has not obtained employment, such as the family member has complied with welfare program requirements, but the durational time limit, such as a cap on the length of time a family can receive benefits, causes the family to lose their welfare benefits.

Imputed welfare income is the amount of annual income not actually received by a family as a result of a specified welfare benefit reduction that is included in the family's income for rental contribution. Imputed welfare income is not included in annual income if the family was not an assisted resident at the time of sanction.

The amount of imputed welfare income is offset by the amount of additional income a family receives that begins after the sanction was imposed. When additional income is at least equal to the imputed welfare income, the imputed welfare income is reduced to zero.

### **Verification Before Denying a Request to Reduce Rent**

The PHA will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance with economic self-sufficiency or work activities requirements *before* denying the family's request for rent reduction.

The welfare agency, at the request of the PHA, will inform the PHA of amount and term of specified welfare benefit reduction for the family; reason for the reduction and subsequent changes in term or amount of reduction.

### **Cooperation Agreements**

The PHA has a written cooperation agreement in place with the local welfare agency which assists the PHA in obtaining the necessary information regarding welfare sanctions.

## **Q. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS**

The same Utility Allowance Schedule is used for all Tenant-Based and Project-Based Programs.

The Utility Allowance is intended to cover the cost of utilities not included in the rent. The allowance is based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. Allowances are not based on an individual family's actual energy consumption.

The HA will review the Utility Allowance Schedule annually. If the review finds a utility rate has changed by 10 percent or more since the last revision of the Utility Allowance Schedule, the schedule will be revised to reflect the new rate. Revised utility allowances will be applied in a participant family's rent calculation at their next re-examination (income review and calculation for TTP).

The approved Utility Allowance Schedule is given to families along with their Voucher. The Utility Allowance is based on the actual unit size selected.

Where families provide their own range and refrigerator, the HA will establish an allowance adequate for the family to purchase or rent a range or refrigerator, even if the family already owns either appliance. Allowances for ranges and refrigerators will be based on the lesser of the cost of leasing or purchasing the appropriate appliance over a 48-month period. Where the Utility Allowance exceeds the family's Total Tenant Payment, the HA will provide a Utility Reimbursement Payment (URP) for the family each month. A tenant paid air conditioning allowance will not be

provided for units in the HA's jurisdiction. The majority of housing units in the HA's area do not have central air conditioning. The URP check will be made out directly to the tenant. If the HA determines that utility companies should receive the URP check, the URP check will be sent to appropriate utility companies without the tenant's written agreement.

## Chapter 7

### VERIFICATION PROCEDURES

#### INTRODUCTION

Applicants and program participants must provide true and complete information to the HA whenever information is requested. The HA's verification requirements are designed to maintain program integrity. This Chapter explains the HA's procedures and standards for verification of preferences, income, assets, allowable deductions, family status, and changes in family composition. The HA will obtain proper authorization from the family before requesting information from independent sources.

The regulation states the PHA's either must obtain and document in family files third-party verification of the following factors or must document in the files why third-party verification was not available:

- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Other factors that affect the determination of adjusted income (proof of age, disability, family relationship, other)

#### A METHODS OF VERIFICATION AND TIME ALLOWED

Age, relationship, U.S. citizenship, and Social Security numbers will generally be verified with documentation provided by the family. Other information will be verified by the following six verification methods acceptable to HUD, in the order of preference indicated:

##### **1. Up-front Income Verification (UIV) –**

UIV is the verification of income through an independent source that systematically maintains income information in computerized form for a large number of individuals. Current UIV resources include the following:

- a. EIV–HUD's on-line system currently used for verification of Social Security (SS) and Supplemental Security Income (SSI) information, historic wage information, unemployment compensation and other Federal benefit programs.
- b. Maine State systems for the Temporary Assistance for Needy Families (TANF) program, child support and other benefits.
- c. Private Sector databases (e.g. The Work Number)

The Portland Housing Authority will use additional UIV resources as they become available.

HUD's EIV system information will be pulled and reviewed for all household members at the time of the annual recertification and all interim recertifications for participants and after newly admitted family information has been entered into HUD's PIC system. It may be downloaded at any time for the purpose of investigation alleged discrepancies in Household income reporting. No EIV information may be downloaded and/or used unless there is a current and signed copy of Form HUD 9886 on file by each adult member of the household. No EIV will be downloaded without certification of this document.

It is important to note that UIV data will only be used to verify an applicant's or participant's eligibility for participation in a rental assistance program and determine the level of assistance the applicant or participant is entitled to receive.

No adverse action can be taken against an applicant or participant until the Portland Housing Authority has independently verified the UIV information and/or the applicant or participant has been granted an opportunity to contest any adverse findings through the established grievance procedures. The consequences of adverse findings may include PHA's requirement of immediate repayment of any over-subsidy, the entering into a repayment agreement, ineligibility for assistance or termination of continuing assistance, criminal prosecution or any other appropriate remedy.

Furthermore, the information PHA derives from the UIV system will be protected to ensure that it is utilized solely for official purposes and not disclosed in any way that would violate the privacy of the affected individuals. Any other use, unless approved by the HUD Headquarters UIV Security System Administrator, is specifically prohibited and will not occur. The PHA has adopted an EIV Security Policy and an EIV Security Procedure for the protection of UIV data and the EIV system.

EIV will be pulled for participating families 90-days prior to the effective date of their annual recertification for use in determining certain income and to identify any possible income discrepancy with the family's reporting. The Director or her designee will pull income information from the New Hire Report under HUD's EIV site 30 days prior to the effective date of the participating family's annual recertification to identify any income discrepancy with the family's reporting subsequent to the annual recertification *interview*.

## **2. Third-Party Written Verifications**

This type of verification includes written documentation, with forms sent directly to and received directly from a source, not passed through the hands of the family. It may also be a report generated automatically by another government agency, i.e. Department of Welfare, Veterans Administration, etc.

Third-party written verifications may also be used to supplement UIV information and to determine any discrepancies in household reporting.

Third-party Verifications of SS, SSDI and SSI benefits, if needed, shall be obtained by getting a copy of an official Social Security Administration letter of benefits from the person receiving the benefits.

If these forms of verification are not obtainable, then the file shall be documented as to why third party verification was not used. The Portland Housing Authority will allow thirty (30) calendar days for the return of third party written verifications prior to continuing on to the next type of verification.

## **3. Third-Party Oral Verifications**

This type of verification includes direct contact with the source, in person or by telephone. When this method is used, the staff members will be required to document in writing with whom they spoke, the date of the conversation and the facts obtained. The Portland Housing Authority will allow ten (10) calendar days to obtain third-party oral verifications prior to continuing on to the next type of verification.

## **4. Review of Documents**

When UIV, written and oral third-party verifications are not available within the time periods allowed in paragraphs 2 and 3 above, the Housing Authority will use the information received by the family, provided that the documents provide complete information. Photocopies of documents, excluding government checks, provided by the family will be maintained in the file. In cases in which documents are viewed and cannot be photocopied, staff reviewing the documents will complete a written statement as to the contents of the document(s).

The Portland Housing Authority will allow five (5) calendar days for a family to provide documents when third-party verification is not obtainable.

## **5. Self-Certification and Self-Declaration**

When UIV, written and oral third-party verifications are not available in the time periods allowed in paragraphs 2 and 3 above, and hand-carried verifications cannot be obtained, the Housing Authority will accept a statement detailing information needed, signed by the head, spouse, or other adult family member.

The Portland Housing Authority will allow five (5) calendar days for a family to provide a self-certification or self-declaration if other forms of verification are not obtainable.

Verification forms and reports received will be contained in the applicant/tenant file. Oral third-party documentation will include the same information as if the documentation had been written, i.e. name, date of contact, amount received, etc.

When any verification method other than UIV is utilized, the Portland Housing Authority will document the reason for the choice of the verification methodology in the applicant's/participant's file.

## **B. RELEASE OF INFORMATION**

Adult family members will be required to sign the HUD form 9886, Authorization for Release of Information/Privacy Act Notice.

In addition, family members will be required to sign specific authorization forms when information is needed that is not covered by the HUD form 9886, Authorization for Release of Information/Privacy Act Notice.

Each member requested to consent to the release of specific 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 and to sign consent forms requested by the HA or HUD.

## **C. ITEMS TO BE VERIFIED**

All income including income specifically excluded by the regulations.

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

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

Childcare expenses where it allows an *adult* family member to be employed, actively seek work, or to further his/her education.

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

Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus for a disabled/handicapped member of the family, which allow an *adult* family member to be employed.

Disability for determination of preferences, allowances or deductions.

U.S. citizenship/eligible immigrant status

Social Security Numbers for all family members.

"Preference" status

Familial/Marital status when needed for head or spouse definition.

Reduction in Benefits for Non-Compliance.

#### **D. VERIFICATION OF INCOME**

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

**Employment Income** -Verification forms request the employer to specify the following:

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

Acceptable methods of verification include, in this order:

1. HUD's EIV System for Employment Information\*
2. Employment verification form completed by the employer
3. Check stubs or earning statements, which indicate the employee's gross pay, frequency of pay or year to date earnings
4. W-2 forms plus income tax return forms
5. Self-certifications or income tax returns signed by the family may be used for verifying self-employment income, or income from tips and other gratuities. For some self-employment types, where there is the potential for substantial income, self-certification is unacceptable.

\*PHA may use actual past annual income from EIV as long as the tenant does not dispute the income information and current tenant provided documentation or third-party verification does not suggest higher income in the next twelve (12) months.

Applicants and program participants may be requested to sign an authorization for release of information from the Internal Revenue Service for further verification of self-employment income. In cases where there are questions about the validity of information provided by the family, the HA will require the most recent federal income tax statements.

#### ***Social Security, Pensions, SSI, Disability Income***

*Acceptable methods of verification include, in this order:*

1. *HUD's EIV system*
2. *Third party verification from the source*
3. *Award or benefit notification letters prepared and signed by the providing agency.*
4. *Computer report electronically obtained or in hard copy.*

The HA may not ask for verification that the family is not receiving of SSA, SSDI or SSI. The HA may not send a applicant or family member to the Social Security Office for a new benefit letter. The HA will assist an applicant or family member in requesting a "Proof of Income Letter" from SSA by phone (800-772-1213) or on line by going to Social Security Online at [www.socialsecurity.gov](http://www.socialsecurity.gov) then What you can do Online then to Proof of Income Letter.

**Unemployment Compensation Acceptable methods of verification include in this order:**

1. HUD's EIV system
2. Verification form completed by the unemployment compensation agency.
3. Computer printouts from unemployment office stating payment dates and amounts.
4. Payment stubs.

**Welfare Payments or General Assistance**

Acceptable methods of verification include, in this order:

1. HA verification form completed by payment provider and/or a printout of an EPIC report based on the information required and the reliability of the system.
2. Written statement from payment provider indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months.
3. Computer-generated Notice of Action.

**Alimony or Child Support Payments**

Acceptable methods of verification include, in this order:

1. Copy of a separation or settlement agreement or a divorce decree stating amounts and types of support and payment schedules.
2. A notarized letter from the person paying the support.
3. Copy of latest check and/or payment stubs from Court Trustee. HA 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.

If payments are irregular, the family must provide one or more of the following:

A copy of the separation or settlement agreement, or a divorce decree stating the amount and type of support and payment schedules.

A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement.

A notarized affidavit from the family indicating the amount(s) received.

A welfare notice of action showing amounts received by the welfare agency for child support.

A written statement from an attorney certifying that a collection or enforcement action has been filed.

**Net Income from a Business**

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

Acceptable methods of verification include:

1. IRS Form 1040, including:

Schedule C (Small Business)

Schedule E (Rental Property Income)

Schedule F (Farm Income)

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense computed using straight-line depreciation rules.

2. Audited or non-audited financial statement(s) of the business.

3. Credit report or loan application.

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

5. Family's self-certification as to net income realized from the business during previous years.

**Child Care Business**

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

If the applicant/participant is operating a "cash and carry" operation (which may or may not be licensed), the HA will require that the applicant/participant complete a form for each customer which indicates: name of person(s) whose child (children) is/are being cared for, phone number, number of hours child is being cared for, method of payment (check/cash), amount paid, and signature of person.

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

The HA will conduct interim re-evaluations 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 require PHA to execute verification forms to determine that forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household. The HA will request information from the Department of Health and Human Services

The HA will request information from the State Employment Security Commission.

The HA may run a credit report if information is received that indicates the family has an unreported income source.

The HA may request information from the IRS and other departments of the federal government.

### **Student Income Status**

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

Financial aid, scholarships and grants are not counted towards family income.

*Verification of full time student status includes:*

Written verification from the registrar's office or other school official.

School records indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution.

## **E. INCOME FROM ASSETS**

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

Will be verified by:

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

### **Interest Income from Mortgages or Similar Arrangements**

Will be verified by:

1. A letter from the mortgagor stating interest due for next 12 months. (A copy of the check paid by the buyer to the family is not sufficient unless a breakdown of interest and principal is shown.)
2. Amortization schedule showing interest for the 12 months following the effective date of the certification or re-certification.

### **Net Rental Income from Property Owned by Family**

1. IRS Form 1040 with Schedule E (Rental Income).
2. A copy of latest rent receipts, leases, or other documentation of rent amounts.

3. *Documentation of allowable operating expenses of the property: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.*

## **F. VERIFICATION OF ASSETS**

### **Family Assets**

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

Acceptable verifications may include any of the following:

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 financial institution or broker.
3. Quotes from a stock broker or realty agent as to net amount family would receive if they liquidated securities or real estate.
4. Real estates 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 HA 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.

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

### **Child Care Expenses**

Either written verification from the person or business who receives the payments or documentation of DHHS payments to the provider is required. If the child care provider is an individual, s/he must provide a statement of the amount they are charging the family for their services.

Verifications must specify the child care provider's name, address, telephone number, social security 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.

Family's certification as to whether any of those payments have been or will be paid or reimbursed by outside sources may be used in the absence of any of the previous sources.

### **Medical Expenses**

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

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.

EIV information for Medicare premium expenses

Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.

For attendant care:

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.

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 bills 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. HA may use this approach for "general medical expenses" such as non-prescription drugs and regular visits to doctors or dentists, but not for one time, non-recurring expenses from the previous year. A doctor's statement must be received to determine over the counter remedies required as part of the on-going treatment of the family member's medical condition(s).

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

## **Assistance to Persons with Disabilities**

### **In All Cases:**

Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another family member to be employed.

Family's certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

### **Attendant Care:**

Attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided.

Certification of family and attendant and/or copies of canceled checks family used to make payments.

### **Auxiliary Apparatus:**

Receipts for purchases or proof of monthly payments and maintenance expenses for auxiliary apparatus.

In the case where the person with disabilities is employed, a statement from the employer that the auxiliary apparatus is necessary for employment.

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

### **Verification of Legal Identity**

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

The documents listed 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
- U.S. Military Discharge (DD 214)
- U.S. Passport
- 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
- Health and Human Services ID
- Adoption papers
- School records
- Custody agreement

### **Verification of Marital Status**

This would be used to determine spouse for income and deduction and non-citizen purposes.

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

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

Verification of marriage status is a marriage certificate.

### **Familial Relationships**

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

The following verifications will always be required if applicable:

#### **Verification of relationship:**

- Official identification showing names
- Birth Certificates
- Baptismal Certificates
- Joint Lease
- Domestic Partnership Agreement
- Marriage License
- Power of Attorney for property/health care
- Joint ownership of motor vehicles, checking account or credit account

#### **Verification of guardianship is:**

- Court-ordered assignment
- Affidavit of parent
- Verification from social services agency
- School records

#### **Evidence of at least six months of a “stable family relationship”:**

- Joint bank accounts or other shared financial transactions.
- Leases or other evidences of prior cohabitation
- Credit reports showing relationship

### **Verification of Permanent Absence of Family Member**

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

- Husband or wife institutes divorce action.
- Husband or wife institutes legal separation.
- Order of Protection/Restraining order obtained by one family member against another.
- Proof of another home address, such as utility bills, canceled checks for rent, driver’s license, or lease rental agreement, if available.
- 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.

If the adult family member is incarcerated, a document from the Court or prison should be obtained stating how long they will be incarcerated.

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

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

### **Verification of Disability**

Verification of disability must be receipt of SSI or SSDI payments under Section 223 of the Social Security Act of 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7) or verified by an appropriate diagnostician such as physician, psychiatrist, psychologist, therapist, rehab specialist, or licensed clinical social worker, using the HUD language as the verification format. Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

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

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

Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury. The HA will require citizens to provide documentation of citizenship.

Eligible Immigrants 62 or over, are required to sign a declaration of eligible immigration status and provide proof of age.

Non-Citizens with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents which are copied front and back and returned to the family. The HA verifies the status through the INS SAVE system. If this primary verification fails to verify status, the HA must request within ten days that the INS conduct a manual search.

Ineligible family members who do not claim to be citizens or eligible immigrants must be listed on a statement of ineligible family members signed by the head of household or spouse.

Non-Citizen students on student visas are ineligible members even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they do not sign a declaration but are listed on the statement of ineligible members.

### **Failure to Provide.**

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

### **Time of Verification**

For applicants, verification of U.S. citizenship/eligible immigrant status occurs as part of the eligibility process. For family members added after other members have been verified, the verification occurs at the time of initial application.

Once verification has been completed for any covered program, it need not be repeated except that, in the case of port-in families, if the initial HA does not supply the documents, the HA must conduct the determination.

### **Extensions of Time to Provide Documents**

The HA will not grant an extension for families to submit evidence of eligible immigrant status.

### **Acceptable Documents of Eligible Immigration**

The regulations stipulate that only the following documents are acceptable unless changes are published in the Federal Register.

- Resident Alien Card (I-551)
- Alien Registration Receipt Card (I-151)
- Arrival-Departure Record (I-94)
- Temporary Resident Card (I-688)
- Employment Authorization Card (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 U.S. citizenship/eligible immigrant status must be kept five years.

The HA will verify the eligibility of a family member at any time such eligibility is in question, without regard to the position of the family on the waiting list.

If the HA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside permanently in the family's unit, the family's assistance will be terminated for not less than 24 months, unless the ineligible individual has already been considered in prorating the family's assistance.

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

Social Security Numbers must be provided as a condition of eligibility for all family members. The family may not be admitted until all members have provided the required documentation. An exception can be made for homeless persons applying for assistance under the Mod Rehab SRO program (N/A for PHA at this time). Verification of Social Security Numbers will be done through a Social Security Card issued by the Social Security Administration. If a family member cannot produce a Social Security Card, he or she must provide proof of having applied for a card. Only the documents listed below showing his or her Social Security Number may be used for verification. The family is also required to certify in writing that the document(s) submitted in lieu of the Social Security Card information provided is/are complete and accurate:

- A Driver's License
- Identification card issued by a Federal, State or local Agency
- Identification card issued by a medical insurance company or provider (including Medicare and Medicaid)
- Retirement benefit letter including a Social Security award letter

New applicants to a participating family will be required to produce their Social Security Card. This information is to be provided at the time the change in family composition is reported to the HA.

**Medical Need for Larger Unit**

See Request for a Reasonable Accommodation.

## Chapter 8

### VOUCHER ISSUANCE AND BRIEFINGS

#### **INTRODUCTION**

The HA's goals and objectives are designed to assure that families selected to participate are equipped with the tools necessary to locate an acceptable housing unit. Families are provided sufficient knowledge and information regarding the program and how to achieve maximum benefit while complying with program requirements. When eligibility has been determined, the HA will conduct a mandatory briefing to ensure that families know how the program works. The briefing will provide a broad description of owner and family responsibilities, HA procedures, and how to lease a unit. The family will also receive a briefing packet, which provides more detailed information about the program including the benefits of moving outside areas of poverty and minority concentration. This Chapter describes how briefings will be conducted, the information that will be provided to families, and the policies for how changes in the family composition will be handled.

#### **A. ISSUANCE OF VOUCHERS**

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

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

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

#### **B. BRIEFING TYPES AND REQUIRED ATTENDANCE**

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

A full HUD-required Briefing will be conducted for applicant families who are determined to be eligible for assistance. The Briefings will be conducted in groups/individual meetings. Families who attend Group Briefings and still have the need for individual assistance will be assisted by the Intake Housing Officer.

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

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

## **Briefing Packet**

The documents and information provided in the Briefing Packet for the Voucher program will comply with all HUD requirements. The HA also includes other information and/or materials, which are not required by HUD.

The family is provided with the following information and materials:

A copy of the Housing Choice Voucher which indicates the term of the voucher.

The HA policy for requesting extensions or suspensions of the voucher (referred to as tolling).

A description of the method used to calculate the Housing Assistance Payment for a family, including how the HA determines the Payment Standard for a family; how the HA determines Total Tenant Payment for a family and information on the Payment Standard and Utility Allowance Schedule; and how the HA determines the maximum allowable rent for an assisted unit including the Rent Reasonableness Standard.

Where the family may lease a unit. If the family qualifies to lease a unit outside the HA jurisdiction under Portability Procedures, the information must include an explanation of how portability works.

The HUD required Tenancy Addendum, which must be included in the lease.

The Request of Tenancy Approval form and a description of the procedure for requesting approval for a unit.

A statement of the HA policy on providing information about families to prospective owners.

The HA Subsidy Standards including when and how exceptions are made and how the Voucher size relates to the unit size selected.

The HUD brochure on how to select a unit and/or the HUD brochure "A Good Place to Live" on how to select a unit that complies with HQS.

The HUD brochure on lead-based paint and information about where blood level testing is available.

Information on Federal, State and local equal opportunity laws and a copy of the Housing Discrimination Complaint form. The HA will also include the pamphlet "Fair Housing: It's Your Right" and other information about fair housing laws and guidelines, such as the "take one, take all" law and the phone numbers of the local fair housing agency and the HUD enforcement office.

The Family Obligations under the program

The grounds on which the HA may terminate assistance for a participant family because of family action or failure to act.

HA Informal Hearing Procedures including when the HA is required to offer a participant family the opportunity for an Informal Hearing, and how to request the hearing.

Information packet including an explanation of how Portability works, including a list of neighboring Housing Agencies with the name, address and telephone number for use by families who move under Portability.

A map showing areas representing various income levels of the jurisdiction and surrounding areas for the purpose of expanding housing opportunities for families.

Information regarding the HA's Outreach Program which assists families who are interested in, or experiencing difficulty in obtaining available housing units in areas outside of minority concentrated locations.

A list of properties or property management organizations that own or operate housing units outside areas of poverty or minority concentration.

If the family includes a person with disabilities, notice that the HA will provide assistance in locating accessible units and a list of available accessible units known to the HA.

### **Other Available Information**

Available at the Reception Desk is 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 Voucher issued. The list includes landlords or other parties who are willing to lease units or help families find units outside areas of poverty or minority concentration.

### **Mover Briefing**

A Mover Briefing will be held for participants who will be reissued Vouchers to move 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 Mover Briefing may be denied a new Voucher.

### **Owner Briefing**

Briefings may be held for owners as scheduled and upon request. The purpose of the Briefing is to assure successful owner participation in the program. The Briefing covers the responsibilities and roles of the three parties.

Landlords have access through PHA's website to review Landlord FAQs, the Landlord Handbook, HUD Form Housing Assistance Payments contract. Landlords are also given periodic information about renting issues and law changes in the Request for Tenancy Approval packet carried by each Voucher holder searching for a unit.

### **Signature Briefing**

All new owners will be required to attend a Signature Briefing with the family head at the office to execute HAP Contracts and Leases. The HA will provide details on the program rules and relationships and responsibilities of all parties.

Interested owners who request to sit in on scheduled Family Briefings to obtain information about the Voucher program are encouraged to do so.

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

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

**If the HA has areas of poverty and minority concentration within its jurisdiction these will be clearly delineated in order to provide families with information and encouragement in seeking housing opportunities outside highly concentrated areas.**

The HA will investigate and analyze when Voucher holders are experiencing difficulties locating or obtaining housing units outside areas of concentration.

The assistance provided to such families includes:

- A search record form to gather and record info
- Direct contact with landlords

Counseling with the family

Providing information about services in various non-impacted areas

Meeting with neighborhood groups to promote understanding

Formal or informal discussions with landlord groups

Formal or informal discussions with social service agencies

Meeting with rental referral companies or agencies

Meeting with fair housing groups or agencies

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

The HA will give families a copy of HUD form 903 to file a complaint if at any time the family feels they may have suffered discrimination. PHA will offer to assist the family in completing the form and forwarding it to the appropriate office. PHA will also refer any claimant to the Maine Human Rights Commission.

#### **E. SECURITY DEPOSIT REQUIREMENTS**

Security deposits charged by owners may not exceed those charged to unassisted tenants (nor 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 Voucher which represents a contractual agreement between the HA and the Family specifying the rights and responsibilities of each party. It does not constitute admission to the program, which occurs when the lease and contract become effective.

##### **Expirations**

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

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

##### **Suspensions (Tolling)**

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

## **Extensions**

Extensions are permissible at the discretion of the HA up to a maximum of an additional 60 days primarily for these reasons:

- Extenuating circumstances such as hospitalization or a family emergency for an extended period of times which has affected the family's ability to find a unit within the initial sixty-day period. Verification is required.
- The HA is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of the HA, throughout the initial sixty-day period.
- The family has had difficulty a unit due to disability accessibility requirements or large size 4+ bedroom unit requirement.
- If the vacancy rate for rental housing in the jurisdiction is less than 5%, extensions will be granted automatically on request up to a total of 120 days.
- Extensions for an additional 120 day (for a total of 240 days), are available as a “reasonable accommodation”.
- Any extensions will be determined by the Director or his/her designee.

## **Assistance to Voucher Holders**

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

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

After the first 60 days of the search, the family may be requested to maintain a search record and report to the HA every 30 days.

## **G. 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 HA shall consider the following factors to determine which of the families will continue to be assisted:

Which family member was the Head of Household when the Voucher was initially issued (listed on the initial application).

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

Which family members remain in the unit.

Whether domestic violence was involved in the breakup.

Documentation of these factors will be the responsibility of the requesting parties. If documentation is not provided, the HA may 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 unit, the family will be required to

move to a smaller unit at the time of the next annual recertification of the family if the current landlord is unwilling to accept the rent level of the smaller sized Voucher.

*As determined by the Director or his/her designee an additional Voucher may be issued to a family member or members. This issuance can only occur if there are sufficient Vouchers to issue and funding to support the subsidy. Any request of this nature must be requested by the family member or members who must vacate the unit in writing to the Director or his/her designee.*

#### **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 HA to be living in the unit.

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

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

The court has to have awarded emancipated minor status to the minor, or

The HA has to have verified that social services and/or the Juvenile Court has arranged for another eligible adult to be brought into the assisted unit to care for the child(ren) for an indefinite period.

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

## Chapter 9

### REQUEST FOR TENANCY APPROVAL AND CONTRACT EXECUTION

The initial lease term may range from 6 months to 12 months. The owner can elect to have an indefinite extension of the initial term (the endless lease). This option allows that the owner can only terminate tenancy during the term of the lease by instituting a court action, or the owner can elect fixed, definite extensions of the initial term, such as month-to-month or year-to year. This option allows that the owner can terminate tenancy without cause at the end of the initial term or any subsequent term.

#### **INTRODUCTION**

The HA's program operations are designed to utilize available resources in a manner that is efficient and provides eligible families timely assistance based on the number of units that have been budgeted. The PHA's objectives include maximizing HUD funds by providing assistance to as many eligible families and for as many eligible units as the budget will allow.

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

#### **A. REQUEST OF TENANCY APPROVAL**

The Request of Tenancy Approval (RTA) and a copy of the proposed lease, including the HUD prescribed tenancy addendum, must be submitted by the family during the term of the voucher. The family must submit the RTA in the form and manner required by the PHA.

The RTA must be signed by both the owner and voucher holder.

The HA will not permit the family to submit more than one RTA at a time.

The HA will review the proposed lease and the Request for Tenancy Approval documents to determine whether or not they meet acceptability criteria. The request will be approved if:

The unit is an eligible type of housing

The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan)

The rent is reasonable

The security deposit is approvable in accordance with any limitations in this plan.

The proposed lease complies with HUD and PHA requirements (See "Lease Review" section below).

The owner is approvable, and there are no conflicts of interest (See "Owner Disapproval" section below).

In addition to the above, at the time a family initially receives assistance in a unit (new admissions and moves), if the gross rent for the unit exceeds the applicable payment standard for the family, the family share of rent may not exceed 40 percent of the family monthly adjusted income (See "Owner Rents, Rent Reasonableness and Payment Standards" chapter of this Administrative Plan).

The Total Tenant payment in a Low Income Housing Tax Credit (LIHTC), Fed Home or HUD subsidized Development, may not exceed 30% of the participants income, and the Payment Standard may not exceed the Payment Standard attributed to the household size.

### **Disapproval of RTA**

If the PHA determines that the request cannot be approved for any reason, the landlord and the family will be notified. The PHA will instruct the owner and family of the steps that are necessary to approve the request. The owner and the family will be given 10 to submit an approvable RTA from the date of disapproval.

When, for any reason, an RTA is not approved, the PHA will furnish another RTA packet to the family so the family can continue to search for eligible housing.

### **B. ELIGIBLE TYPES OF HOUSING**

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

- All structure types can be utilized.
- Manufactured homes where the tenant leases the mobile home and/or the pad.
- Single Room Occupancy
- Group homes
- Congregate facilities (only the shelter rent is assisted)
- Homeownership option
- Units owned (but not subsidized) by the PHA (following HUD-prescribed requirements).

A family can own a rental unit but cannot reside in it while being assisted, except in the case when the tenant owns the mobile home and leases the pad. A family may lease in and have an interest in a cooperative housing development.

The PHA **will** not permit a voucher holder to lease a unit which is receiving project-based Section 8 assistance or any duplicative rental subsidies. The PHA will not permit a Voucher holder to lease a unit for which the HA would have no responsibility for the housing assistance payment to the owner (0 HAP).

### **C. LEASE REVIEW**

The PHA will review the lease, particularly noting the approvability of optional charges and the terms and conditions of the lease are in compliance with regulations and state and local law. The tenant also must have legal capacity to enter a lease under state and local law. Responsibility for utilities, appliances and optional services must correspond to those provided on the RTA. The family and owner must submit a standard form of lease used in the locality by the owner and/or is used for other unassisted tenants in the premises. The lease must specify:

- The names of the owner and tenant,
- The address of the unit rented (including apartment number, if any),
- The amount of the monthly rent to owner,
- The utilities and appliances to be supplied by the owner,
- The utilities and appliances to be supplied by the family,
- The conditions and method under which the lease may be terminated by either party and
- A holdover clause

The HUD prescribed tenancy addendum must be made part of the lease before the lease is executed.

Effective September 15, 2000, the owner's lease must include the Lead Warning Statement and disclosure information required by 24 CFR 35.92(b).

House Rules of the owner may be attached to the lease as an addendum, provided they are approved by PHA to ensure they do not violate any fair housing provisions and do not conflict with the tenancy addendum.

### **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 PHA has inspected the unit and has determined that the unit satisfies the HQS;

The PHA has determined that the rent charged by the owner is reasonable;

The landlord and the tenant have executed the lease, including the HUD-prescribed tenancy addendum;

The PHA has approved leasing of the unit in accordance with program requirements;

When the gross rent exceeds the applicable payment standard for the family, the HA must determine that the family share (total family contribution) will not be more than 40% of the family's monthly adjusted income.

### **D. 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.

The family is not liable under the Lease for unpaid charges for items covered by separate agreements and non-payment of these agreements cannot be cause for eviction.

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

Any appliances, services or other items, 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. For there to be a separate agreement, the family must have the option of not utilizing the service, appliance or other item.

The family and owner may 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.

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

The HA 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.

The property owner may enter into a separate agreement with a third party to guarantee a pet, deposit, monthly rent, damage and/or vacancy deposit.

### **E. INITIAL INSPECTIONS**

See "Housing Quality Standards and Inspections" chapter.

## **F. RENT LIMITATIONS**

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

By accepting each monthly Housing Assistance Payment from the PHA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner is required to provide the PHA with information requested on rents charged by the owner on the premises or elsewhere.

At all times during the tenancy, the rent to owner may not be more than the most current reasonable rent as determined by the PHA.

### **LIHTC Properties**

Gross Rent limitation in units with Low-Income Housing Tax Credit (LIHTC) Allocations combined with Housing Choice Voucher Assistance under the Tenant-Based Programs - the gross rent for a unit in a development that receives a LIHTC, shall be the payment standard that the family qualifies for minus the PHA utility allowance for the number of bedrooms in the unit. The Voucher holders rent (30% of their income as determined by the PHA), shall not be more than the LIHTC rent attached to the unit or building. The PHA must obtain a copy of the rent roll, which identifies the percent of income for each unit and/or building.

## **G. DISAPPROVAL OF PROPOSED RENT**

In any of the programs, if the proposed gross rent is not reasonable, at the family's request, the PHA will negotiate with the owner to reduce the rent to a reasonable rent. If, in the Voucher Program, the rent is not affordable because the family share would be more than 40% of the family's monthly adjusted income, the PHA will negotiate with the owner to reduce the rent to an affordable rent for the family.

At the family's request, the PHA will negotiate with the owner to reduce the rent or include some or all of the utilities in the rent to owner.

If the rent can be approved after negotiations with the owner, the HA will continue processing the RTA. If the revised rent involves a change in the provision of utilities, the owner must submit a new Request for Tenancy Approval.

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

## **H. INFORMATION TO OWNERS**

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

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

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

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

The HA may also provide the following information, based on documentation in its possession if requested in writing by a prospective landlord:

- Eviction history
- Damage to rental units
- Other aspects of tenancy history
- Drug Trafficking by family members

The information will be provided based on information over the last 3 years. The information will be provided in writing. Only the Housing Officer may provide this information. No person will be allowed to view a tenant file without a written release from the head of household and a signed release as required under EIV security measures.

### **I. OWNER DISAPPROVAL**

See “Owner Disapproval and Restriction” chapter.

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

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

### **K. CONTRACT EXECUTION PROCESS**

*PHA prepares the Housing Assistance Contract and Lease for execution. The family and the owner will execute the Lease Agreement, and the owner and PHA will execute the HAP Contract. Copies of the documents will be furnished to the parties who signed the respective documents. PHA will retain a copy of all signed documents.*

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

The following HA representative(s) is/are authorized to execute a HAP contract on behalf of the HA:  
Director of Housing Services, Special Programs Manager or Executive Director

Owners must provide an Employer Identification Number or Social Security Number and information for Direct Deposit of HAP.

Ownership as indicated on the RTA will be verified by PHA. If a management company or agent is indicated as the “owner” of record, a copy of the Management Agreement may be requested.

The owner must provide a home telephone number and business number if applicable. The owner must provide a mailing address. The owner may be required to present identification in the form of a picture ID.

A family may not Lease properties owned by a parent, child, grandparent, grandchild, sister or brother of any family member. The HA may waive this restriction as a Reasonable Accommodation for a family member who is a person with a disability.

**L. CHANGE IN OWNERSHIP**

See “Owner Disapproval and Restriction” chapter.

## Chapter 10

### HOUSING QUALITY STANDARDS AND INSPECTIONS

#### **INTRODUCTION**

Housing Quality Standards (HQS) are the HUD minimum quality standards for all Section 8 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. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and HAP contract.

The HA will inspect each unit under contract at least annually. The HA will also have an inspection supervisor perform quality control inspections on at least 5 percent of all units under contract annually to maintain the HA's required standards and to assure consistency in the HA's program. This Chapter describes the HA's procedures for performing HQS and other types of inspections, and HA standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of non-compliance with HQS requirements for both families and owners. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and HA requirements. (See additions to HQS).

#### **A. GUIDELINES/TYPES OF INSPECTIONS**

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

Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards.

All utilities must be in service prior to the effective date of the HAP contract. If the utilities are not in service at the time of inspection, the Inspector will notify the tenant or owner (whomever is responsible for the utilities according to the RFTA) to have the utilities turned on. The inspector will schedule a re-inspection if the utilities are not turned on.

If the tenant is responsible for supplying the stove and/or the refrigerator, the HA will allow the stove and refrigerator to be placed in the unit after the inspection. The HQS inspector will return to inspect the stove & refrigerator and obtain documentation of tenant ownership.

There are five types of inspections the HA will perform:

1. Initial/Move-in: Conducted upon receipt of Request for Tenancy Approval (RTA).
2. Annual: Must be conducted within 364 days of the anniversary date of the last full inspection.
3. Move-Out/Vacate: At the request of owner or family
4. Special/Complaint: At request of owner, family or an agency or third party.
5. Quality Control.

## **B. INITIAL HQS INSPECTION**

### **Timely Initial HQS Inspections**

The HA will inspect the unit, determine whether the unit satisfies the HQS and notify the family and owner of the determination within 10 days unless the HA determines that it is unable to do so in the stated timeframe, in which case the file will be appropriately documented.

The HA will make every reasonable effort to conduct initial HQS inspections for the family and owner in a manner that is time efficient and indicative of good customer service.

The HA will review of the average time required for a family and owner to have a unit inspected from the time the RTA is submitted by the family and owner to the HA. If the HA determines after a semiannual review of files that the average time for a family and owner to obtain an initial inspection is longer than 15 days PHA will review staffing needs relevant to 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 to assist in future evaluations whether the condition of the unit exceeds normal wear and tear.

Document the information to be used for determination of rent-reasonableness.

If the unit fails the Initial Housing Quality Standards inspection, the owner and family will be advised to notify the HA once repairs are completed.

On an Initial Inspection, the owner will be given up to 15 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 two 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.

Note: The family cannot receive assistance prior to the day the unit passes the HQS Inspection.

## **C. ANNUAL HQS INSPECTIONS**

The HA conducts an inspection in accordance with Housing Quality Standards at least annually.

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 must allow the HA to inspect the unit at reasonable times with reasonable notice.

Inspections will be conducted on business days only.

Reasonable hours to conduct an inspection are between 8 a.m. and 5 p.m.

The HA will notify the family in writing or by phone at least two days prior to the inspection.

**Inspection:** The family and owner are notified of the date and time of the inspection appointment by mail or phone. If the family is unable to be present, they must reschedule the appointment so that the inspection is completed within 10 days.

If the family does not contact the HA to reschedule the inspection, or if the family misses two inspection appointments, the HA will consider the family to have violated a Family Obligation and their assistance may 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 the family will be sent a no entry letter (copy to LL). The 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 HA to inspect the unit. If the family was responsible for a breach of HQS identified in Chapter 15, "Denial or Termination of Assistance," they will be advised their subsidy may be terminated.

### **Time Standards for Repairs**

Emergency items which endanger the family's health or safety must be corrected by the owner within 24 hours of inspection.

For non-emergency items, repairs must be made within 20 calendar days of inspection.

For major repairs, the Inspections Supervisor may approve an extension beyond 20 days including seasonal delays. Written documentation may be required for any extension requested for contractual delays or ordering delays, such as an invoice showing that an item has been ordered.

### **Rent Increases**

Rent to owner increases may not be approved if the unit is in a Failed Condition.

## **D. SPECIAL/COMPLAINT INSPECTIONS**

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

The HA may also conduct a special inspection based on information from third parties such as neighbors or public officials.

The HA may inspect only the items which were reported. However, if the Inspector notices other HQS deficiencies that may cause the unit to fail HQS, the entire unit will be inspected and the responsible party will be required to make the necessary repairs.

If the HQS anniversary date is within 60 days of a special inspection, the special inspection may be categorized as annual and all annual procedures will be followed.

## **E. QUALITY CONTROL INSPECTIONS**

The Inspections Supervisor will perform Quality Control Inspections on the number of files required by SEMAP. 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.

The sampling of files will include recently completed inspections (within the prior 3 months), a cross selection of neighborhoods, and a cross selection of Inspectors.

## **F. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS**

The HA adheres to the acceptability criteria in the program regulations and local codes with the additions described below.

### **Local Codes**

#### **Walls:**

In areas where plaster or drywall is sagging, severely cracked or otherwise damaged, it must be repaired or replaced.

Any exterior or interior surfaces with peeling or chipping paint must be corrected and painted with two coats of unleaded paint or other suitable material.

#### **Windows:**

All window sashes must be in good condition, solid and intact, and fit properly in the window frame. Damaged or deteriorated sashes must be replaced.

Windows must be weather-stripped as needed to ensure a watertight seal.

Window screens must be in good condition.

Any room for sleeping must have a window operable to the outside in compliance with city code.

#### **Doors:**

All exterior doors must be solid/no hollow core doors accepted, weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact.

All interior entry doors must be a solid door/no hollow core doors accepted.

All interior doors must have no holes, have all trim intact, and be operable.

#### **Floors:**

All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be re-secured and made level. If they cannot be leveled, they must be replaced.

All floors must be in a finished state (no plywood).

All floors should have some type of base-shoe, trim, or sealing for a "finished look." Vinyl base-shoe may be used for kitchens and bathrooms. All floors must have a finish or finish laminate product.

#### **Sinks:**

All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

All sinks must have functioning stoppers.

**Fireplace (s):**

No fireplace within a unit can be used unless the PHA receives written documentation of an annual, passed inspection by a licensed fireplace/chimney inspector/ or the local fire department inspector.

**Electrical:**

GFI protected outlets are required within 2" of sinks in the bathrooms, kitchen, and other rooms that have an open water receptacle.

**Egress:**

Any single family home with no 2<sup>nd</sup> means of egress from the 3<sup>rd</sup> floor and above will not be allowed. Two family units consisting of a 2<sup>nd</sup> and 3<sup>rd</sup> floor require at least 2 stairway exits from the 2<sup>nd</sup> floor, an exit may be within an exterior hall or an approved fire escape. Any window used for egress must meet City and Fire window opening size requirements.

**Security:**

If window security bars or security screens are present on emergency exit window, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

**Bedrooms:**

Bedrooms in basements or attics are not allowed unless they meet local Fire and City code requirements and must have adequate ventilation and emergency exit capability.

Minimum bedroom ceiling height is 7'6" or local code, whichever is greater. Sloping ceilings may not slope to lower than five feet in the 70 square foot area.

Minimum length of any bedroom wall is 7 feet.

**Modifications:**

Modifications or adaptations to a unit due to a disability must meet all applicable HQS and building codes.

Extension for repair items not required by HQS will be granted for modifications/adaptations to the unit if agreed to by the tenant and landlord. HA will allow execution of the HAP contract if unit meets all requirements and the modifications do not affect the livability of the unit.

**Site & Neighborhood Conditions:**

Any vehicle situated on the property in a condition as to pose a threat to the health and safety of the residents and/or neighbors must be removed.

**G. EMERGENCY REPAIR ITEMS**

The following items are considered of an emergency nature and must be corrected by the owner within 24 hours of notice by the Inspector:

Non-working smoke detector

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 62° F. and temperature inside unit is below 65° 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 HA may give a short extension (not more than 8 additional hours) whenever the responsible party cannot be notified or it is impossible to effect 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 make the repair, proper authorities will be notified by the HA.

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

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

#### **Smoke Detectors and Carbon Monoxide Detectors**

***The State of Maine requires smoke and carbon monoxide alarms in each rental unit. Inoperable detectors are a serious health threat and will be treated by the HA as an emergency (24-hour) fail item.***

***If the either detector is not operating properly the HA will contact the owner by phone and request the owner to repair the detector within 24 hours. The HA will re-inspect the unit the following day.***

***If the HA determines that the family has purposely disconnected either detector (by removing batteries or by other means), the family will be required to repair the smoke detector within 24 hours and the HA will re-inspect the unit the following day.***

***The HA will issue a written warning to any family determined to have purposely disconnected the unit's smoke and/or carbon monoxide detector. The warning will state that deliberate disconnection of the unit's smoke and/or carbon monoxide detector is a fire and health hazard and is considered a violation of the HQS.***

#### **H. 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 it has been determined that the owner is responsible for completing the necessary repair(s) in the time period specified by the HA and the owner does not do so, the assistance payment to the owner will be abated.

#### **Abatement**

A Notice of Failed Inspection will be sent to the owner, and the notice will be effective from the day after the date of the failed inspection. The notice is generally for 20 days, depending on the nature of the repair(s) needed.

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

If the owner makes repairs during the notice period, payment will continue unabated.

If the owner does not make repairs during the notice period, payment will be abated and a Notice of Abatement\* will be sent to the owner. If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection. No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS.

The HA will advise owners of their responsibility to notify the tenant of when the re-inspection will take place.

\* The Notice of Abatement states that the tenant is not responsible for the HA's portion of rent that is abated. The Notice of Abatement also states the closing date of the abatement period.

### **Reduction of Payments**

The HA may reduce payments/grant an extension in lieu of abatement in the following cases:

1. There is an delay in completing repairs due to difficulties in obtaining parts or contracting for services.
2. The repairs must be delayed due to climate conditions.

The extension/reduction will be made for a period of time not to exceed 90 days. At the end of that time, at the HA's discretion, if the work is not completed or substantially completed, the HA will begin the termination of assistance.

### **Termination of Contract**

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

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

## **I. DETERMINATION OF RESPONSIBILITY**

Certain HQS deficiencies are considered the responsibility of the family:

Removal of batteries from or otherwise disabling a smoke detector, carbon monoxide and/or alarm systems

Tenant-paid utilities not in service

Failure to provide or maintain family-supplied appliances

Damage to the unit or premises caused by a household member or guest beyond normal wear and tear

**"Normal wear and tear" is defined as items which could be charged against the tenant's security deposit under State law or court practice.**

The owner is responsible for all other HQS violations.

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

The Inspector will make a determination of owner or family responsibility during the inspection. \* The owner or tenant may appeal this determination within 10 days of the 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.

## **J. CONSEQUENCES IF FAMILY IS RESPONSIBLE**

If emergency violations of HQS are determined to be the responsibility of the family, the HA may require the family to make immediate restitution for correction of the deficiency. If restitution is not made to the property owner and the corrections are not made, the HA may terminate assistance to the family.

If the owner enters into a Forcible Entry and Detainer action the HA will continue the HAP through Forcible Entry and Detainer action as long as the action was initiated within five days of the HA's notification of tenant ineligibility.

## Chapter 11

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

#### **INTRODUCTION**

The HA will determine Rent Reasonableness in accordance with current HUD regulation. It is the HA's responsibility to ensure that the rents charged by owners are reasonable based upon unassisted comparable in the rental market, using the criteria specified in the regulations.

This Chapter explains the HA's procedures for determination of Rent Reasonableness, payments to owners, adjustments to the Payment Standards, and rent adjustments.

#### **A. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM**

The Rent to Owner is limited only by Rent Reasonableness. The HA must demonstrate that the Rent to Owner is reasonable in comparison to rent for other comparable unassisted units.

The only other limitation on Rent to Owner is the maximum rent standard at initial occupancy. At the time a family initially receives Tenant-Based Assistance for occupancy of a dwelling unit, whether it is a new admission or a move to a different unit, the family share may not exceed 40 percent of the family's monthly-adjusted income.

During the initial term of the Lease, the owner may not raise the rent to the family.

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

Once the HAP Contract is executed, the HA begins processing payments to the owner. The effective date and the amount of the Housing Assistance Payment (HAP) is determined by the Housing Officer. A HAP Status Report will be used as a basis for monitoring the accuracy and timeliness of payments. Net changes are made automatically to the Rent Roll and HAP Status Report for the following month. Payments are disbursed by the Accounting department to the recipients each month.

Payments to owners or other Housing Agencies under portability will be made by Direct Deposit (electronic transfer of funds) between PHA's account and that of the owner/Agency. Exceptions to this method of payment must be made with the approval of the Director of Finance.

#### **Excess Payments**

The total of rent paid by the tenant plus the PHA housing assistance payment to the owner may not be more than the rent to owner. The owner must immediately return any excess payment to the PHA.

Owners who do not return excess payments will be subject to penalties as outlined in the "Owner or Family Debts to the PHA" chapter of this Administrative Plan.

#### **C. RENT REASONABLENESS DETERMINATIONS**

The HA will not approve a Lease until the HA determines that the initial rent to owner is a reasonable rent. The HA must redetermine the reasonable rent before any increase in the rent to owner and when there is a five percent

decrease in the published FMR in effect 60 days before the Contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the Contract anniversary.

The HA must redetermine Rent Reasonableness if directed by HUD and based on a need identified by the HA's auditing system, the HA may elect to redetermine Rent Reasonableness at any other time. At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or redetermined by the HA.

The owner will be advised that by accepting each monthly Housing Assistance Payment s/he will be certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises.

If requested, the owner must give the HA information on rents charged by the owner for other units in the premises or elsewhere.

The following items will be used for Rent Reasonableness documentation:

- Size (number of Bedrooms/square footage)
- Location
- Amenities (bathrooms, dishwasher, air conditioning, etc.)
- Quality
- Housing Services
- Age of unit
- Unit Type
- Utilities
- Maintenance

### **Rent Reasonableness Methodology**

In order to meet these requirements PHA has contracted with a third party consultant to devise methodology for fairly determining reasonable rent. The consultant hired is Market Vision Partners, LLC (MVP) and their product is called:

“Rentellect, the Intelligent Rent Reasonableness Test”

The system is limited access and allows PHA to enter descriptive information about a rental unit, including amenities and landlord provided utilities. The system provides a pass/fail determination based upon statistical analysis of the local rental market. The system also provides sample data from the specific neighborhood where the subject is located as supplemental information and confirmation of the test.

The analysis for rent reasonableness under Rentellect is based on data collected by MVP from a wide variety of sources including but not limited to the Internet, newspapers, rental listings and real estate brokers. Data collection is year round in order to provide indications of local market conditions. The data collected includes the nine criteria listed above. Sources and provision of data is done monthly and aging data is removed. (See public announcement of Rent Reasonableness Methodology for MVP). PHA will enter data on individual units listed on the Request for Tenancy Approval and collected at the time of the initial HQS Inspection. All Rent reasonableness tests must indicate a passing score before any unit can be placed under the HAP Contract. System produced documentation of this test will be placed in the tenant file for the record.

### **D. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM**

The Payment Standard is used to calculate the Housing Assistance Payment for a family. The Payment Standard is set by the HA between 90 percent and 110 percent of the FMR/exception rent. The HA reviews the appropriateness of the Payment Standard annually when the FMR is published.

The PHA may approve a higher Payment Standard up to and including 110% of the FMR if required as a reasonable accommodation for a family that includes a person with disabilities.

## **E. ADJUSTMENTS TO PAYMENT STANDARDS**

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

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

In a volatile market, it will be at the HA's discretion whether to make the change immediately or wait until the time of the annual review of the HA's Payment Standard.

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

### **Assisted Families' Rent Burdens**

The HA will review reports showing the percent of income used for housing costs by Voucher families to determine the extent to which the rent burden is more than 30% percent of their annual adjusted income for rent.

### **Availability of Suitable Vacant Units Below the Payment Standard**

The HA will review its Rent Reasonableness database and vacancy rate data to determine whether there is an ample supply of vacant units below the Payment Standard in areas without minority concentration and/or poverty-impacted areas.

### **Quality of Units Selected**

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

### **HA Decision Point**

The HA will review the quality and size of units where the rents to owner are above the Payment Standard by more than 25%. If more than 40% of families have selected above-average units or have selected larger units than the Voucher size, the HA may elect not to increase the Payment Standard nor continue the analysis.

If the analysis continues, the HA 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 HA will continue the analysis. If not, the HA may elect not to increase the Payment Standard for certain bedroom sizes.

### **Rent to Owner Increases**

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

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

### **Time to Locate Housing**

The HA may consider the average time period for families to lease up under the Voucher Program. If the average for Voucher holders exceeds the average seeking time in the community by 25 percent, the Payment Standard may be adjusted.

### **Rent Reasonableness Data Base/Average Rents to Owners**

The HA will compare the Payment Standards to average rents in its Rent Reasonableness data base and to the average rent to owners by unit size. The Payment Standards should be comparable to the median figure of these amounts.

### **Lowering of the Payment Standard**

Lowering of the FMR may require an adjustment of the Payment Standard. Additionally, statistical analysis may reveal that the Payment Standard should be lowered. In any case, the Payment Standard will not be set below 90 percent of the FMR without authorization from HUD.

### **Financial Feasibility**

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

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

### **File Documentation**

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

## **F. EXCEPTION PAYMENT STANDARDS**

One of the purposes of an exception payment standard is to ensure that a family with a person with disabilities can rent a unit that meets the disabled person's needs. On a case-by-case basis, as a reasonable accommodation, PHA may approve a payment standard up to 110% of the FMR (if it has not already set the payment standard at 110% of FMR). Such payment standards must be requested by the family and subsequently approved, as necessary, by PHA **after** a family with a disabled person or an individual person with disabilities locates a unit.

The HUD Field Office Public Housing Director can approve exception payment standards above 110% and up to 120% of the FMR as a reasonable accommodation. Headquarters must waive 982.505(d) to allow PHA to approve any exception payment standards higher than 120% of the FMR as a reasonable accommodation.

## **G. OWNER PAYMENT IN THE HOUSING CHOICE VOUCHER PROGRAM**

The owner is required to notify the HA, in writing, at least sixty days before any change in the amount of rent to owner is scheduled to go into effect. Any requested change in rent to owner will be subject to rent reasonableness requirements. See 24 CFR 982.503.

## **H. LIHTC PAYMENT STANDARDS**

Payment Standards attributed to a LIHTC unit is determined by the lesser of the housing voucher size (adjusted for smaller unit size if requested) or the LIHTC rent.

## Chapter 12

### RECERTIFICATIONS

#### **INTRODUCTION**

In accordance with HUD requirements, the HA will reexamine the income and household composition of all families at least annually. Families will be provided accurate annual and interim rent adjustments. Recertifications and interim examinations will be processed in a manner that ensures families are given reasonable notice of rent increases. All annual activities will be coordinated in accordance with HUD regulation. It is a HUD requirement that families report all changes in household composition. This Chapter defines the PHA's policy for conducting annual re-certifications and coordinating annual activities. It also explains the interim reporting requirements for families, and the standards for timely reporting.

#### **A. ANNUAL ACTIVITIES**

There are two activities the HA must conduct on an annual basis.

1. Recertification of Income and Family Composition
2. HQS Inspection

The PHA produces a monthly listing of units under contract to ensure that timely reviews of housing quality, and factors related to total tenant payment/family share can be made.

Reexamination of the family's income and composition must be conducted at least annually.

Annual inspections: See "Housing Quality Standards and Inspections" chapter.

Rent Adjustments: See "Owner Rents, Rent Reasonableness and Payment Standards" chapter.

#### **B. ANNUAL RECERTIFICATION/REEXAMINATION**

##### **Moves Between Reexaminations**

When families move to another dwelling unit:

The anniversary date for the recertification will not be changed.

Income limits are not used as a test for continued eligibility at re-certification.

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

The HA will maintain a reexamination tracking system and the household will be notified by mail of the date and time for their interview at least 90 to 120 days in advance of the anniversary date. If requested as an accommodation by a person with a disability, the HA will provide the notice in an accessible format. The HA will also mail the notice to a third party, if requested, as reasonable accommodation for a person with disabilities.

## **Procedure**

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

Schedule the date and time of appointments and mail a notification to the family. Include an "Application for Recertification", documents required for the release of information to PHA, and certain family certifications.

PHA will meet with the family adults and review these documents. Verifications of all stated income sources, assets and allowable expenses will be sought (see Chapter 6 – Factors Related to Total Tenant Payment and Family Share Determination and Chapter 7 - Verification Procedures Chapter.)

## **Completion of Annual Recertification**

PHA will have all recertifications for families completed before the anniversary date. This includes notifying the family of any changes in family rent at least 30 days before the anniversary date.

## **Persons with Disabilities**

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

## **Collection of Information**

*HA requires the family to complete a recertification form, and then reviews the form with the family. The Family will also be asked questions on a separate Re-certification Interview Sheet and the responses will be noted by the interviewer. This process enhances the measures taken by the HA to reduce and prevent omission of needed information and fraud. Both forms present information as presented by the family representative.*

## **Requirements to Attend**

The head of household and spouse or co-head and family members 18 and over will be required to attend the recertification interview.

If the head of household is unable to attend the interview the spouse/co-head may re-certify for the family, provided that the head comes in to sign within 10 days.

If any family member(s) 18 and older is/are unable to attend, the Head/Spouse may recertify for the family member that is unable to attend provided that the family member comes in to sign within 10 days.

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

The written notification states that all adults in the family are required to attend the scheduled interview. The family may call to request another appointment date.

If the family does not appear for the recertification interview, and has not rescheduled or made prior arrangements with PHA, PHA will reschedule a second appointment.

If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, the HA may take steps to contact the family by other methods to solicit their cooperation or send family a notice of termination and offer the family an informal hearing.

If the family does not respond to the letter of termination and the offer of an informal hearing in the time allowed to do so The Director will notify the family of the intent to terminate. Failure to respond to this letter will result in the termination of assistance.

The Director or 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 or if requested as a reasonable accommodation for a person with a disability.

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

In the notification letter to the family, the HA will include instructions for the family to bring to the interview:

Documentation of all assets/income

Personal Declaration Form completed by Head of Household

Documentation of any deductions/allowances

### **Verification of Information**

The HA will follow the verification procedures and guidelines described in this Plan. Verifications for re-examinations shall be no more than 90 days old. Exceptions: Consecutive paystubs that are used for the purpose of determining wage income at the annual reexamination may be no older than 120 days from the effective date.

### **Tenant Rent Increase**

If tenant rent increases, a thirty-day notice should be 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 less than 30-day notice of a rent change or a retroactive increase in rent to the anniversary date.

### **Tenant Rent Decreases**

If tenant rent decreases, it will be effective on the anniversary date. The 30-day notification requirement need not apply.

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

## **C. REPORTING INTERIM CHANGES**

Program participants must report all changes in previously reported income, any new sources of income, and all changes in household composition to the HA between annual reexaminations.

Changes in household composition include additions due to birth, adoption and court-awarded custody; and other additions, i.e. new spouse, or other adults and currently authorized members of the family who move-out of the unit die or become permanently absent from the unit. The individual or group of individuals who apply to be added must meet the PHA eligibility and suitability criteria as outlined in Chapter 2. The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified.

If any new family member is added, family income must include any income associated with the new family member. The HA will conduct a reexamination to determine such additional income and will make the appropriate adjustments in the Housing Assistance Payment and family unit size.

### **Interim Reexamination Policy**

The HA may conduct interim reexaminations when families have an increase/decrease in income. The HA will conduct quarterly interim reexaminations on all families that have zero or sporadic income.

### **Increases in Income**

The PHA will conduct interim reexaminations when families have an increase in income when the families prior income was determined zero or sporadic.

*The PHA will conduct interim reexaminations when any adult family member has a change in source of income, i.e. the head of household goes from TANF to employment; a change in job title with a new pay rate; or a required change in hours worked, i.e. part-time to full-time employment.*

The PHA will conduct interim reexaminations to include income and allowable income deductions when families have a change in household composition.

The PHA will not conduct interim reexaminations when families have an regular or a published increase in income, i.e. Cost of Living Increase (COLA), annual adjustment to Social Security benefits, etc.

*The PHA will conduct interim reexaminations, if requested by a family member who is an FSS participant or qualifies for MEID for any kind of increase in income regardless of current interim policy.*

**The PHA may conduct interim reexaminations when any family has an increase in income that occurs within 30-days of the initial certification or any recertification thereafter if, as determined by the Director, a pattern exists in the income history of family members that may be construed as an abuse of existing policies.**

### **Decreases in Income**

*Participants will report a decrease in income and any other changes such as an increase in allowances or deductions which would reduce the amount of tenant rent. The HA must calculate the change if a decrease in tenant rent is determined.*

### **HA Errors**

If the Portland Housing Authority makes a mistake in calculating a participant's total tenant payment (TTP) and undercharges the participant, the participant's TTP will increase on the first of the second month following the month in which the undercharge was discovered to provide a 30 day rent increase notice to tenant. The PHA will not assess a retroactive charge.

If the Portland Housing Authority makes a mistake in calculating a participant's total tenant payment (TTP) and overcharges the participant, the participant shall receive a refund for the amount of the mistake going back to the most recent annual review (a maximum of 12 months). The refund shall be given to the participant as soon as practical, unless the participant owes the Housing Authority money in which case the debt shall be offset to the degree possible.

## **D. OTHER INTERIM REPORTING ISSUES**

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

An interim reexamination will be scheduled for families with zero/unstable income every 90 days.

If there is a change in anticipated income, a rent calculation will be done to correct the family's portion of the rent accordingly.

### **E. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS**

The PHA will not reduce the family share of rent for families whose welfare assistance is reduced due to a "specific welfare benefit reduction", which is a reduction in benefits by the welfare agency specifically because of:

Fraud in connection with the welfare program or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program.

However, the PHA will reduce the rent if the welfare assistance reduction is a result of:

The expiration of a lifetime time limit on receiving benefits or a situation where the family has complied with welfare program requirements but cannot or has not obtained employment, or a situation where a family member has not complied with other welfare agency requirements.

#### **Definition of Covered Family**

A household that receives benefits for welfare or public assistance from a State or public agency program which requires, as a condition of eligibility to receive assistance, the participation of a family member in an economic self-sufficiency program.

#### **Definition of "Imputed Welfare Income"**

The amount of annual income, not actually received by a family, as a result of a specified welfare benefit reduction, that is included in the family's income for purposes of determining rent.

The amount of imputed welfare income is determined by the PHA, based on written information supplied to the PHA by the welfare agency, including:

The amount of the benefit reduction

The term of the benefit reduction

The reason for the reduction

Subsequent changes in the term or amount of the benefit reduction

The family's annual income will include the imputed welfare income, as determined at the family's annual or interim reexamination, during the term of the welfare benefits reduction (as specified by the welfare agency).

**The amount of imputed welfare income will be offset by the amount of additional income the family receives that commences after the sanction was imposed. When additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income will be reduced to zero.**

**If the family was not an assisted resident when the welfare sanction began, imputed welfare income will not be included in annual income.**

If the family claims the amount of imputed welfare income has been calculated incorrectly, the Housing Officer will review the calculation for accuracy. If the imputed welfare income amount is correct, the PHA will provide a written notice to the family that includes: a brief explanation of how the amount of imputed welfare income was determined; and a statement that the family may request an informal hearing if they do not agree with the PHA determination. (See "Verification Procedures" chapter.)

### **Verification Before Denying a Request to Reduce Rent**

The PHA will obtain written verification from the welfare agency stating that the family's benefits have been reduced due to fraud or noncompliance with welfare agency economic self-sufficiency or work activities requirements before denying the family's request for rent reduction.

The PHA will rely on the welfare agency's written notice to the PHA regarding welfare sanctions.

### **Cooperation Agreements**

The final Admissions and Occupancy rule, published in the Federal Register on 3/29/00, requires PHAs to make best efforts to enter into cooperation agreements with welfare agencies.

The PHA has executed a Memorandum of Understanding with the local welfare agency to ensure timely and accurate verification of noncompliance.

The PHA has taken a proactive approach to culminating an effective working relationship between the PHA and the local welfare agency for the purpose of targeting economic self-sufficiency programs throughout the community that are available to Section 8 assistance families.

The PHA and the local welfare agency have mutually agreed to exchange information regarding any economic self-sufficiency and/or other appropriate programs or services that would benefit Section 8 assisted families.

### **Family Dispute of Amount of Imputed Welfare Income**

If the family disputes the amount of imputed income and the PHA denies the family's request to modify the amount, the PHA will provide the tenant with a notice of denial, which will include an explanation for the PHA's determination of the amount of imputed welfare income and a statement that the tenant may request an informal hearing and a statement that the grievance information received from the welfare agency cannot be disputed at the informal hearing, and the issue to be examined at the informal hearing will be the PHA's determination of the amount of imputed welfare income, not the welfare agency's determination to sanction the welfare benefits.

## **F. NOTIFICATION OF RESULTS OF RECERTIFICATIONS**

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

The Notice of Rent Change is mailed to the owner and the tenant. Signatures are not required by the HA. If the family disagrees with the rent adjustment and after a review of the calculation by the Program Compliance department, they may request an Informal Hearing.

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

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

PHA provides prepared form for family use to report changes in family income. This form is available at the HA's office and by mail or fax upon request. The HA requires that families report interim changes to the HA within 10 days of when the change occurs. Any information, document or signature needed from the family, which is needed to verify the change must be provided within 10 days of the change.

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

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

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

**Increases in the Tenant Rent** are effective on the first of the month following at least a thirty-day notice.

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

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

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

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

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

**Decrease in Tenant Rent** will be effective on the first of the month following the month that the change was verified and calculated.

## **H. CHANGES IN VOUCHER SIZE AS A RESULT OF FAMILY COMPOSITION CHANGES**

PHA provides prepared a form for family use to report changes in family income. This form is available at the HA's office and by mail or fax upon request. The HA requires that families report interim changes to the HA within 10 days of when the change occurs. Any information, document or signature needed from the family, which is needed to verify the change must be provided within 10 days of the change.

### **Increases in Family Size**

Increases in family size other than by birth, adoption or court-awarded custody must have the prior approval of the owner and the HA in writing.

*If the addition would result in over-crowding according to HQS maximum occupancy standards the family would be considered under-housed (see Chapter 5).*

If approved the HA will issue a larger Voucher (if needed under the Subsidy Standards) for additions to the family in the following cases:

Addition of minors by marriage or co-habitation.

Addition of a minor who is a member of the nuclear family who had been living elsewhere.

Addition of a HA approved live-in attendant.

*Other requests for increase in Voucher size must be requested by the family (see Chapters 5- Exceptions to Subsidy Standards and 1- Reasonable Accommodation) and must be approved by the Director or by his/her designee.*

## **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. (Not persons who are in the country illegally)

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

1. The HA implemented the Non-Citizen Rule prior to November 29, 1996 AND
2. The head of household or spouse is a U.S. citizen or has eligible immigrant status; AND
3. All members of the family, other than the head, the spouse, parents of the head or the spouse, and children of the head or spouse are citizens or eligible immigrants. The family may change the head of household to qualify under this provision.

If the HA implemented the Non-Citizen Rule on or after November 29, 1996, mixed families may receive prorated assistance only.

## **J. MISREPRESENTATION OF FAMILY CIRCUMSTANCES**

If any applicant or participant deliberately misrepresents the information on which eligibility or tenant rent is established, the HA may terminate assistance and may refer the family file/record to the proper authorities for appropriate disposition. (See Program Integrity Addendum)

## Chapter 13

### MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

#### INTRODUCTION

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

#### A. ALLOWABLE MOVES

A family may move to a new unit if:

1. The assisted Lease for the current unit has been terminated because the HA has terminated the HAP contract for an owner breach, or the Lease was terminated by mutual agreement of the owner and the family.
2. The owner has given the family a notice to vacate as allowed under the HAP Contract, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated).
3. The family has given proper notice to vacate under the Lease for owner breach or otherwise.

#### B. RESTRICTIONS ON MOVES

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

The HA may deny permission to move if:

The family has violated a Family Obligation under the Housing Choice Voucher or the Statement of Family responsibility

The family has moved or been issued a Voucher within the last 12 months.

The family owes PHA money and has not kept current on a repayment agreement and in so doing must pay the debt off in full..

PHA will not deny a move with continued assistance to a participant who is otherwise in compliance with Voucher program obligations and moves out of a previous assisted unit in order to protect the health and safety of a family member who is or has been the victim of domestic violence, dating violence, or stalking, who reasonably believes he/she is imminently threatened by harm from further violence if he or she remains in the assisted unit.

The Director or designee may also make exceptions to these restrictions based on the reason for the move, the level of responsibility on the part of the tenant in the reason for the move, and/or a request for a reasonable accommodation for a disabled person.

## **C. PROCEDURE FOR MOVES**

### **Issuance of Voucher**

Subject to the restrictions on moves, the HA will issue a Voucher to move when the family requests the move. If the family does not locate to a new unit, they may remain in the current unit so long as the owner permits.

### **Notice Requirements**

Briefing Sessions emphasize the family's responsibility to give the owner and the HA proper written notice of any intent to move. The family must give the owner the required number of days written notice of intent to vacate specified in the Lease and must give a copy to the HA simultaneously.

### **Time of Contract Change**

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move except that there will be no overlapping assistance.

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

## **D. PORTABILITY**

Portability applies to families moving out of or into the HA's jurisdiction within the United States and its territories with continued assistance under the Housing Choice Voucher program..

## **E. OUTGOING PORTABILITY**

Within the limitations of the regulations and this policy, a participant family has the right to receive Tenant-Based Voucher Assistance to lease a unit outside PHA's jurisdiction, anywhere in the United States and its territories, in the jurisdiction of a HA with a Housing Choice Voucher Program. When a family requests to move outside of PHA's jurisdiction, the request must specify the area to which the family wants to move.

It will be PHA's practice to allow portability to other HA jurisdictions including those with higher Payment Standards unless PHA would be unable to avoid terminations of HCV assistance for current participants during the calendar year in order to remain within its budgetary allocation for HAP.

If there is more than one HA in the area in which the family has selected a unit, PHA will choose the receiving HA.

### **Restrictions on Portability**

#### **Applicants**

If neither the head nor spouse had a domicile (legal residence) in the HA's jurisdiction at the date of their initial application for assistance, the family will not be permitted to exercise portability upon initial issuance of a Voucher, unless the HA approves such moves.

PHA will not deny portable housing assistance to an applicant family if a family member who is or has been the victim of domestic violence, dating violence, or stalking, who reasonably believes he/she is imminently threatened by harm from further violence if he or she remains within PHA's jurisdiction.

The Director or designee may also make exceptions to these restrictions based on the reason for the move, the level of responsibility on the part of the tenant in the reason for the move, and/or a request for a reasonable accommodation for a disabled person.

Upon initial issuance of a Voucher the family must be income eligible under the receiving HA income limits to be eligible to port to the receiving HA's jurisdiction.

### **Participants**

Participant families cannot exercise portability during the first twelve (12) months of assisted occupancy. The HA will not permit participant families to exercise portability if the family is in violation of a Family Obligation; if the family owes money to PHA; and/or if the family has moved out of its assisted unit in violation of the Lease

*PHA will not deny portable housing assistance to a family who is otherwise in compliance with Voucher program obligations and moves out of a previous assisted unit in order to protect the health and safety of a family member who is or has been the victim of domestic violence, dating violence, or stalking, who reasonably believes he/she is imminently threatened by harm from further violence if he or she remains in the unit and in PHA's jurisdiction.*

The Director or designee may also make exceptions to these restrictions based on the reason for the move, the level of responsibility on the part of the family in the reason for the move, and/or a request for a reasonable accommodation for a disabled person.

## **F. INCOMING PORTABILITY**

### **Absorption or Administration**

PHA will accept a family with a valid Voucher from another jurisdiction and administer or absorb the Voucher. The decision to absorb or administer the ported Voucher must be made based on regulations under PIH 2008-43. PHA will make it their practice to absorb all port-ins unless PHA has no additional funds to assist any new voucher family under their HCV program.

If there is more than one HA administering the HCV program in the area in which the family has selected a unit, the initial HA must forward the portability information on behalf of the family to the HA indicated as having operational responsibility of that town as designated by the Maine Housing Authority. PHA will notify the initial HA if the family should contact another HA for portability purposes and, if allowed, forward the portability information to the correct receiving HA.

The family will be issued a Voucher by PHA. The term of the Voucher will not expire before the expiration date of the initial HA Voucher. The family must submit a Request for Tenancy Approval (RFTA) for an eligible unit to the PHA during the term of the Voucher. PHA may grant extensions in accordance with this Administrative Plan. However, if the Family decides not to lease-up in PHA's jurisdiction, they must be referred back to the initial HA.

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

PHA does not redetermine eligibility for a portable family that was already receiving assistance in the initial HA's Housing Choice Voucher Program.

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

If the initial HA has under a reasonable accommodation for a person with disabilities allowed an additional bedroom to the family for use as a room for a live-in aide or for some other reason because of medical or accessibility need, PHA will honor that exception if required based on PHA's subsidy standards. The conditions under which the

reasonable accommodation was approved must exist at the time of lease-up with HCV assistance. Documentation of the decision will be required from the initial HA.

### **Income and TTP of Incoming Portables**

As receiving HA, PHA will conduct a recertification interview but only verify family information if the documents are missing or are over 60 days old, whichever is applicable, or there has been a change in the family's circumstances.

If the family's income is such that a \$0 subsidy amount is determined prior to lease-up in PHA's jurisdiction, PHA will refuse to enter into a Housing Assistance Payments Contract with an owner on behalf of the family.

### **Requests for Tenancy Approval**

A Briefing will be required of all portability families.

When the family submits a RTA, it will be processed using the HA's policies. If the family does not submit a RTA and/or does not execute a Lease, the initial HA will be notified within 60 days of the original expiration date of the Voucher by the HA.

If the family leases up successfully, the HA will notify the initial HA, within 30 days, of the effective lease-up date and whether billing or absorption of the Voucher will occur.

If the HA denies assistance to the family, the HA will notify the initial HA within 30 days and the family will be offered a Review or Hearing by PHA.

The HA will notify the family, if their voucher is being administered, of its responsibility to contact the initial HA if the family wishes to move outside the HA's jurisdiction under continued portability.

### **Terminations**

The HA will notify the initial HA in writing of any termination of assistance within 30 days of the termination. If an Informal Hearing is required and requested by the family, the Hearing will be conducted by the HA, using the regular Hearing procedures included in this Plan. A copy of the Hearing decision will be furnished to the initial HA.

The initial HA will be responsible for collecting amounts owed to the initial HA by the Family and for monitoring repayment. If the initial HA notifies the HA that the family is in arrears or the family has refused to sign a Payment Agreement, the HA will terminate assistance to the family.

### **Required Documents**

As receiving HA, the HA will require the documents listed on the HUD Portability Billing Form from the initial HA.

### **Billing Procedures**

As receiving HA, PHA will bill the initial HA at the time a 50058 is created for Housing Assistance Payments and Administrative Fees, and any Special Fees and for all subsequent monthly amounts on a monthly basis.

PHA will bill 100% of the Housing Assistance Payment, 100% of any Special Fees and 80% of the Administrative Fee (at the initial HA's rate) for each Voucher leased as of the first day of the month.

The HA will notify the initial HA of changes in subsidy amounts and will expect the initial HA to notify the HA of changes in the Administrative Fee amount to be billed.

## **Chapter 14**

### **CONTRACT TERMINATIONS**

#### **INTRODUCTION**

The Housing Assistance Payments (HAP) contract is the contract between the owner and the PHA which defines the responsibilities of both parties. This chapter describes the circumstances under which the contract can be terminated by the PHA and the owner, and the policies and procedures for such terminations.

#### **A. CONTRACT TERMINATION**

The term of the HAP contract is the same as the term of the lease. The contract between the owner and the PHA may be terminated by the PHA, or by the owner or tenant terminating the lease.

No future subsidy payments on behalf of the family will be made by the PHA to the owner after the month in which the contract is terminated. The owner must reimburse the PHA for any subsidies paid by the PHA for any period after the contract termination date.

If the family continues to occupy the unit after the HAP contract is terminated, the family is responsible for the total amount of rent due to the owner.

After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit. The contract for the new unit may begin during the month in which the family moved from the old unit.

#### **B. TERMINATION BY THE FAMILY: MOVES**

Family termination of the lease must be in accordance with the terms of the lease.

#### **C. TERMINATION OF TENANCY BY THE OWNER: EVICTIONS**

If the owner wishes to terminate the lease, the owner must provide proper notice as stated in the lease. During the term of the lease, the owner may not terminate the tenancy except for the grounds stated in HUD regulations found in the HAP Contract..

During the term of the lease the owner may only evict for:

Serious or repeated violations of the lease, including but not limited to failure to pay rent or other amounts due under the lease, or repeated violation of the terms and conditions of the lease;

Violations of Federal, state or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises; or criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises or any drug-related criminal activity on or near the premises.

Other good cause.

During the initial term of the lease, 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.

### **Evidence of Criminal Activity**

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity regardless of arrest or conviction or without satisfying the standard of proof used for a criminal conviction

### **Termination of Tenancy Decisions**

If the law permits but not require the owner to take an action, the owner can decide whether to do so or not. Relevant circumstances for consideration include: the seriousness of the offense; the effect on the community; the extent of participation by household members; the effect on uninvolved household members; the demand for assisted housing by families who will adhere to responsibilities

The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action

The effect on the integrity of the program

### **Exclusion of culpable household member**

The owner may require a tenant to exclude a household member in order to continue to reside in the assisted unit.

### **Consideration of Rehabilitation**

When determining whether to terminate the tenancy for illegal drug use or alcohol abuse, the owner may consider whether the member:

Is no longer participating

Has successfully completed a supervised drug or alcohol rehab program

Has otherwise been successfully rehabilitated

The owner may require the tenant to submit evidence of any of the three (above).

Actions of termination by the owner must be consistent with the fair housing and equal opportunities as stated in 24 CFR 5.105.

The owner must provide the tenant a written notice specifying the grounds for termination of tenancy, at or before the commencement of the eviction action. The notice may be included in, or may be combined with, any owner eviction notice to the tenant.

The owner eviction notice means a notice to vacate, or a complaint, or other initial pleading used under State or local law to commence an eviction action.

The PHA requires that the owner specify the section of the lease that has been violated and cite some or all of the ways in which the tenant has violated that section as documentation for the PHA's decision regarding termination of assistance.

Housing assistance payments are paid to the owner under the terms of the HAP contract. If the owner has begun eviction and the family continues to reside in the unit, the PHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant. The PHA will continue housing assistance payments until the family moves or is evicted from the unit.

If the action is finalized in court, the owner must provide the PHA with the documentation, including notice of the lock-out date.

The PHA must continue making housing assistance payments to the owner in accordance with the contract as long as the tenant continues to occupy the unit and the contract is not violated. By endorsing the monthly check from the PHA, the owner certifies that the tenant is still in the unit, the rent is reasonable and s/he is in compliance with the contract.

If an eviction is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so that the family can move with continued assistance.

#### **D. TERMINATION OF THE CONTRACT BY PHA**

The term of the HAP contract terminates when the lease terminates, when the PHA terminates program assistance for the family, and when the owner has breached the HAP contract. (See "Owner Disapproval and Restriction" chapter)

The PHA may also terminate the contract if:

The family is required to move from a unit when the subsidy is too big for the family size or the unit does not meet the HQS space standards because of an increase in family size or a change in family composition.

Funding is no longer available under the ACC.

If 180 days have passed since the last housing assistance payment to the owner.

#### **Notice of Termination**

When the PHA terminates the HAP contract under the violation of HQS space standards, the PHA will provide the owner and family written notice of termination of the contract, and the HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives such notice to the owner. All other terminations by the PHA will occur on the date determined by the PHA.

#### **Determination of Insufficient Funding under the ACC**

PHA will determine whether there is adequate funding to issue Vouchers, and to allow moves to higher cost units and areas, by comparing the PHA's annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure PHA will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per the remaining months by the current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs are equal to or exceed the annual budget authority, or if PHA cannot support the cost of the proposed subsidy commitment (Voucher issuance or moves) based on the funding analysis PHA will be considered to have insufficient funding. PHA will immediately take any necessary steps, up to and including termination of existing Housing Assistance Payments Contracts, to cure this funding problem. PHA will act with the intent of creating as little hardship on participants and applicant families as possible.

## Chapter 15

### DENIAL OR TERMINATION OF ASSISTANCE

#### **INTRODUCTION**

The HA may deny or terminate assistance for a family because of the family's action or failure to act. The HA will provide families with a written description of the Family Obligations under the program, the grounds under which the HA can deny or terminate assistance, the HA's Informal Hearing and Informal Review procedures and the rights of participants and applicants under Section 606 of the Violence Against Women's Act of 2005 (VAWA), including rights to confidentiality. This Chapter describes when the HA is required to deny or terminate assistance, and the HA's policies for the denial of a new commitment of assistance and the grounds for termination of assistance under an outstanding HAP Contract. Only the Director of Housing Services or his/her designee will issue Notices of Termination to participating families.

#### **A. GROUNDS FOR DENIAL/TERMINATION**

##### **Form of Denial/Termination**

Denial of assistance for an applicant may include any or all of the following:

- Denying or withdrawing a Voucher
- Denial for placement on the HA waiting list
- Refusing to enter into a HAP Contract or approve a Lease
- Refusing to process or provide assistance under Portability procedures

*Termination of Assistance for a participant may include any or all of the following:*

- Refusing to enter into a HAP Contract or approve a Lease
- Terminating Housing Assistance Payments under an outstanding HAP Contract
- Refusing to process or provide assistance under Portability procedures

If denial or termination is based upon behavior resulting from a disability, the HA will delay the denial or termination in order to determine if there is an accommodation which would negate the behavior resulting from the disability.

##### **Definitions**

*Covered person*, means a tenant, any member of the tenant's household, a guest or another person under the tenant's control.

*Dating Violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors: The length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

*Domestic Violence* means felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

*Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

*Drug-related criminal activity* means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

*Guest* means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. The requirements of part 982 apply to a guest as so defined.

*Household* means the family and PHA-approved live-in aide.

*Other person under the tenant's control*, for the purposes of the definition of *covered person* and for 24 CFR Parts 5 and 982 and for this chapter, means that the person, although not staying as a guest (as defined in this chapter) in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the tenant's control.

A *pattern of illegal use or abuse* of a controlled substance or alcohol is one or more incidents in the past three months.

"*Promptly*" as used in the Family Obligations means "within ten (10) days".

*Stalking* means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her safety or the safety of others or suffer substantial emotional distress.

*Threatened* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

*Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

*Violent or abusive behavior* includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for termination or denial.

### **Mandatory Denial or Termination of Assistance**

The HA **must** permanently deny assistance to applicants and terminate the assistance of participants convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.

The PHA **must** permanently deny assistance to applicants or terminate assistance to current participants if any member of the household is subject to a lifetime registration requirement under a State Sex Offender Registration Program or would be subject to a lifetime registration had the sexual offense occurred after September 1999 when the law went into effect.

The HA **must** terminate assistance if a participant family is under a HAP contract and 180 days have elapsed since the PHA's last housing assistance payment was made. (See "Contract Terminations" chapter.)

The HA **must** terminate program assistance for participants evicted from housing assisted under the program for serious violation of the lease.

The HA **must** deny assistance to applicants or terminate program assistance of participants if any member of the family fails to sign and submit consent forms for obtaining information in accordance with 24 CFR Part 5, subparts B and F.

The HA **must** deny assistance to applicants or terminate assistance of participants when required under the regulations to establish citizenship or eligible immigration status. (See Section D)

The HA **must** deny assistance to applicants or terminate assistance of participants when required under student status regulation CFR 24 Part 5.612.

#### **HA Discretionary Denial or Termination of Assistance**

The HA **will** deny program assistance for an applicant, or terminate program assistance for a participant for any of the following reasons:

Any member of the family has been engaged in or arrested for drug-related or violent criminal activity; or has shown a pattern of continuing or prolonged illegal activity (see Section – Standard for Violation).

Any member of the household is subject to a lifetime registration requirement under a State Sex Offender Registration Program

Any member of the family is fleeing prosecution, or custody or confinement after conviction which is a felony ( or a high misdemeanor in New Jersey) under the laws of the place from which the family member flees;

Any member of the family is violating a condition of probation or parole imposed under Federal or State law;

Any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program;

The family currently owes rent or other amounts to PHA or to another Housing Authority or Housing Agency in connection with any Section 8 or Public Housing assistance; or any other federal housing assistance program;

The family breaches an agreement with a HA to pay amounts owed to a HA.

A family participating in the FSS Program fails to comply, without good cause, with the family's FSS Contract of Participation;

The family or any family member has engaged in or threatened abusive or violent behavior toward HA personnel; and/or

Any member of the family whose drug or alcohol abuse interferes with the health, safety or peaceful enjoyment of other residents, including where the HA determines that there is a pattern of illegal use of a controlled substance or pattern of alcohol abuse.

The family violates any Family Obligation (See Section C) under the program as listed in 24 CFR 982.551.

Any family member has been evicted from Federally assisted housing in the last 3 years.

Any family member has been terminated for violation of Family Obligations under a Section 8 rental assistance program in the last 3 years or for eviction under Public Housing or project-based assisted housing.

However, any activity directly relating to domestic violence, dating violence, or stalking shall not be cause for termination of assistance or denial of admission to the entire household (if the household otherwise qualifies for admission) if the tenant/ applicant or a member of the tenant/applicant household is the victim or threatened victim of that domestic violence, dating violence or stalking. PHA may selectively terminate assistance or deny assistance to a member of the household who engages in or has engaged in the criminal acts as described above without terminating assistance to or otherwise penalize the victim(s) of the domestic violence, dating violence or stalking (VAWA).

## **B. FAMILY OBLIGATIONS**

The family must supply any information that the HA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR part 982.5511). "Information" includes any requested certification, release or other documentation.

The family must supply any information requested by the HA or HUD for use in a regularly scheduled re-examination or interim reexamination of family income and composition in accordance with HUD requirements.

The family must disclose and verify Social Security Numbers (as provided by 24 CFR 5.211a) and must sign and submit consent forms for obtaining information in accordance with 24 CFR 5.230)

All information supplied by the family must be true and complete.

The family is responsible for an HQS breach caused by the family as described in 982.404(b).

The family must allow the HA to inspect the unit at reasonable times and after reasonable notice.

The family may not commit any serious or repeated violations of the Lease.

The family must notify the owner and, at the same time, notify the HA before the family moves out of the unit or terminates the Lease upon notice to the owner.

The family must promptly give the HA a copy of any owner eviction notice.

The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

The composition of the assisted family residing in the unit must be approved by the HA. The family must promptly inform the HA of the birth, adoption or court-awarded custody of a child. The family must request HA approval to add any other family member as an occupant of the unit.

The family must promptly notify the HA if any family member no longer resides in the unit.

The family must supply any information or certification requested by the HA to verify that the family is living in the unit, or relating to family absence from the unit, including any HA-requested information or certification on the purposes of family absences. The family must cooperate with the HA for this purpose. The family must promptly notify the HA of absence from the unit.

If the HA has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or HA approval is denied, the family may not allow a foster child or live-in aide to reside with the assisted family.

Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family.

The family must not sub-lease or let the unit.

The family must not assign the Lease or transfer the unit.

The family must not own or have any interest in the unit.

The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with the programs.

The household members may not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

The members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

An assisted family, or members of the family, may not receive Section 8 Tenant-Based Assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) Federal, State or local housing assistance program.

In addition to the above, the family must notify the PHA of HQS violations. Health & Safety violations must be reported within 24 hours after notice to the owner if the violation is not corrected. All other HQS violations must be reported within a reasonable time but not more than two weeks.

### **C. SCREENING AND TERMINATION POLICY**

#### **Purpose**

All Federally assisted housing is intended to provide a place to live and raise families, not a place to commit crime, to use or sell drugs or terrorize neighbors. It is the intention of Portland Housing Authority to fully endorse and implement a policy, which is designed to:

Help create and maintain a safe and drug-free community

Keep our program participants free from threats to their personal and family safety

Support parental efforts to instill values of personal responsibility and hard work

Help maintain an environment where children can live safely, learn and grow up to be productive citizens

Assist families in their vocational/educational goals in the pursuit of self-sufficiency

#### **Administration**

All screening and termination procedures shall be administered fairly and in such a way as not to violate rights to privacy or discriminate on the basis of race, color, nationality, religion, familial status, disability, sex or other legally protected groups.

To the maximum extent possible, the HA will involve other community and governmental entities in the promotion and enforcement of this policy.

### **Screening of Applicants and Participants**

In an effort to prevent future drug related and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety of others, or peaceful enjoyment of the premises by others the HA will endeavor to screen applicants as thoroughly and fairly as possible.

The HA will perform criminal background checks and other checks using state, local and national data bases as available as part of eligibility for admission to the program and as required of participants where information is received that indicates such activity. *The data bases used include but are not limited to: HUD system - Debts Owed to Public Housing Agencies and Terminations*, Maine State Bureau of Investigation, Tenant Check (HAPPY Computer), Resident Initiatives for Maine (RIFME) and the Department of Justice National Sex Offender Registry. Applicants may be required to provide a form of certification of good conduct if required to determine any criminal activity out-of-state.

Such screening will apply to any member of the household who is 18 years of age or older or who is an emancipated minor.

### **Standard for Violation**

The existence of the above-referenced actions and behaviors by any household member or guest, regardless of the applicant or participant's knowledge of the behavior shall be grounds for denial or termination of assistance.

The HA will evaluate past actions or behaviors under its discretionary policies for denial of assistance to applicants and termination of assistance for participants. For applicants any history of such actions or behaviors cannot have occurred within the past three (3) years. All obligations to the Criminal Justice system and/or Department of Corrections must be completed prior to the three (3) years limitation. Such obligations include but are not limited to any time period attributed to or for parole, probation, house arrest, or other semi-incarcerated state. For participants such actions or behaviors cannot occur at any time during occupancy.

The HA will also evaluate any activity during the past three (3) years which did not manifest any obligations to the Criminal Justice system and/or the Department of Corrections, but in conjunction with prior acts are deemed to establish a continuing pattern of illegal behavior and the applicant provides no assurance that he/she can or will refrain from such behavior.

Below is the list of Sexual crimes under the State of Maine Criminal Code subject to the sex offender lifetime ineligibility under HA administered HUD programs:

#### **SEX OFFENDER CRIMES:**

- Sexual Exploitation of a Minor T.17 MRSA 2922
- Gross Sexual Assault 17-A MRSA 253 (2)(E), 253 (2)(F), 253 (2)(G), 253 (2)(H), 253 (2)(I), 253 (2)(J)
- Sexual Abuse of Minors 17-A MRSA 254
- Unlawful Sexual Contact 17-A MRSA 255(1)(A), 255(1)(E), 255(1)(F), 255 (1)(G), 255(1)(J)
- Visual Sexual Aggression Against a Child 17-A MRSA 256
- Sexual Misconduct with a Child under 14 Years 17-A MRSA 258
- Kidnapping (Unless Actor is Parent of Victim) 17-A MRSA 301
- Criminal Restraint 17-A MRSA 302

- Violation of Privacy 17-A MRSA 511(1)(D)
- Incest 17-A MRSA 556
- Aggravated Promotion of Prostitution 17-A MRSA 852(1)(B)
- Patronizing Prostitution of a Minor 17-A MRSA 855

**SEXUAL VIOLENT PREDATOR CRIMES:**

- Gross Sexual Assault 17-A MRSA 253 (1), 253(2)(A), 253(2)(B), 253(2)(C), 253(2)(D)
- Unlawful Sexual Contact 17-A MRSA 255(1)(B), 255(1)(C), 255(1)(D), 255(1)(H)

The following criteria will serve as the standard for a serious or repeated violation of the Lease for the purpose of terminating assistance:

If the owner terminates tenancy through court action for serious or repeated violation of the Lease.

If the owner notifies the family of termination of tenancy assistance for serious or repeated Lease violations, and the family moves from the unit prior to the completion of court action.

If there are police reports, neighborhood complaints or other third-party information that has been verified by the PHA.

Non-payment of rent is considered a serious violation of the Lease.

If the family requests assistance to move and they did not notify the HA of an eviction within 10 days of receiving the Notice of Lease Termination, the move (continued assistance) may be denied.

The HA will deny assistance to an individual whom the family requests as a new member of the household who does not meet the eligibility criteria as specified in this chapter. This individual cannot live in the unit without the approval of the HA.

Failure to notify the HA if any family member leaves the assisted household is considered a serious violation of the Lease. When the family notifies the HA, they must furnish the following information:

The date the family member moved out.

The new address, if known, of the family member.

A statement as to whether the family member is temporarily or permanently absent.

If a participant uses the unit for business and the business activity area results in the inability of the family to use any of the critical living areas, such as a bedroom utilized for a business and is not available for sleeping, it will be considered a violation. If the HA determines that the use of the unit as a business is not incidental (minor) to its use as a dwelling unit, it will be considered a program violation. If the HA determines the business is not legal, it will be considered a program violation.

The owner may not reside in the assisted unit regardless of whether s/he is a member of the assisted family, unless the family owns the mobile home and rents the pad under the Voucher Program or the family is an active participant in the HCV Homeownership for the property they are currently residing in.

In each case of fraud the HA will consider which family members were involved, the circumstances, and any hardship that might be caused to innocent members.

In the event of false citizenship claims: (See Section below)

In the case of a breach of HQS the Supervisor of Inspections will determine if an HQS breach as identified in 24 CFR 982.404 (b) is the responsibility of the family.

### **HA Discretionary Enforcement**

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the HA has discretion to consider all of the circumstances in each case, including the seriousness of the case.

If a participant or applicant indicates the act or failure to act is a result of domestic violence, dating violence or stalking PHA will first request that an individual certify via a certification form, if required by HUD, that the individual is a victim of domestic violence, dating violence or stalking, and that the incident or incidents in question are bona fide incidents of actual or threatened abuse. Such certification shall include the name of the perpetrator.

Alternatively an individual may also satisfy the certification requirement by providing PHA with documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, for whom the victim has sought assistance in addressing domestic violence, dating violence, sexual abuse or stalking, or the effects of the abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence or stalking has signed or attested to the documentation; or by producing a Federal State, tribal, territorial, or local police or court record. At its discretion PHA may apply benefits under VAWA based solely upon the individual's statement or other corroborating evidence.

Nothing limits the ability of PHA to terminate or deny assistance for other good cause unrelated to the incident or incidents of domestic violence, dating violence or stalking. The PHA may terminate assistance to a participant if it can demonstrate an actual or imminent threat to others including residents, management employees, owner(s), or PHA employees. In evaluating evidence of negative past behavior, the HA will give fair consideration to the seriousness of the activity with respect to how it would affect other residents, and/or likelihood of favorable conduct in the future which could be supported by evidence of rehabilitation. If the violating member is a minor, the PHA may consider individual circumstances with the advice of Juvenile Court officials.

The HA will use its discretion in reviewing the extent of participation or culpability of individual family members and the length of time since the violation occurred. The HA may also review the family's more recent history and record of compliance, and the effects that denial or termination of assistance may have on other family members who were not involved in the action or failure to act.

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

### **Notice of Denial of Assistance**

In any case where the PHA decides to deny assistance to the applicant family, the PHA must give the family written notice which states:

The reason(s) for the denial

The family's right, if they disagree, to request an Informal Review to decide eligibility

### **Notice of Termination of Assistance**

In any case where the PHA decides to terminate assistance to the participant family, the PHA must give the family written notice which states:

The reason(s) for the proposed termination,

The effective date of the proposed termination,

The family's right, if they disagree, to request an Informal Hearing to be held before termination of assistance.

The date by which a request for an Informal Hearing must be received by the PHA.

The PHA will provide written notice of the Contract termination to the owner so that it will coincide with the termination of assistance. The notice to the owner will not include any details regarding the reason for termination of assistance.

### **Required Evidence**

PHA decisions about eligibility for assistance or continued assistance may be based on a preponderance of evidence, but the PHA will pursue fact-finding efforts as needed and when possible to obtain credible evidence.

*Preponderance of evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. The intent is not to prove criminal liability, but to establish that the act(s) occurred. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

*Credible evidence* may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants or self-certification.

### **Confidentiality of Criminal Records for Eligibility for Assistance**

The PHA will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished. Only the applicant or participant will be informed of the information in the criminal record that led to the determination of eligibility for initial or continued assistance. All criminal reports, while needed, will be kept in the file with access limited to individuals responsible for screening and determining eligibility for initial and continued assistance.

The PHA will destroy the criminal report by shredding once its use is unnecessary. The file will be noted for the decision made. Any correspondence to the family regarding the decision will be retained in the file.

### **Confidentiality of Information for Certification under Section 206 of VAWA of 2005**

Information provided by the victim pursuant to the certification of domestic violence, dating violence or stalking under Section 606 of VAWA of 2005 shall be retained in confidence and not entered into any shared database nor provided to any related entity except when the disclosure is consented by the individual in writing, required for use in a termination or denial of assistance by PHA, or otherwise required by law.

#### **D. PROCEDURES FOR NON-CITIZENS**

##### **Denial or Termination due to Ineligible Immigrant Status**

Applicant or participant families in which all members are neither U.S. citizens nor eligible immigrants are not eligible for assistance and must have their assistance terminated. The HA must offer the family an opportunity for a hearing. (See Chapter 2, Section D.)

Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

##### **False or Incomplete Information**

When the HA has clear, concrete, or substantial documentation (such as a permanent resident card or information from another agency) that contradicts the declaration of citizenship made by an applicant or participant, an investigation will be conducted and the individual given an opportunity to present relevant information.

If the individual is unable to verify their citizenship, the HA will not give him/her an opportunity to provide a new declaration as an eligible immigrant or to elect not to contend their status.

The HA will deny or terminate assistance based on the submission of false information or misrepresentation.

##### **Procedure for Denial or Termination**

If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with the HA either after the INS appeal or in lieu of the INS appeal.

After the HA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable).

#### **E. ZERO (\$0) ASSISTANCE TENANTS 24 CFR 982.455 (a)]**

Under the HCV Program and Moderate Rehabilitation Program the family may remain in the unit at \$0 assistance for up to 180 days after the last HAP payment. If the family is still in the unit after 180 days, the assistance will be terminated. If, within the 180 day timeframe, an owner rent increase or a decrease in the total tenant payment causes the family to be eligible for a Housing Assistance Payment, the HA will resume assistance payments for the family. In order for a family to move to another unit during the 180 days, the rent for the new unit would have to be high enough to necessitate a Housing Assistance Payment.

Under the Project-Based Voucher Program (PBV) if a unit is occupied by a family for which housing assistance is no longer required, the family can vacate the unit without assistance, request an issuance of a HCV to look for appropriate housing, or the PHA will either remove the unit from the HAP Contract or substitute the unit with a comparable unit in the building for occupancy by another eligible family.

#### **F. OPTION NOT TO TERMINATE FOR MISREPRESENTATION**

If the family has misrepresented any facts that caused the HA to overpay assistance, the HA may choose not to terminate and may offer to continue assistance provided that the family executes a Repayment Agreement and makes payments in accordance with the agreement or reimburses the HA in full.

### **G. MISREPRESENTATION IN COLLUSION WITH OWNER**

If the family intentionally, willingly, and knowingly commits fraud or is involved in any other illegal scheme with the owner, the HA will deny or terminate assistance.

In making this determination, the HA will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

### **H. MISSED APPOINTMENTS AND DEADLINES**

It is a Family Obligation to supply information, documentation, and certification as needed for the HA to fulfill its responsibilities. The HA schedules appointments and sets deadlines in order to obtain the required information. The Family Obligations also require that the family allow the HA to inspect the unit, and appointments are made for this purpose.

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying the HA, may be sent a Notice of Denial or Termination of Assistance for failure to provide required information, or for failure to allow the HA to inspect the unit.

The family will be given information about the requirement to keep appointments and the number of times appointments will be rescheduled, as specified in this Plan.

Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

Eligibility for Admissions

Voucher Issuance, Signing of the Family Statement of Responsibility and Program Briefings

Recertifications

Verification Procedures

Housing Quality Standards and Inspections

Appeals

Acceptable reasons for missing appointments or failing to provide information by deadlines are:

Medical emergency      Incarceration      Family emergency

### **Procedure when Appointments are Missed or Information not Provided**

For most purposes in this Plan, the family will be given two opportunities before being issued a Notice of Termination for breach of a Family Obligation or denial of assistance for failure to comply with continuing or initial eligibility requirements.

After issuance of the notice for termination of assistance or denial of assistance, if the family offers to correct the breach within the time allowed to request a Hearing or Review, the notice will be rescinded after the family cures the breach. The termination of assistance for a participant can occur regardless of any cure if the participant has a history of non-compliance.

## Chapter 16

### OWNER DISAPPROVAL AND RESTRICTION

#### INTRODUCTION

It is the policy of the HA to recruit owners to participate in the Voucher Program. The HA will provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of the HA. The regulations define when the HA must disallow an owner participation in the program, and they provide the HA discretion to disapprove or otherwise restrict the participation of owners in certain categories. This Chapter describes the criteria for owner disapproval, and the various penalties for owner violations.

#### A. DISAPPROVAL OF OWNER

The owner does not have a right to participate in the program. For purposes of this Section, "owner" includes a principal or other interested party.

The HA will disapprove the owner for the following reasons:

HUD or other agency directly related has informed the HA that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

HUD has informed the HA that the Federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other Federal equal opportunity requirements and such action is pending.

HUD has informed the HA that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other Federal equal opportunity requirements.

Unless their Lease was effective prior to June 17, 1998, the owner may not be a parent, child, grandparent, grandchild, sister or brother of any family member. The HA will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

In cases where the owner and tenant bear the same last name, the HA may, at its discretion, require the family and or owner to certify they are related in any way.

The owner has violated obligations under a Housing Assistance Payments Contract under Section 8 of the 1937 Act.

The owner has committed fraud, bribery or any other corrupt act in connection with any Federal housing program.

The owner has engaged in drug related illegal activity.

The owner has a history or practice of non-compliance with the HQS for units leased under the Tenant-Based Programs or with applicable housing standards for units leased with Project-Based Section Assistance or leased under any other Federal housing program.

The owner has a history or practice of renting units that fail to meet State or local housing codes.

The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD.

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 by the tenant, any member of the household, a guest or another person under the control of any member of the household that:

Threatens the right to peaceful enjoyment of the premises by other residents;

Threatens the health or safety of other residents, of employees of the HA or of owner employees or other persons engaged in management of the housing;

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

Is drug-related criminal activity or violent criminal activity.

## **B. OWNER RESTRICTIONS AND PENALTIES**

If an owner has committed fraud or abuse or is guilty of frequent or serious Contract violations, the HA will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The HA may also terminate some or all Contracts with the owner.

Before imposing any penalty against an owner the HA will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations.

See Program Integrity Addendum for guidance as to how owner fraud will be handled.

## **C. CHANGE IN OWNERSHIP**

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

The HA as a party to the HAP Contract must approve the assignment of the HAP Contract. The HA may deny approval of assignment of the Contract, for any of the reasons listed in Section A of this Chapter.

The HA will process a change of ownership only upon the written request of the new owner and only if accompanied by a copy of the escrow statement or other document showing the transfer of title and completion of a IRS form W-9 and Direct Deposit of HAP form.

If the new owner does not want an assignment of the Contract, the HA will terminate the HAP Contract. The new owner may offer the family a new assisted Lease. The family may elect to enter into the new Lease (and the owner into a new HAP contract with PHA) or move to another unit. The unit must at all times meet the Rent Reasonableness test.

## **D. CHANGE IN OWNERSHIP DUE TO FORECLOSURE**

*If a building is under foreclosure the Housing Authority, the current owner, the agency or company foreclosing on the property and the new owner of the property if it is sold have obligations as to the continued assistance of the family. These obligations are presented the Protecting Tenants at Foreclosure Act (PTFA) as published under PIH2009-52 (HA).*

*PHA will as stated in this Act and PIH-Notice interpret and implement the HAP contract provisions in accordance with HUD requirements. The contract incorporates by reference the statutory provisions discussed in the notice and the June 24, 2009 Federal Register notice HUD issued on this subject (74 Fed. Reg. 30106). PHA will provide notice to the landlord and tenant that the terms of the HAP contract incorporate the changes in law.*

*The existing contracts and forms that have been executed will not need to be amended by the PHA. New HAP Contract forms issued by HUD, will be issued to HCV participants that move or new participants.*

*For every unit in which a tenant receiving Housing Choice Voucher (HCV) assistance resides and is currently provided assistance under a HAP contract, PHA will:*

*Provide notice to the Landlord or party executing the contract of the changes in law outlined in this Notice.*

*Provide notice to the Head of Household that is receiving HCV assistance of their rights as a result of the change in law outlined in this Notice.*

*Notify HCV applicants that have been issued a voucher as well as prospective owners about the new law.*

#### ***Foreclosure Actions***

*If PHA learns that the property is in foreclosure, PHA will:*

*Make all reasonable efforts to determine the status of the foreclosure and ownership of the property.*

*Continue to make payments to the original owner until ownership legally transfers in accordance with the HAP contract.*

*Attempt to obtain a written acknowledgement of the assignment of the HAP contract from the successor. The written agreement will include a request for owner information such as a Social Security Number or Tax Identification Number and direct deposit payment instructions from the new owner. Even if the new owner does not acknowledge the assignment of the HAP contract in writing, the assignment is nevertheless effective by operation of law.*

*Inform the tenant that they must continue to pay rent in accordance with the lease, and if the successor in interest refuses to accept payment or cannot be identified, the tenant should pay the rent into escrow, because failure to pay rent may constitute an independent ground for eviction.*

*If PHA is unable to make HAP payments to the successor due to: (1) an action or inaction by the successor that prevents such payments, including the rejection of payments or the failure of the successor to maintain the property in accordance with Housing Quality Standards (HQS); or (2) an inability to identify the successor, PHA will inform the family of this. In order to ensure adequate protection of the tenant's rights under the statutory authority as well as enforcing performance of the successor in interest under the HAP contract, PHA will refer tenants, as services are needed, to the local Legal Aid Office.*

#### ***Preemption of certain state and local laws.***

*Both PTFA and the Recovery Act contain language that provides that the new protections related to foreclosure shall not preempt any State or local law that provides additional protections for tenants.*

**Chapter 17**  
**CLAIMS, MOVE-OUT AND CLOSE-OUT INSPECTIONS**

**INFORMATION**

The Quality Housing and Work Responsibility Act of 1998 provided that families assisted under the pre-merger certificate program would be transferred to the Housing Choice Voucher Program no later than the second annual reexamination on or after the merger date (October 1, 1999). Families assisted under the pre-merger voucher program were transferred to the Housing Choice Voucher Program as of October 1, 1999. Under pre-merger voucher contracts, owner claims against the PHA were limited to the amount the owner was allowed to collect as the family's security deposit. This meant that the amount the owner could collect from the PHA was zero.

Under the Housing Choice Voucher Program, the PHA is not responsible for owner claims against the family. If the security deposit is not sufficient to cover amounts the family owes under the lease, the owner may collect the balance from the family.

Until termination of the HAP contracts damage claims and vacancy loss claims are allowed under the Moderate Rehabilitation Program.

Some Project-based Voucher HAP Contracts allow for a claim for vacancy loss.

Any owner may request a Move-out inspection. Those owners with Moderate Rehabilitation units must have a PHA inspector conduct a move-out inspection to verify any damages for which the owner may make claim.

## Chapter 18

### OWNER OR FAMILY DEBTS TO THE HA

#### **INTRODUCTION**

This Chapter describes the HA's policies for the recovery of monies which have been overpaid for families and to owners. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is the HA's policy to meet the informational needs of owners and families, and to communicate the program rules in order to avoid owner and family debts. Before a debt is assessed against a family or owner, the file must contain documentation to support the HA's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the owner, the family or other interested parties.

When families or owners owe money to the HA, the HA will make every effort to collect it. The HA will use a variety of collection tools to recover debts including, but not limited to:

Requests for lump sum payments

Payment Agreements

Abatements

Reductions in HAP to owner

Housing Reporting Systems (HUD, HAPPY, RIFME)

Collection Agencies

Credit Bureaus

Civil Suits

Income tax set-off Programs

#### **A. PAYMENT AGREEMENT FOR FAMILIES**

A Payment Agreement as used in this Plan is a document entered into between the HA and a person who owes a debt to the HA. It is similar to a promissory note, but contains details regarding the nature of the debt, the terms of payment, any special provisions of the agreement, and the remedies available to the HA upon default of the agreement.

The initial down payment of any repayment agreement is a minimum 5% of gross monthly income rounded to the nearest dollar. The balance of the debt will be repaid at a monthly rate of a minimum 5% of adjusted monthly income per month or \$20 per month whichever is greater.

#### **B. GUIDELINES FOR PAYMENT AGREEMENTS**

Payment Agreements will be executed between the HA and the head of household and spouse.

### **Late Payments**

A payment will be considered to be late if:

The payment has not been received by the close of the business day on the last day of the month that is due. If the last day of the month is on a weekend or holiday, the due date will be at the close of the previous business day.

A Payment Agreement may be considered to be in default when it is in arrears for one day.

### **Moving with Continuous Assistance**

If the family requests a move to another unit and has a Payment Agreement in place and the Payment Agreement is not in arrears:

The family will be allowed to move with continued assistance

If the family requests a move to another unit and is in arrears on a Payment Agreement:

The family will be required to pay the balance in full.

No move will be approved until the debt is paid in full or the Payment Agreement is current unless the move is the result of the following causes:

Family size exceeds the HQS maximum occupancy standards

The HAP Contract is terminated due to owner non-compliance or opt-out

A natural disaster or some other occurrence not a result of family member behavior.

**Additional Monies Owed:** If the family already has a Payment Agreement in place and incurs an additional debt to the HA:

PHA may enter into a new repayment agreement for the sum of both debts or at the discretion of the Director require immediate payment of money owed or terminate the assistance of the family.

***The HA may enter into a Payment Agreement if the family is not a current participant in a Section 8 Program in order to retrieve as much money as possible due PHA. However, a payment agreement of this type may not make the family eligible for assistance under a Section 8 Program or any other housing assistance program with PHA or any other HA.***

### **C. DEBTS DUE TO MISREPRESENTATIONS/NON-REPORTING OF INFORMATION**

PHA may differ in the treatment of the collection of monies due to misrepresentations and program fraud versus the collection of monies for other incidental charges for non-fraudulent actions.

HUD's definition of program fraud and abuse is a single act or pattern of actions that:

Constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and that results in payment of Section 8 Program funds in violation of Section 8 Program requirements.

Families who owe money to the HA due to program fraud will be required to either enter into a payment agreement and be eligible for continued assistance, or at the discretion of the Director, will be terminated from the program.

If a family owes an amount, which equals or exceeds \$5000 as a result of program fraud, the case will be referred to the Dept. of HUD - Office of the Inspector General and, if appropriate, referred for local, state or Federal prosecution.

**D. OWNER DEBTS TO THE HA**

If the HA determines that the owner has retained Housing Assistance or Claim Payments the owner is not entitled to, the HA may reclaim the amounts from future Housing Assistance or Claim Payments owed the owner for any units under Contract.

If future Housing Assistance or Claim Payments are insufficient to reclaim the amounts owed, the HA will:

Require the owner to pay the amount in full within 30 days.

Pursue collections through the local court system.

Restrict the owner from future participation.

## Chapter 19

### COMPLAINTS AND APPEALS

#### INTRODUCTION

The Informal Hearing requirements defined in HUD regulation are applicable to participating families who disagree with an action, decision, or inaction of the HA. This Chapter describes the policies, procedures and standards to be used when families disagree with a HA decision. The procedures and requirements are explained for preference denial meetings, informal reviews and hearings. It is the policy of the HA to ensure that all families have the benefit of all protections due to them under the law

#### A. COMPLAINTS TO THE HA

The HA will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. The HA may require that complaints other than HQS violations be put in writing. HQS complaints may be reported by telephone.

The HA Hearing procedures will be provided to families in the Briefing Packet.

##### Categories of Complaints

Complaints from families: If a family disagrees with an action or inaction of an owner:

Complaints from families will be referred to the family's assigned Housing Officer.

If a complaint is not resolved, it will be referred to the Director of Housing Services or his/her designee.

Complaints from owners: If an owner disagrees with an action or inaction of a family:

Complaints from owners will be referred to the family's assigned Housing Officer.

If the complaint is not resolved, it will be referred to the Director of Housing Services or his/her designee.

Complaints from families: If a family disagrees with an action of the HA:

Complaints about a Housing Officer action will be referred to the Director of Housing Services.

Complaints about the Director's action shall be referred to the Executive Director of PHA.

Complaints from owners: If an owner disagrees with an action of the HA:

Complaints about a Housing Officer action will be referred to the Director of Housing Services.

Complaints about the Director's action shall be referred to the Executive Director of PHA.

Complaints from staff: If a staff person reports an owner or family either violating or not complying with program rules:

Complaints will be referred to the Director of Housing Services.

Complaints from the general public: If complaints or referrals in regard to the HA, a family, or an owner are received from the general public:

Complaints from the general public will be referred to the Director of Housing Services.

#### **B. PREFERENCE DENIALS – Deleted (See Section C below)**

### **C. INFORMAL REVIEW PROCEDURES FOR APPLICANTS**

Reviews are provided for applicants who are denied assistance before the effective date of the HAP Contract. An exception is accorded when an applicant is denied assistance for lack of citizenship or eligible immigrant status. That applicant is entitled to an Informal Hearing.

When the HA determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

The reason(s) they are ineligible,

The procedure for requesting a review if the applicant does not agree with the decision; and

A deadline for requesting a review.

When denying admission for criminal activity by a household member, the PHA will include in a notice to the ineligible family member a copy of the criminal record upon which the decision to deny was based. If the ineligible family member is not the Head of Household a notice will be sent separately to the Head of Household without inclusion of the specific infraction.

The HA must provide applicants with the opportunity for an Informal Review of decisions denying:

Qualification for preference

Listing on the HA's waiting list

Issuance of a Voucher

Participation in the program

Informal Reviews are not required for established policies and procedures and HA determinations such as:

Discretionary administrative determinations by the HA

General policy issues or class grievances

A determination of the family unit size under the HA subsidy standards

Refusal to extend or suspend a Voucher

A HA determination not to grant Approval of the Tenancy

Determination that unit is not in compliance with HQS

Determination that unit is not in accordance with HQS due to family size or composition

#### **Procedure for Review**

A request for an Informal Review must be received in writing by the close of the business day, no later than ten (10) business days from the date of the HA's notification of denial. The Informal Review will be scheduled within ten (10) business days from the date the request is received.

The person who made or approved the decision to deny the applicant admission may not conduct the review. In most cases the Director of Housing Services or his/her designee will perform the Informal Review of the decision by the Housing Officer for Intake.

The applicant will be given the option of presenting oral or written objections to the decision. Both the HA and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.

The Review may be conducted by mail and/or telephone if acceptable to both parties.

A Notice of the Review findings will be provided in writing to the applicant within 15 business days after the review. It shall include the decision of the Review Officer, and an explanation of the reasons for the decision.

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

## **D. INFORMAL HEARING**

### **Introduction**

A participant in a Section 8 Assistance Program facing the involuntary termination of benefits or a substantial reduction of those benefits is entitled to an Informal Hearing if such right is provided by HUD regulations. The United States Constitution and Federal regulations adopted by HUD require "Due Process of Law" in such situations. That generally means that the individual is entitled to adequate notice of the reasons for the Housing Authority's action and a meaningful opportunity for a Hearing to review that decision. The Hearing must be conducted by someone who was not involved in the original decision, and who will listen to the evidence and review the issues impartially and render a decision based upon the evidence presented at the Hearing. The following sections contain the policies and procedures to be followed in such cases.

### **Response to Request for Hearing**

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

If the Portland Housing Authority receives information that could lead to the termination of assistance for the participant, the Portland Housing Authority shall notify the family in writing that the Portland Housing Authority has received such information and provide the family with an opportunity to respond in person to the information received (Tenant Conference). If after the meeting the Portland Housing Authority decides to proceed in issuing a decision, the Portland Housing Authority shall follow the procedures set below.

**When Informal Hearings are Required** The Portland Housing Authority must provide an opportunity for an Informal Hearing if the participant family disagrees with:

1. A determination of the family's annual or adjusted income and the use of that income to determine the amount of the Housing Assistance Payment.
2. A determination of the appropriate Utility Allowance (if any) for tenant-paid utilities from the HA Utility Allowance Schedule.
3. A determination of the family unit size under the Authority's Subsidy Standards.
4. A determination that a Housing Choice Voucher Program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the HA Subsidy Standard or the HA determination to deny the family's request for an exception from the Standards.
5. A determination to terminate a participant family's assistance because of the family's action or failure to act.
6. A determination to terminate assistance because the participant family has been absent from the assisted unit longer than the maximum period permitted under HA policy and HUD rules.

7. A determination to terminate assistance to the family because of the family's breach of Housing Quality Standards (HQS)

In the cases described in paragraphs 4 through 7 above, the Housing Authority must provide an opportunity for an Informal Hearing before the Authority actually terminates Housing Assistance Payments for the family under an outstanding HAP Contract.

**Hearings are not Required in the Following Circumstances**

Discretionary Administrative determinations by the Authority

General policy issues or class grievances

Establishment of the HA schedule of Utility Allowances for families in the Program

A determination by the Authority not to approve an extension or suspension of the term of a Voucher

A HA determination not to approve a unit or Lease

A HA determination that an assisted unit is not in compliance with Housing Quality Standards, except when the assisted family is allegedly the cause of the non-compliance

A HA determination that the unit is not in accordance with Housing Quality Standards because of the family size

A determination by the HA to exercise or not to exercise any right or remedy against the owner under a HAP Contract

**Notice to the Family**

In the cases described in 1 - 3 above, the PHA must notify the family in writing of the basis of the PHA determination and if the family does not agree with the determination, the family may request an Informal Hearing on the decision.

In the cases described in 4 - 7 above, the PHA must give the family prompt written notice by regular first class and certified mail of its action. The notice shall be in the form of a letter to the family and shall include the following information:

The specific proposed action or decision made by the Authority

A brief statement of reasons for the decision with enough detail and specificity to enable the family to understand the factual basis of the Authority's decision

The effective of the date the proposed action or decision

A statement that informs the family they have ten (10) business days from the date of the notice to request an Informal Hearing.

A statement that the family has the right to view any documents or evidence in the possession of the PHA based upon which the PHA proposed the action, and copy them at their own expense, before the Informal Hearing.

A statement of how, where, and when the request for Hearing should be submitted

A statement that the Authority will allow a late request for a Hearing if there is good cause

### **Response to Request for Hearing**

When the HA receives a request for an Informal Hearing, the Authority shall send a second notice by first class mail and by phone if possible that sets forth the time, date and place of the Hearing. The notice shall be mailed at least five (5) calendar days before the date for the Hearing.

The notice shall also advise the family that it has the right to view, at the Authority's offices and before the Hearing, any documents in the Authority's files relevant to the dispute and to the Hearing. The notice shall also advise the family that it has the right to copy any such documents at the family's expense. The Authority may not rely at the Hearing on any document it has not made available for examination.

If possible, the family or its agent, through the use of an authorized release, can conduct discovery of the HA participant file up to one (1) calendar day before the Informal Hearing. (This would require a two (2) day notice)

The notice shall also advise the family that the Authority is entitled to an opportunity to review and copy any documents of the family that are relevant to the Hearing, at the Authority's offices, before the Hearing. The notice shall advise the family that it may not rely on any document at the Hearing that it has not made available for examination.

### **Timing of Hearings**

It is the policy of the Authority to be flexible in rescheduling Hearings when appropriate, as long as the dispute between the Authority and the participant proceeds expeditiously. The Authority must proceed with the Hearing in a reasonably expeditious manner upon the request of the family.

If a family does not appear at a scheduled Hearing and has not rescheduled the Hearing in advance, the family must contact the HA within 10 days. The HA will reschedule the Hearing only if the family can show good cause for the failure to appear. "Good cause" shall include, but is not limited to, an unavoidable conflict, which seriously affects the health, safety or welfare of the family, etc. If a participant fails to attend the Hearing or cannot establish good cause for his or her failure to attend the Hearing, the participant will be defaulted and the determination to terminate benefits will be upheld.

### **Rights of the Parties Relative to Informal Hearings**

Families have the right to:

Present written or oral objections to the HA's determinations;

Examine the documents in the file which are the basis for the HA's action and all documents submitted to the Hearing Officer;

Copy any relevant documents at their expense;

Present any information or witnesses pertinent to the issue of the Hearing;

Request that HA staff be available or present at the Hearing to answer questions pertinent to the case; and

Be represented by legal counsel, advocate or other designated representative at their own expense.

Request the Portland Housing Authority to provide appropriate translation and interpretation services at no charge to the family.

If the family requests copies of documents relevant to the Hearing, the HA will make the copies for the family and may assess a charge of \$.10 per copy. In no case will the family be allowed to remove the file from the HA's office.

In addition to other rights in this Chapter, PHA has the right to:

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

### **Hearing Officer**

The Hearing Officer shall be a person designated by PHA. Any person so designated by PHA shall:

- Not be a person who made or approved the decision under review or a subordinate of the person who made or approved the decision under review; or
- Have received training in the conduct of Informal Hearings.

It shall be the duty of the Hearing Officer to:

- Administer oaths;
- Rule on the admissibility of evidence;
- Regulate the course of the Hearing, set the time and place for continued Hearings (if necessary) and fix the time for filing of written arguments or other written submissions, if necessary.

### **Procedure for Conducting Informal Hearing (Conduct of Informal Hearing)**

The Hearing Officer shall regulate the conduct of the Hearing in accordance with the following procedures:

#### **General Procedures**

The Hearing Officer shall record the Hearing. At the request of the family the Housing Authority shall provide a copy of the recording to the family.

The Housing Authority and the family shall have the right to present evidence and arguments on all issues and to call and examine witnesses and to make oral cross-examination of any person present and testifying.

Evidence introduced at the Hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings. Evidence shall be submitted if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. The Hearing Officer may exclude irrelevant or unduly repetitious evidence.

The Hearing Officer shall not unilaterally communicate directly or indirectly with the family or a representative of the Housing Authority, in connection with any issue of fact, law or procedure, in connection with the Informal Hearing or the decision under review, except upon notice and opportunity for all parties to participate.

The family may retain an attorney or be represented by some other representative.

All witnesses shall be sworn.

No sworn written evidence specifically prepared for the Hearing shall be admitted unless the author is available for cross-examination except for good cause shown.

The Hearing shall be conducted in a cordial, fair and impartial manner.

No documents may be presented which have not been provided to the other party before the Hearing if requested by the other party. "Documents" include records and regulations.

### **Specific Procedures**

The Hearing Officer shall make a brief opening statement setting forth the issues to be determined at the Hearing.

The Hearing Officer shall introduce into evidence the decision of the Housing Authority, which is under review.

The Housing Authority and family shall both be provided with an opportunity to make a brief opening statement.

The Housing Authority shall present its evidence, including any witnesses.

The family shall have the right to examine all documentary evidence submitted by the Housing Authority and cross-examine all witnesses who testify on behalf of the family.

All documentary evidence presented by the Housing Authority or family shall be marked for identification.

The Housing Authority and family shall be provided with the opportunity to make a closing argument. At the request of the Housing Authority or family, the family or Housing Authority shall be provided with an opportunity to submit a written argument to the Hearing Officer within five (5) business days of the date of the Informal Hearing or such shorter time as the Hearing Officer orders. The family or Housing Authority shall provide the other party with a copy of any written argument submitted.

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

### **Record**

The Hearing Officer shall maintain a record of all Informal Hearings, which shall contain the following information:

The Housing Authority's notice of termination

All exhibits admitted by the Housing Authority and family at the Informal Hearing.

A copy of the recording made of the Hearing.

A copy of any written arguments submitted by the family or Housing Authority

The decision of the Hearing Officer

### **Standard of Proof**

The Housing Authority has the burden to introduce evidence at the Informal Hearing, which justifies the decision under review and proves its case by a preponderance of evidence introduced at the Hearing.

The Hearing Officer will determine whether the action, inaction or decision of the Portland Housing Authority 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.

To “establish by a preponderance of the evidence” means to prove that something is more likely than not. In other words, a preponderance of the evidence means evidence which, after evaluating all the evidence presented, makes what is sought to be proved is more likely true than not true.

In determining whether any fact has been proved by a preponderance of the evidence, you may consider the testimony of all witnesses, regardless of who may have called them, and all exhibits received in evidence, regardless of who produced them.

The Hearing Officer may not rely solely upon hearsay evidence in issuing a decision.

The Hearing Officer will disregard any evidence that reasonable people would not rely upon in the conduct of their serious affairs.

### **Hearing Officer Decision**

The Hearing Officer shall issue a written decision within ten (10) days of the Hearing or receipt of any written argument submitted by either the family or Hearing Officer, whichever occurs latter.

The decision shall be based upon a preponderance of the evidence presented at the Hearing.

The decision shall contain a brief statement of the reasons for the decision.

The decision shall set forth:

The policy or regulation the family is alleged to have violated;

A specific finding that the decision was based upon a preponderance of the evidence submitted at the Hearing and a brief reference to the evidence relied upon by the Hearing Officer in making the decision.

The date the decision goes into effect.

A copy of the written decision shall be promptly provided to the family and the family’s legal representative.

### **Effect of Decision**

The HA is not bound by Hearing decisions:

Which concern matters in which the HA is not required to provide an opportunity for a Hearing;

Which conflict with or contradict HUD regulations or requirements;

Which conflict with or contradict Federal, State or local laws; or

Which exceed the authority of the person conducting the Hearing.

The HA shall send a letter to the participant within ten (10) business days if the HA determines they are not bound by the decision of the Hearing Officer. The letter shall include the HA’s reasons for the decision.

All requests for a Hearing, supporting documentation and a copy of the final decision will be retained in the family’s file and in the Director’s files.

## **E HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS"**

In accordance with the Quality Housing and Work Responsibility Act of 1998, PHAs may no longer elect not to comply with ("opt-out" of) the non-citizen requirements (Part 5, Subpart E).

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

Assistance to the family may not be terminated or denied while the Informal Hearing is pending. Only assistance to an applicant may be delayed pending the Hearing.

### **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 PHA notifies the applicant or participant within ten (10) business days of their right to appeal to the INS within thirty (30) days or to request an Informal Hearing with the PHA either in lieu of or subsequent to the INS appeal.

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

The request for a PHA Hearing must be made within ten (10) business days of receipt of the notice offering the Hearing or, if an appeal was made to the INS, within ten (10) business days of receipt of that notice.

After receipt of a request for an Informal Hearing, the Hearing is conducted as described in 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 PHA will:

Deny the applicant family

Defer termination if the family is a participant and qualifies for deferral

Terminate the participant if the family does not qualify for deferral

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

All other complaints related to eligible citizen/immigrant status:

If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.

Participants whose termination is carried out after temporary deferral may not request a Hearing since they had an opportunity for a Hearing prior to the termination.

Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and Hearing rights described above) are entitled to a Hearing based on the right to a Hearing regarding determinations of tenant rent and total tenant payment.

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

**F. MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES OR LIMITED ENGLISH PROFICIENCY**

When applicants are withdrawn from the waiting list, or the PHA is terminating or denying assistance, the family may request that presence of a disability or limited English proficiency be considered as a mitigating circumstance during the Informal Review or Informal Hearing process.

## Chapter 20

### SPECIAL HOUSING TYPES

#### **INTRODUCTION**

HUD now requires PHAs to describe their policies regarding Special Housing Types in the Administrative Plan.

With one exception, HUD does not require PHAs to use any of the Special Housing Types. However, the PHA must permit use of any Special Housing Type if it is needed as a reasonable accommodation to make the program readily accessible to and usable by persons with disabilities.

In accordance with the requirements of the program, the PHA may permit a family to use any of the following Special Housing Types:

- Moderate Rehabilitation
- Single Room Occupancy Housing
- Congregate Housing
- Group Home
- Shared Housing
- Cooperative Housing
- Project Based Vouchers
- Homeownership

Although manufactured homes are listed as a Special Housing Type by HUD, the PHA must allow a family to lease a manufactured home and space with assistance under the program. However, HUD does not require the PHA to provide assistance to a family that owns a manufactured home but rents the space.

The PHA will not set aside any program funding for Special Housing types, or for a special housing type.

A family may choose whether to rent housing that qualifies as a special housing type or to rent other eligible housing in accordance with the requirements of the program.

#### **A. MODERATE REHABILITATION**

Note: Renewal of Expiring Section 8 Moderate Rehabilitation (Mod Rehab) Housing Assistance Payments (HAP) Contracts are in compliance with Section 5224 (a)(1) and (2) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 MAHRA) as amended; including but not limited to Notice PIH 98-62, 99-14; 2000-17; 2001-13; 3002-29 and 2001-35.

#### **Moderate Rehabilitation Assistance Defined:**

##### **Owner Responsibilities**

The owner shall be responsible (subject by review or audit by the PHA or HUD) for performing all of his obligations under the Contract and Lease. The owner is also responsible for performing all the owner responsibilities under the Agreement.

##### **Family Participation**

A family becomes a participant when the family and owner execute a Lease for a unit with Mod-Rehab assistance. A family becomes a participant when the family and owner execute a Lease for a unit with Mod-Rehab assistance.

### **Filling Vacant Units**

The owner must notify the PHA as soon as vacancies occur. The PHA will refer to the owner one or more families of the appropriate size on its Mod Rehab Wait List. A family that refuses the offer of a unit assisted under this program may keep its place on the Voucher Wait List.

All vacant units must be rented to eligible families referred from the PHA Mod Rehab Wait List to the owner within 30 days of the owner's notification to the PHA of a vacancy. The owner may advertise for or solicit applications from eligible very -low income families, if authorized by the PHA, in accordance with HUD requirements. The owner must refer these families to the PHA to determine eligibility.

The owner is responsible for screening and selection of tenants. The owner may refuse any family provided the owner does not unlawfully discriminate. If the owner rejects a family and the family believes that the rejection was the result of unlawful discrimination, the family may request the assistance of the PHA in resolving the issue. If the issue is not resolved promptly, the family may file a complaint with HUD.

### **Briefing of Families**

When a family is selected to occupy a Mod Rehab unit, the PHA must provide the family with information concerning the tenant rent and any applicable utility allowance. The family must also, either in a group or individual sessions, be provided with a full explanation of the following:

- Family and owner responsibilities under the Lease and Contract;
- Significant aspects of the Federal, State and Fair Housing laws;
- The fact that the subsidy is tied to the unit and that family must occupy a unit constructed or rehabilitated under the program;
- The likelihood of the family receiving a voucher after the HAP contract expires;
- The family's options under the program, if the family is required to move because of a change in size or composition;
- The advisability and availability of blood level screening for children under seven years of age and HUD requirements for inspecting, testing and in certain circumstances abating lead-based paint; and
- Information of the PHA procedures for conducting informal hearings for participants, including a description of the circumstances in which the PHA is required to provide the opportunity for an informal hearing and of the procedures for requesting a hearing.

### **Continued Assistance for a Family when the Contract is Terminated**

If the contract for the unit expires or if the PHA terminates the Contract for the unit, the PHA will issue the assisted family occupancy of a unit or a voucher for assistance under the PHA voucher program unless the PHA has determined that it does not have sufficient funding for continued assistance for the family or unless the PHA denies issuance of a voucher in accordance with this plan.

If the unit is not occupied by an assisted family, then the available funds under the HAP that were previously committed for support of the Mod Rehab assistance for the unit, shall be used for the PHA's voucher program.

### **Lease Requirements**

The term of a lease, including a new lease or lease amendment, executed by the owner and the family must be for at least one year, or the remaining term of the contract if it is less than one year.

The lease may contain a provision permitting the family to terminate the lease on no more than 60 days advanced written notice to the owner. In the case of a lease term for more than one year, the lease must contain a provision permitting the family to terminate the lease on such notice after the first year term. The owner may offer the family a new lease for execution by the family for a term beginning at any time after the first year of the term of the lease. The owner shall give the family notice of the offer at least 60 days before the proposed commencement date of the new lease term. The offer may specify a reasonable time for acceptance by the family. Failure by the family to accept the offer of a new lease in accordance with the lease shall be "other good cause" for termination of tenancy.

### **Maintenance, Operation and Inspection**

The owner must provide all the services, under the Contract, subject to abatement of housing assistance payments or other applicable remedies if the owner fails to meet these obligations.

In addition to the inspections required prior to execution of the Contract, the PHA must inspect or cause to be inspected each dwelling unit under Contract at least annually and at such other times as may be necessary to assure that the owner is meeting the obligations to maintain the unit in decent, safe and sanitary condition and to provide the agreed upon utilities and other services. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

If the PHA notifies the owner that the unit(s) under Contract are not being maintained in decent, safe and sanitary condition and the Owner fails to take corrective action (including corrective action with respect to the family where the condition of the unit is the fault of the family) within the time prescribed in the notice, the PHA may exercise any of its rights or remedies under the Contract, including abatement of housing assistance payments (even the family continues in occupancy), termination of the Contract on the affected unit(s) and assistance to the family in accordance with 24CFR 882.514.

Where the PHA is managing units on which it is also administering the Housing Assistance Payments Contract pursuant to a management contract approved by HUD in accordance with 24CFR 882.412, HUD will make reviews of project operations, including inspections, in addition to required PHA reviews. These HUD reviews will be sufficient to assure that the Owner and the PHA are in full compliance with the terms and conditions of the Contract and the ACC. Should HUD determine that there are deficiencies, it may exercise any rights or remedies specified for the PHA under the Contract or reserved for HUD in the ACC, require termination of the management contract, or take other appropriate action.

Periodic PHA audit must be conducted as required by HUD, in accordance with guidelines prescribed by 24CFR Part 44.

### **Re-examination of Family Income and Composition**

See Chapter 12 "Re-certifications"

### **Overcrowded and Under Occupied Units**

If the PHA determines that a contract unit is not decent, safe and sanitary because of an increase in family size which causes the unit to be overcrowded or that a contract unit is larger than appropriate for the size of the family in occupancy under the Occupancy Standards, housing assistance will be terminated. The owner, however, must offer the family a suitable alternative unit if one is available and the family shall be required to move. If the owner does not have available a suitable unit with the family's ability to pay the rent, the PHA will list the family's name at the top of the waiting list of applicants desiring placement in a project based program. The PHA (if it has sufficient funding) will offer Section 8 assistance to the family or otherwise assist the family in locating other standard housing in the PHA's jurisdiction within the family's ability to pay, and require the family to move to such a unit as

soon as possible (usually 60 days notice). The family shall not be forced to move, nor shall housing assistance payments under the Contract be terminated for the reasons specified in this paragraph unless the family rejects, without good reason, to offer of a unit that the PHA judges to be acceptable.

### **Owner Claims**

Owners may make "special claims" for damages, unpaid rent, and vacancy loss after the tenant has vacated the unit.

Owner claims for payment for unpaid rent, damages, or vacancy loss will be reviewed for accuracy and completeness and compared with records in the file. The HA establishes standards by which to evaluate claims, but the burden of proof rests with the owner.

If vacancy loss is claimed, the HA will ascertain whether or not the family gave proper notice of its intent to move. The file will also be reviewed to verify owner compliance at the time the Contract was terminated.

The HA will pay properly filed claims to the owner as a function of the Contract, but the tenant is ultimately responsible to reimburse the HA for claims paid to the owner.

### **Unpaid Rent**

Unpaid rent only applies to the tenant's portion of rent while the tenant is in residence under the assisted Lease. It does not include the tenant's obligation for rent beyond the termination date of the HAP Contract.

Separate agreements are not considered a tenant obligation under the Lease and the HA will not reimburse the owner for any claims under these agreements.

### **Vacancy Loss**

Vacancy loss is paid if the move was in violation of the notice requirements in the Lease, or the result of an eviction.

In order to claim vacancy loss, the unit must be available for Lease and the landlord must:

1. Notify the HA within 48 hours upon learning of the vacancy, or prospective vacancy, and
2. Pursue all possible activities to fill the vacancy, including, but not limited to:
  - a. Contacting applicants on the owner's PHA approved Mod Rehab waiting list, if any;
  - b. Seeking eligible applicants from the PHA Mod Rehab Wait List
  - c. Not rejecting potentially eligible applicants except for good cause.
  - d. Advertising the availability of the unit.

In the event that a unit becomes vacant because of death, the HA will permit the owner to keep the HAP for the month in which the tenant died.

If the tenant moves *after* the date given on their notice of intent to vacate, the landlord may claim vacancy loss by providing acceptable documentation that there was a bona fide prospective tenant to whom the unit could have been rented.

### **Damages**

The owner should be present during the move-out inspection and only damages claimed by the owner are reimbursable.

All claims for the actual bills for materials and labor and a copy of the canceled checks must support damages or other receipts documenting payment.

Bills from individuals providing labor must include their name, address and phone number. The landlord may not bill himself/herself for labor since that is not considered by the HA to be an "actual cost." However, the actual cost of the owner's employees' labor, such as the resident manager, to make repairs may be included.

Reimbursement for replacement of items such as carpets, drapes, or appliances, are based on depreciation schedules in general use by Portland Housing Authority.

The HA may require verification of purchase date, quality, and price of replaced items in order to calculate depreciation.

Damages, which were caused during tenancy, were repaired and billed, but remain unpaid at move-out, can not be considered "other items due under the lease."

Eligible items to be included on the damage claim must have been a tenant responsibility under the Lease or State law.

Claims for unpaid utility bills cannot be approved as part of a claim.

Claims for normal wear and tear, previously existing conditions, routine turnover preparation, cleaning and cyclical interior painting is not paid.

The HA may inspect the unit to verify that repairs were made.

### **Move-Out and Close-Out Inspections**

Move-out inspections are performed after the tenant has vacated the unit. These inspections are performed to assess the condition of the unit, not to evaluate the HQS. Vacate inspections will be conducted by HA Housing Inspectors.

The HA's initial inspection of the unit will include a "conditions" report which will be compared to the conditions found during the move-out inspection.

The owner must notify the HA of the move-out and request an inspection within 48 hours of learning of the move-out in order to submit a claim for damages.

If the contract was terminated due to owner breach, or the owner was in violation of the contract at the time that it was terminated, there will be no entitlement to claims and therefore no inspection.

The owner and tenant will be notified of the date and time of the inspection. \* If the owner is not present, the move-out inspection will not be rescheduled.

The HA will not conduct a move-out inspection on tenant's request if the owner does not also request an inspection.

A damage claim will not be approved *unless* the move-out inspection is requested and completed prior to any work being done.

In the event that the HA is unable to inspect within 3 days, the owner will be permitted to use date-stamped photographs to substantiate the claim.

## **Processing Claims**

Any amount owed by the tenant to the owner for unpaid rent or damages will first be deducted from the maximum-security deposit, which the owner could have collected under the program rules. If the maximum allowable security deposit is insufficient to reimburse the owner for the unpaid tenant rent or other amounts which the family owes under the Lease, the owner may request reimbursement from the HA up to the limits for each program.

If the owner claims vacancy loss, the security deposit that s/he collected or could have collected will be deducted from the vacancy loss claim.

The HA reviews claims for unpaid rent, damages, or vacancy loss and makes a preliminary determination of amount payable. The family is informed that a claim is pending (notice sent to last known address). The notification will state the preliminarily determined amount, the type of claim, and describe the procedure for contesting the claim.

The HA will schedule a Claim Review. If the family misses the Claim Review, another will not be scheduled unless there are extenuating circumstances.

At the Claim Review, the amount and type of claim will be discussed with the family. If the family agrees with the amount and type of claim, the family will be offered a Repayment Agreement. If the family does not agree to sign a Payment Agreement, the HA will process the account for collection.

If the family demonstrates that the claim, or parts of it, is invalid, the HA will adjust the amount. The HA may offer the tenant an opportunity for an Informal Hearing regarding the claim if disputes cannot be resolved.

After a determination has been made, the HA will notify the family in writing of the decision. If it has been determined that the family owes money, the HA will pursue collection to repay either in a lump sum or through a payment agreement. The notice will warn the family that their assistance may be terminated and they may be denied future participation in the program if they do not reimburse the HA as required.

## **Other Requirements for Claims Processing**

All notices to tenants during the processing of a claim must include proof of mailing or of personal delivery.

Costs of filing eviction to remove the tenant or any other legal fees may not be reimbursed.

No claims will be paid for a unit, which is vacant as the result of the landlord voluntarily moving a family to another unit owned by the same landlord.

All unpaid rent, damage, and vacancy loss claim forms must be fully complete when they are submitted, and they must be submitted within 3 days of the date the unit is ready for occupancy.

## **Informal Review and Hearings**

See Chapter 19 "Complaints and Appeals".

The PHA is not required to provide an informal review to review the PHA determination that the contact unit is not appropriate for the family size and composition under the PHA occupancy standards.

## **Grounds for Denial or Termination of Assistance**

See Chapter 15 "Denial or Termination of Assistance".

## **B. SINGLE ROOM OCCUPANCY** [24 CFR 982.602]

The HA and the general local government will certify to HUD that the property meets applicable local health and safety standards for SRO housing before approving any SRO unit.

The HA will use a separate Lease and Housing Assistance Payment Contract for each assisted person residing in a SRO. [24 CFR 982.603]

### **Voucher Program**

The HA SRO Payment Standard is 75% of the zero bedroom Payment Standard. For a person residing in an Exception area the Payment Standard is 75% of the HUD approved zero bedroom Exception Payment Standard amount. While an assisted person resides in SRO housing, the SRO Payment Standard must be used to calculate the Housing Assistance Payment.

### **Utility Allowance**

The Utility Allowance for an assisted person residing in SRO housing is 75% of the zero bedroom Utility Allowance.

### **Housing Quality Standards**

The HA will ensure that all SRO units approved for the program are in compliance with all of the Housing Quality Standards for SROs as regulated in 24 CFR 982.605.

## **C. CONGREGATE HOUSING** [24 CFR 982.606]

An elderly person or a person with disabilities may reside in a Congregate Housing unit.

The HA may approve a family member or live-in aide to reside with the elderly person or person with disabilities.

The HA will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

### **Congregate Housing Lease and HAP Contract** [24 CFR 982.607]

For Congregate Housing there will be a separate Lease and HAP Contract for each assisted family.

Unless there is a live-in aide, the FMR/Exception Rent limit for a family that resides in a Congregate Housing unit is the zero-bedroom FMR/Exception Rent limit.

However, if there are two or more rooms in the unit (not including kitchen or sanitary facilities), the FMR/Exception Rent limit for a family that resides in a Congregate Housing unit is the one bedroom FMR/Exception Rent limit.

If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

### **Housing Quality Standards**

The HA will ensure that all Congregate Housing units approved for the program are in compliance with all of the Housing Quality Standards for Congregate Housing as regulated in 24 CFR 982.609.

#### **D. GROUP HOMES** [24 CFR 982.610, 982.612]

A Group Home must be licensed, certified, or otherwise approved in writing by the State, or the State's licensing department.

An elderly person or a person with disabilities may reside in a State-approved Group Home. If approved by the HA, a live-in aide may reside with a person with disabilities.

The HA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. Except for a live-in aide, all residents of a Group Home must be elderly persons or persons with disabilities.

The HA will not approve assistance for a person to live in a Group Home if file documentation indicates that the person is in need of continual medical or nursing care.

No more than twelve persons may reside in a Group Home. This limit covers all persons who reside in the unit, including assisted and unassisted residents and any live-in aide.

#### **Group Home Lease and HAP Contract** [24 CFR 982.611]

There will be a separate HAP Contract and Lease for each assisted person living in a Group Home. For a Group Home the term "pro-rata portion" means that which is derived by dividing the number of persons in the assisted household by the total number of residents (assisted and unassisted) residing in the Group Home. The number of persons in the assisted household equals one assisted person plus any HA-approved live-in aide.

#### **Group Home Rent and HAP Contract** [24 CFR 982.613]

The rent to owner for an assisted person may not exceed the pro-rata portion of the reasonable rent for the Group Home.

The reasonable rent for a Group Home is determined in accordance with 982.503. In determining reasonable rent the HA will consider whether sanitary facilities, and facilities for food preparation and service, are common facilities or private.

#### **Maximum Subsidy**

Unless there is a live-in aide, the family unit size is zero bedroom. If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

The Payment Standard for a person who resides in a Group Home is the lower of the Payment Standard for the family unit size; or the pro-rata portion of the Payment Standard amount on the HA Payment Standard Schedule for the Group Home size

#### **Utility Allowance**

The Utility Allowance for each assisted person residing in a Group Home is the pro-rata portion of the Utility Allowance for the Group Home unit size.

#### **Housing Quality Standards**

The HA will ensure that all Group Home units approved for the program are in compliance with all of the Housing Quality Standards for Group Homes as regulated in 24 CFR 982.614.

## **E. SHARED HOUSING** [24 CFR 982.615]

### **Occupancy**

An assisted family may reside in Shared Housing. In Shared Housing, an assisted family may share a unit with another resident or residents of a unit. The unit may be a house or an apartment.

The HA may approve a live-in aide to reside with a family in order to care for a person with a disability. The HA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Other persons who are assisted or not assisted under the Tenant-Based Program may reside in a Shared Housing unit. The owner of a Shared Housing unit may reside in the unit.

A resident owner may enter into a HAP Contract with the HA. However, housing assistance may not be paid on behalf of an owner. The HA will not approve assistance for a person or family that is related by blood or marriage to a resident owner.

There will be a separate Housing Assistance Payment Contract and Lease for each assisted family residing in a Shared Housing unit.

### **Rent and HAP Contract**

For Shared Housing, the term "pro-rata portion" means the ratio derived by dividing the number of bedrooms in the private space available for occupancy by a family by the total number of bedrooms in the unit. For example, for a family entitled to occupy three bedrooms in a five bedroom unit, the ratio would be 3/5.

The rent to owner for the family may not exceed the pro-rata portion of the reasonable rent for the Shared Housing dwelling unit. The reasonable rent must be in accordance with the guidelines set in Chapter 11, Section E.

### **Maximum Subsidy**

For a family that resides in a Shared Housing unit, the Payment Standard is the lower of the Payment Standard amount on the HA Payment Standard for the family unit size or the pro-rata portion of the Payment Standard amount on the HA Payment Standard for the Shared Housing unit size.

If the HA approves a live-in aide, the live-in aide will be counted in determining the family unit size.

### **Utility Allowance**

The Utility Allowance for an assisted family living in Shared Housing is the pro-rata portion of the Utility Allowance for the Shared Housing unit.

### **Housing Quality Standards**

The HA will ensure that all Shared Housing units approved for the program are in compliance with all of the Housing Quality Standards for Shared Housing as regulated in 24 CFR 982.618.

## **F. COOPERATIVE HOUSING** [24 CFR 982.619]

The HA will approve a family living in Cooperative Housing if it is determined that assistance under the program will help maintain affordability of the Cooperative unit for low-income families. The HA will not approve assistance for a family in Cooperative Housing until the HA has also determined that the Cooperative has adopted requirements to maintain continued affordability for low-income families after transfer of a Cooperative member's interest in a Cooperative unit (such as a sale of the resident's share in a Cooperative Corporation).

The reasonable rent in Cooperative Housing is determined in accordance with Chapter 11; Section E. For Cooperative Housing, the rent to owner is the monthly carrying charge under the Occupancy Agreement/Lease between the member and the Cooperative.

The carrying charge consists of the amount assessed to the member by the Cooperative for occupancy of the housing. It includes the member's share of the Cooperative debt service, operating expenses, and necessary payments to Cooperative reserve funds. However, the carrying charge does not include down payments or other payments to purchase the Cooperative unit, or to amortize a loan to the family for this purpose. Gross rent is the carrying charge plus any utility.

For a Cooperative, rent adjustments are applied to the carrying charge as determined in "Owner Rents, Rent Reasonableness and Payment Standards" Chapter.

The Lease and other appropriate documents will stipulate that the monthly carrying charge is subject to Section 8 limitations on rent to owner. The Housing Assistance Payment will be determined in accordance with the guidelines in "Owner Rents, Rent Reasonableness and Payment Standards" chapter.

The HA may approve a live-in aide to reside with the family to care for a person with disabilities. The HA will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. If the HA approves a live-in aide, the live-in aide will be counted when determining the family unit size.

### **Housing Quality Standards**

The HA will ensure that all Cooperative Housing units approved for the program are in compliance with all of the Housing Quality Standards outlined in Chapter 10 and regulated by 24 CFR 982.401.

### **G. MANUFACTURED HOMES** [24 CFR 982.620]

The HA will permit a family to lease a Manufactured Home and space with assistance under the program. The HA will provide assistance for a family that owns the Manufactured Home and leases only the space.

The HA may approve a live-in aide to reside with a family to care for a person with disabilities. The HA will approve a live-in aide if needed as a reasonable accommodation so that the program is accessible to and usable by persons with disabilities. If the HA approves a live-in aide, the live-in aide must be counted when determining the family unit size.

### **Housing Quality Standards** [24 CFR 982.621]

A Manufactured Home must meet all the HQS requirements outlined in the "Housing Quality Standards and Inspections" Chapter and regulated by 24 CFR 982.401. In addition the Manufactured Home also must meet the following requirements:

A Manufactured Home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage.

A tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist wind over-turning and sliding must securely anchor a Manufactured Home.

The rest of this section only applies when the HA agrees to provide assistance to families who own the Manufactured Home but need to lease space.

### **Manufactured Home Space Rental** [24 CFR 982.622]

Rent to owner for a Manufactured Home space will include payment for maintenance services that the owner must provide to the tenant under the lease for the space.

Rent to owner does not include the cost of utilities and trash collection for the Manufactured Home. However, the owner may charge the family a separate fee for the cost of utilities or trash collection provided by the owner.

### **Reasonable Rent**

During the assisted tenancy, the rent to owner for the Manufactured Home space may not exceed a reasonable rent as determined by the HA.

The HA will not approve a Lease for a Manufactured Home space until the HA has determined that the initial rent to owner for the space is a reasonable rent. At least annually during the assisted tenancy, the HA will redetermine that the rent is reasonable.

The HA will determine whether the rent to owner for a Manufactured Home space is a reasonable rent in comparison to rents for other comparable Manufactured Home spaces. The HA will consider the size and location of the space and any services and maintenance provided by the owner in accordance with the Lease.

By accepting each monthly Housing Assistance Payment from the HA, the owner of the Manufactured Home space certifies that the rent to owner for the space is not more than rent charged by the owner for unassisted rental of comparable spaces in the same Manufactured Home Park or elsewhere. If requested by the HA, the owner must provide the HA information on rents for other Manufactured Home space.

### **Housing Assistance Payments for Manufactured Home Space** [24 CFR 982.623]

HUD will determine the FMR for a Manufactured Home space. Exception Rents do not apply.

### **HAP for the Voucher**

There is a separate FMR for a family renting a Manufactured Home space. The Payment Standard is used to calculate the monthly Housing Assistance Payment for a family. The FMR for rental of a Manufactured Home space is **generally 40%** of the published FMR for a two-bedroom unit.

### **Subsidy Calculation for the Voucher Program**

During the term of a Voucher tenancy, the amount of the monthly Housing Assistance Payment for a family will equal the lesser of:

The Payment Standard minus the total tenant payment; or

The rent paid for rental of the real property on which the Manufactured Home owned by the family is located (the space rent) minus the total tenant payment.

The space rent is the sum of the following as determined by the PHA:

Rent to owner for the Manufactured Home space;

Owner maintenance and management charges for the space;

The Utility Allowance for tenant paid utilities.

### **Utility Allowance Schedule for Manufactured Home Space Rental** [24 CFR 982.624]

The HA will establish Utility Allowances for Manufactured Home space rental. For the first twelve months of the initial Lease term only, the allowances will include a reasonable amount for utility hook-up charges payable by the family, if the family actually incurs the expenses because of a move.

Allowances for utility hook-up charges do not apply to a family that leases a Manufactured Home space in place.

Utility Allowances for Manufactured Home space will not be applied to cover the costs of digging a well or installation of a septic system.

## **H. PROJECT-BASED VOUCHERS**

### **INTRODUCTION**

This chapter describes HUD regulations and PHA policies related to the project-based voucher program.

### **GENERAL REQUIREMENTS** [24 CFR 983.5]

The project-based voucher (PBV) program allows PHAs that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to 20 percent of its voucher program budget authority and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. PHAs may only operate a PBV program if doing so is consistent with the PHA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)]. The PHA will operate a project-based voucher program using up to 20 percent of its budget authority for project-based assistance.

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP contract, the PHA is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, the PHA is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC [24 CFR 983.6].

### **TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE** [24 CFR 983.2]

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the PHA policies related to tenant-based assistance also apply to PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the PHA policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

### **RELOCATION REQUIREMENTS** [24 CFR 983.7]

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)[42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. PHAs may not use voucher program funds to cover relocation costs, except that PHAs may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of the PHA to ensure the owner complies with these requirements.

**EQUAL OPPORTUNITY REQUIREMENTS** [24 CFR 983.8]

The PHA must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, the PHA must comply with the PHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

**PBV OWNER PROPOSALS** [24 CFR 983.51]

Before selecting a PBV proposal, the PHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per building [24 CFR 983.56], and meets the site selection standards [24 CFR 983.57].

**OWNER PROPOSAL SELECTION PROCEDURES** [24 CFR 983.51]

The PHA will select PBV proposals in accordance with the selection procedures in the PHA administrative plan.

**PHA request for PBV Proposals.** The PHA will solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the PHA request. The PHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.

**Solicitation and Selection of PBV Proposals** [24 CFR 983.51(b) and (c)]

PHA procedures for selecting PBV proposals will be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the PHA. The public notice of the PHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

**PHA Request for Proposals for Rehabilitated and Newly Constructed Units**

The PHA will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the following newspapers and trade journals:

Portland Press Herald

In addition, the PHA will post the RFP and proposal submission and rating and ranking procedures on its electronic web site.

The PHA will publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the PHA estimates that it will be able to assist under the funding the PHA is making available. Proposals will be due in the PHA office by close of business 30 calendar days from the date of the last publication.

In order for the proposal to be considered, the owner must submit the proposal to the PHA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

The PHA will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

- Owner experience and capability to build or rehabilitate housing as identified in the RFP;
- Extent to which the project furthers the PHA goal of deconcentrating poverty and expanding housing and economic opportunities;

- If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property;
- Site and neighborhood quality and accessibility; and
- Need for temporary relocation (deduction of 10 points per relocation).

### **PHA Requests for Proposals for Existing Housing Units**

The PHA will advertise its request for proposals (RFP) for existing housing in the following newspapers and trade journals.

Portland Press Herald

In addition, the PHA will post the notice inviting such proposal submission and the rating and ranking procedures on its electronic web site.

The PHA will periodically publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the PHA estimates that it will be able to assist under the funding the PHA is making available. Owner proposals will be accepted on a first-come first-served basis and will be evaluated using the following criteria:

- Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;
- Extent to which the project furthers the PHA goal of deconcentrating poverty and expanding housing and economic opportunities;
- If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and
- Extent to which units are occupied by families that are eligible to participate in the PBV program.
- Site and neighborhood quality and accessibility; and
- Need for temporary relocation (deduction of 10 points per relocation).

### **PHA Notice of Owner Selection [24 CFR 983.51(d)]**

Within 10 business days of the PHA making the selection, the PHA will notify the selected owner in writing of the owner's selection for the PBV program. The PHA will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, the PHA will publish its notice for selection of PBV proposals for two consecutive days in the same newspapers and trade journals the PHA used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. The PHA will also post the notice of owner selection on its electronic web site.

The PHA will make available to any interested party its rating and ranking sheets and documents that identify the PHA basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. The PHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The PHA will make these documents available for review at the PHA during normal business hours. The cost for reproduction of allowable documents will be \$.25 per page.

### **HOUSING TYPE [24 CFR 983.52]**

The PHA may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV

program, if, at the time of notice of PHA selection, the units substantially comply with HQS. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing.

The PHA may project-base assistance for new construction, rehabilitation, or existing housing. The PHA choice of housing type will be reflected in its solicitation for proposals.

### **PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS**

#### **Ineligible Housing Types [24 CFR 983.53]**

The PHA may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; cooperative housing; and transitional housing. In addition, the PHA may not attach or pay PBV assistance for a unit occupied by an owner and the PHA may not select or enter into an agreement to enter into a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program.

The PHA will not PBV High-rise Elevator Projects for Families with Children.

#### **Subsidized Housing [24 CFR 983.54]**

A PHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that a PHA may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the PHA in accordance with HUD requirements.

#### **SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55]**

The PHA may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements. The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

The PHA must submit the necessary documentation to HUD for a subsidy layering review. The PHA may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD (or an independent entity approved by HUD) has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

### **CAP ON NUMBER OF PBV UNITS IN EACH BUILDING**

#### **25 Percent per Building Cap** [24 CFR 983.56(a)]

In general, the PHA may not select a proposal to provide PBV assistance for units in a building or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a building, if the total number of dwelling units in the building that will receive PBV assistance during the term of the PBV HAP contract is more than 25 percent of the number of dwelling units (assisted or unassisted) in the building.

#### **Exceptions to 25 Percent per Building Cap** [24 CFR 983.56(b)]

Exceptions are allowed and PBV units are not counted against the 25 percent per building cap if:

- The units are in a single-family building (one to four units);
- The units are *excepted units* in a multifamily building because they are specifically made available for elderly or disabled families or families receiving supportive services (also known as *qualifying families*).

The PHA will limit exception units to single-family buildings (one to four units); and those made available for elderly or disabled families.

The PHA will not impose any further cap on the number of PBV units assisted per building.

### **SITE SELECTION STANDARDS**

#### **Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards** [24 CFR 983.57(b)]

The PHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless the PHA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Plan under 24 CFR 903 and the PHA administrative plan.

In addition, prior to selecting a proposal, the PHA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(l).

It is the PHA goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal the PHA will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, the PHA will grant exceptions to the 20 percent standard where the PHA determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent, such as sites in:

A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;

A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;

A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;

A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;

A census tract where there has been an overall decline in the poverty rate within the past five years; or  
A census tract where there are meaningful opportunities for educational and economic advancement.

Under no circumstances will the PHA approve PBV assistance in a census tract with a concentration factor greater than 75 percent of the community-wide poverty rate or forty percent, whichever is lower.

**Existing and Rehabilitated Housing Site and Neighborhood Standards** [24 CFR 983.57(d)]

The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

**New Construction Site and Neighborhood Standards** [24 CFR 983.57(e)]

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless the PHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

## **ENVIRONMENTAL REVIEW** [24 CFR 983.58]

The PHA activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The *responsible entity* is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements. In the case of existing housing, the responsible entity for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

The PHA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the PHA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

The PHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The PHA must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

## **DWELLING UNITS**

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

## **HOUSING QUALITY STANDARDS** [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, cooperative housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

### **Lead-based Paint** [24 CFR 983.101(c)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

## **HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES**

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The PHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

## **INSPECTING UNITS**

### **Pre-selection Inspection** [24 CFR 983.103(a)]

The PHA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the PHA must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the

proposal selection date. However, the PHA may not execute the HAP contract until the units fully comply with HQS.

**Pre-HAP Contract Inspections** [24 CFR 983.103(b)]

The PHA must inspect each contract unit before execution of the HAP contract. The PHA may not enter into a HAP contract covering a unit until the unit fully complies with HQS.

**Turnover Inspections** [24 CFR 983.103(c)]

Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS.

**Annual Inspections** [24 CFR 983.103(d)]

At least annually during the term of the HAP contract, the PHA must inspect a random sample, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this annual inspection requirement. If more than 20 percent of the annual sample of inspected contract units in a building fails the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

**Other Inspections** [24 CFR 983.103(e)]

The PHA must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections. The PHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting PHA supervisory quality control HQS inspections, the PHA should include a representative sample of both tenant-based and project-based units.

**REHABILITATED AND NEWLY CONSTRUCTED UNITS** [24 CFR 983.151]

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

**AGREEMENT TO ENTER INTO HAP CONTRACT**

In order to offer PBV assistance in rehabilitated or newly constructed units, the PHA must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(a)].

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the PHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, the PHA will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(b)].

**Content of the Agreement** [24 CFR 983.152(c)]

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;

- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by the PHA, specifications and plans. For new construction units, the description must include the working drawings and specifications.
- Any additional requirements for quality, architecture, or design over and above HQS.

**Execution of the Agreement** [24 CFR 983.153]

The Agreement must be executed promptly after PHA notice of proposal selection to the selected owner. However, the PHA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the PHA may not enter into the Agreement until the environmental review is completed and the PHA has received environmental approval.

The PHA will enter into the Agreement with the owner within 10 business days of receiving both environmental approval and notice that subsidy-layering requirements have been met, and before construction or rehabilitation work is started.

**CONDUCT OF DEVELOPMENT WORK**

**Labor Standards** [24 CFR 983.154(b)]

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations' laws and regulations. The PHA must monitor compliance with labor standards.

**Equal Opportunity** [24 CFR 983.154(c)]

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

**Owner Disclosure** [24 CFR 983.154(d) and (e)]

The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

**COMPLETION OF HOUSING**

The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

**Evidence of Completion** [24 CFR 983.155(b)]

At a minimum, the owner must submit the following evidence of completion to the PHA in the form and manner required by the PHA:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and

- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At the PHA's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion. The PHA will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. The PHA will specify any additional documentation requirements in the Agreement to enter into HAP contract.

**PHA Acceptance of Completed Units** [24 CFR 983.156]

Upon notice from the owner that the housing is completed, the PHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. The PHA must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the PHA must not enter into the HAP contract.

If the PHA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the PHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

**HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)**

The PHA must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. The HAP contract must be in the form required by HUD [24 CFR 983.202].

**HAP CONTRACT REQUIREMENTS**

**Contract Information** [24 CFR 983.203]

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any building that will exceed the 25 percent per building cap, which will be set-aside for occupancy by qualifying families; and
- The initial rent to owner for the first 12 months of the HAP contract term.

**Execution of the HAP Contract** [24 CFR 983.204]

The PHA may not enter into a HAP contract until each contract unit has been inspected and the PHA has determined that the unit complies with the Housing Quality Standards (HQS). For existing housing, the HAP contract must be executed promptly after the PHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the PHA has inspected the completed units and has

determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

For existing housing, the HAP contract will be executed within 10 business days of the PHA determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 10 business days of the PHA determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

**Term of HAP Contract** [24 CFR 983.205]

The PHA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than ten years. The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

Within one year before expiration of the HAP contract, the PHA may extend the term of the contract for an additional term of up to five years if the PHA determines an extension is appropriate to continue providing affordable housing for low-income families. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension.

When determining whether or not to extend an expiring PBV contract, the PHA will consider several factors including, but not limited to:

The cost of extending the contract and the amount of available budget authority;

The condition of the contract units;

The owner's record of compliance with obligations under the HAP contract and lease(s);

Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and

Whether the funding could be used more appropriately for tenant-based assistance.

**Termination by PHA** [24 CFR 983.205(c)]

The HAP contract must provide that the term of the PHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the PHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the PHA may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

**Termination by Owner** [24 CFR 983.205(d)]

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the PHA. In this case, families living in the contract units must be offered tenant-based assistance.

**Remedies for HQS Violations** [24 CFR 983.207(b)]

The PHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the PHA determines that a contract does not comply with HQS, the PHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

The PHA will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Chapter 10.

## **AMENDMENTS TO THE HAP CONTRACT**

### **Substitution of Contract Units** [24 CFR 983.206(a)]

At the PHA's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit. Before any such substitution can take place, the PHA must inspect the proposed unit and determine the reasonable rent for the unit.

### **Addition of Contract Units** [24 CFR 983.206(b)]

At the PHA's discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per building and on the overall size of the PHA's PBV program, a HAP contract may be amended during the three-year period following the execution date of the HAP contract to add additional PBV units in the same building. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

The PHA will consider adding contract units to the HAP contract when the PHA determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and

Voucher holders are having difficulty finding units that meet program requirements.

## **HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES** [24 CFR 983.206(c) and 983.302(e)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

## **OWNER RESPONSIBILITIES UNDER THE HAP** [24 CFR 983.209]

When the owner executes the HAP contract s/he certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;

- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit; and
- The family does not own or have any interest in the contract unit.

### **ADDITIONAL HAP REQUIREMENTS**

#### **Housing Quality and Design Requirements** [24 CFR 983.101(e) and 983.207(a)]

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the PHA and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

The PHA will identify the need for any special features for quality, architecture, or design on a case-by-case basis depending on the intended occupancy of the PBV project. The PHA will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract. These requirements will be in addition to, not in place of, compliance with HQS.

#### **Vacancy Payments** [24 CFR 983.352(b)]

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit).

The PHA will decide on a case-by-case basis if the PHA will provide vacancy payments to the owner. The HAP contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments.

### **SELECTION OF PBV PROGRAM PARTICIPANTS**

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

#### **ELIGIBILITY FOR PBV ASSISTANCE** [24 CFR 983.251(a) and (b)]

The PHA may select families for the PBV program from those who are participants in the PHA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the PHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. An applicant family must also meet HUD requirements related to current or past criminal activity.

The PHA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.

**In-Place Families** [24 CFR 983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the PHA is considered an “in-place family.” These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the PHA’s waiting list. Once the family’s continued eligibility is determined (the PHA may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and the PHA must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

**ORGANIZATION OF THE WAITING LIST** [24 CFR 983.251(c)]

The PHA will establish a separate waiting list for PBV units. The PHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the PHA. The PHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

- The PHA will establish and manage separate waiting lists for individual projects or buildings that are receiving PBV assistance.

**SELECTION FROM THE WAITING LIST** [24 CFR 983.251(c)]

Applicants who will occupy units with PBV assistance must be selected from the PHA’s waiting list. The PHA may establish selection criteria or preferences for occupancy of particular PBV units. The PHA may place families referred by the PBV owner on its PBV waiting list.

**Income Targeting** [24 CFR 983.251(c)(6)]

At least 75 percent of the families admitted to the PHA’s tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

**Units with Accessibility Features** [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

**Preferences** [24 CFR 983.251(d)]

The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. The PHA must provide an absolute selection preference for eligible in-place families as described earlier in this section.

Although the PHA is prohibited from granting preferences to persons with a specific disability, the PHA may give preference to disabled families who need services offered at a particular project or site if the preference is limited to families (including individuals):

- With disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;
- Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and
- For whom such services cannot be provided in a non-segregated setting.

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

The PHA will provide a selection preference when required by the regulation (e.g., eligible in-place families, qualifying families for “excepted units,” mobility impaired persons for accessible units). The PHA **may offer** additional preferences for the PBV program or for particular PBV projects or units **as needed**.

### **OFFER OF PBV ASSISTANCE**

#### **Refusal of Offer** [24 CFR 983.251(e)(3)]

The PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance;
- Deny any admission preference for which the applicant qualifies;
- Change the applicant’s place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the PHA’s selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

#### **Disapproval by Landlord** [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner’s units, such rejection may not affect the family’s position on the tenant-based voucher waiting list.

#### **Acceptance of Offer** [24 CFR 983.252]

### **Family Briefing**

When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the PHA must provide a briefing packet that explains how the PHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

### **Persons with Disabilities**

If an applicant family’s head or spouse is disabled, the PHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

### **Persons with Limited English Proficiency**

The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

### **OWNER SELECTION OF TENANTS**

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant’s ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(b)].

#### **Leasing** [24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the PHA from the PHA’s waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA’s subsidy standards.

#### **Filling Vacancies** [24 CFR 983.254(a)]

The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the

owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

The owner must notify the PHA in writing (mail, fax, or e-mail) within 5 business days of learning about any vacancy or expected vacancy.

The PHA will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.

**Reduction in HAP Contract Units Due to Vacancies** [24 CFR 983.254(b)]

If any contract units have been vacant for 120 days, the PHA will give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. The PHA will provide the notice to the owner within 10 business days of the 120<sup>th</sup> day of the vacancy. The amendment to the HAP contract will be effective the 1<sup>st</sup> day of the month following the date of the PHA's notice.

**TENANT SCREENING** [24 CFR 983.255]

**PHA Responsibility**

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. The PHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The PHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family's current landlord and any prior landlords. The PHA must provide applicant families a description of the PHA policy on providing information to owners, and the PHA must give the same types of information to all owners.

The PHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. The PHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

**Owner Responsibility**

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a 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.

**OCCUPANCY**

After an applicant has been selected from the waiting list, determined eligible by the PHA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

**LEASE** [24 CFR 983.256]

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

**Form of Lease** [24 CFR 983.256(b)]

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for

assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA model lease.

The PHA will review the owner's lease form to determine if the lease complies with state and local law. If the PHA determines that the lease does not comply with state or local law, the PHA may decline to approve the tenancy.

**Lease Requirements** [24 CFR 983.256(c)]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

**Tenancy Addendum** [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by the PHA (the names of family members and any PHA-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

**Initial Term and Lease Renewal** [24 CFR 983.256(f) and 983.257(b)]

The initial lease term must be for at least one year. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for "good cause," or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, the PHA must provide the family with a tenant-based voucher and remove the unit from the PBV HAP contract.

**Changes in the Lease** [24 CFR 983.256(e)]

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the PHA a copy of all changes.

The owner must notify the PHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the PHA and in accordance with the terms of the lease relating to its amendment. The PHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

**Owner Termination of Tenancy** [24 CFR 983.257]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

**Tenant Absence from the Unit** [24 CFR 983.256(g) and 982.312(a)]

The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by PHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days.

**Security Deposits** [24 CFR 983.258]

The owner may collect a security deposit from the tenant. The PHA will allow the owner to collect a security deposit amount the owner determines is appropriate.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

**MOVES**

**Overcrowded, Under-Occupied, and Accessible Units** [24 CFR 983.259]

If the PHA determines that a family is occupying a wrong size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

The PHA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 30 business days of the PHA's determination. The PHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

- PBV assistance in an appropriate unit in the same building or another building on the same HAP contract;
- PBV assistance in another project owned by the same owner; or
- Tenant-based voucher assistance.

If the PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension granted by the PHA).

When the PHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 60 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 60-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 60-day period.

If a unit or tenant based voucher is not immediately available the PHA may allow the tenant to remain in the unit until such time as other assistance is available.

If the family refuses the offer of this other assistance the assistance on their unit will be terminated 60 days after the offer.

The PHA may make exceptions to this 60-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

### **Zero HAP**

*When the family is no longer eligible for assistance because their Total Tenant Payment is of an amount as to reduce the HAP to \$0 and the family is otherwise able and willing to remain in the unit or within the development one of the following options must be applied:*

*The owner may allow the family to remain in the current unit and pay the rent to owner in full, and the owner will request of PHA to remove that unit from the HAP Contract and replace it with a like unit that is vacant and unassisted under the HAP Contract; or*

*The owner may allow the family to remain in the current unit and pay the rent to owner in full, and the owner will agree to remove that unit from the HAP Contract. When the unit becomes available PHA and the Owner can agree to add back the unit to the HAP Contract; or*

*The owner may request the family to transfer to the next available unit so the unit may be used for PBV assistance.*

*If the family is able and willing to move from the property they may request issuance of a Housing Choice Voucher. If the Voucher is not needed the family may move without assistance by notifying the owner and PHA of their intention to vacate the unit according to the lease and PHA of their intention to relinquish their eligibility for assistance. These notices must be in writing.*

### **Family Right to Move** [24 CFR 983.260]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the PHA. If the family wishes to move with continued tenant-based assistance, the family must contact the PHA to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

### **EXCEPTIONS TO THE OCCUPANCY CAP** [24 CFR 983.261]

The PHA may not pay housing assistance under a PBV HAP contract for more than 25 percent of the number of dwelling units in a building unless the units are [24 CFR 983.56]:

- In a single-family building; or
- Specifically made available for elderly or disabled families.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a "qualifying family" in connection with the 25 percent per building cap exception (e.g., due to a change in family composition the family is no longer elderly or disabled), must vacate the unit within a reasonable period of time established by the PHA, and the PHA must cease paying housing assistance payments on behalf of the non-qualifying family.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family.

When the PHA determines that a family no longer meets the criteria for a “qualifying family” in connection with the 25 percent per building cap exception, the PHA will provide written notice to the family and owner within 10 business days of making the determination. The family will be given 30 days from the date of the notice to move out of the PBV unit. If the family does not move out within this 30-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 30-day period.

The PHA may make exceptions to this 30-day period if needed for reasons beyond the family’s control such as death, serious illness, or other medical emergency of a family member.

The PHA may refer other eligible families to the excepted units. However, if there are no eligible families on the waiting list and the owner does not refer eligible families to the PHA, the PHA will amend the HAP contract to reduce the total number of units under contract.

### **DETERMINING RENT TO OWNER**

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is redetermined at the owner’s request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

### **RENT LIMITS** [24 CFR 983.301]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the PHA, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

### **Certain Tax Credit Units** [24 CFR 983.301(c)]

For certain tax credit units, the rent limits are determined differently than for other PBV units. These different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;
- The contract unit is not located in a qualified census tract;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same building, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds a PHA-determined amount (not to exceed 110 percent of the fair market rent or any approved exception payment standard);

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

### **Definitions**

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

*Tax credit rent* is the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

### **Use of FMRs, Exception Payment Standards, and Utility Allowances** [24 CFR 983.301(f)]

When determining the initial rent to owner, the PHA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, the PHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the PHA may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment stand amount for use in the PBV program.

Likewise, the PHA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

Upon written request by the owner, the PHA will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. The PHA will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, the PHA may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if the PHA determines it is necessary due to PHA budgetary constraints.

### **Redetermination of Rent** [24 CFR 983.302]

The PHA must redetermine the rent to owner upon the owner's request or when there is a five percent or greater decrease in the published FMR.

### **Rent Increase**

If an owner wishes to request an increase in the rent to owner from the PHA, it must be requested at the annual anniversary of the HAP contract (see Section 17-V.D.). The owner's request for a rent increase must be submitted in writing to the PHA 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing for each bedroom size.

The PHA may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

The PHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

### **Rent Decrease**

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment.

### **Notice of Rent Change**

The rent to owner is redetermined by written notice by the PHA to the owner specifying the amount of the redetermined rent. The PHA notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

The PHA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

### **REASONABLE RENT** [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA.

### **When Rent Reasonable Determinations are Required**

The PHA must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a five percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The PHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to substitute a different contract unit in the same building; or
- There is any other change that may substantially affect the reasonable rent.

### **How to Determine Reasonable Rent**

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

### **Comparability Analysis**

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

### **Owner Certification of Reasonable Rent**

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the PHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

### **EFFECT OF OTHER SUBSIDY AND RENT CONTROL**

In addition to the rent limits discussed in Section 17-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 17-II.D).

#### **Other Subsidy** [24 CFR 983.304]

At its discretion, a PHA may reduce the initial rent to owner because of other governmental subsidies, including tax credit or tax exemption, grants, or other subsidized financing. For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- A project receiving low-income housing tax credits;
- Any other type of federally subsidized project specified by HUD.

#### **Combining Subsidy**

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

#### **Rent Control** [24 CFR 983.305]

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

### **PAYMENTS TO OWNER**

#### **HOUSING ASSISTANCE PAYMENTS** [24 CFR 983.351]

During the term of the HAP contract, the PHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due unless the owner and PHA have agreed to another due date.

Except for discretionary vacancy payments, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the PHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

#### **VACANCY PAYMENTS** [24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault.

If the PHA determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, the PHA will notify the landlord of the amount of housing assistance payment that the owner must repay. The PHA will require the owner to repay the amount owed in accordance with the policies in Chapter 11.

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner when the tenant moves out without proper notice as defined in the Lease and/or the owner has evicted the tenant for violation of the provisions of the Lease.

- The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

In order for a vacancy payment request to be considered, it must be made within 30 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the PHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the PHA within 10 business days of the PHA's request, no vacancy payments will be made.

#### **TENANT RENT TO OWNER** [24 CFR 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the PHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant.

#### **Tenant and PHA Responsibilities**

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including

damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

### **Utility Reimbursements**

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The PHA will pay the utility reimbursement directly to the family .

### **OTHER FEES AND CHARGES** [24 CFR 983.354]

#### **Meals and Supportive Services**

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

#### **Other Charges by Owner**

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

### **I. HOMEOWNERSHIP** [24 CFR 982.625]

There are two alternative and mutually exclusive forms of homeownership assistance payments by a PHA for a family: monthly homeownership assistance payments, or a single downpayment assistance grant. The PHA may choose to offer either or both forms of homeownership assistance. At this time, we opt to only offer the monthly homeownership assistance payments.

The PHA must offer either form of homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of the PHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The PHA must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The PHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the PHA has otherwise opted not to implement a homeownership program.

The PHA will offer the homeownership option to participant families who meet the eligibility requirements listed below. Priority may be given to:

Families currently enrolled and participating in a self-sufficiency program operated by the PHA, Federal, State or local agency.

### **Section 8 Homeownership Program Capacity Statement** [24 CFR 982.316]

The Portland Housing Authority has the capacity to operate this program by requiring that financing for purchase of a home under its Section 8 homeownership will be provided, insured or guaranteed by the state or Federal government; comply with secondary mortgage market underwriting requirements; or comply with generally accepted private sector underwriting standards. PHA has demonstrated that it has other relevant experience by currently operating an active Section 8 Housing Choice Homeownership Voucher Program. In addition, PHA has established a requirement that the purchaser qualify for a mortgage from a qualified mortgage lender and have the resources to make a investment of at least one percent of the purchase price that can be used as a down payment or closing cost or any combination thereof.

## **Eligibility Requirements** [24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance.

- The family must have been admitted to the Housing Choice Voucher program.
- The family must qualify as a first-time homeowner - a family in which no member has had any ownership interest in a residence in the last three years - before commencement of homeownership assistance for the family. The term "first-time homeowner" includes a single parent or displaced homemaker who while married, owned a home with his or her spouse, or resided in a home owned by his or her spouse. A disabled family meets this requirement even if they owned a home within the last 3 years if use of homeownership option is needed as a reasonable accommodation so that the HCV program is readily accessible to and usable by the family member with the disability.
- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home. The PHA may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not the PHA's requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit.
- For disabled families, the monthly Federal Supplemental Security Income (SSI) benefit for an individual living alone (or paying his or her share of food and housing costs) multiplied by twelve.
- For an elderly or disabled family, the PHA shall include welfare assistance for the adult family members who will own the home in determining if the family meets the minimum annual income requirement. It will not be included for other family members.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of 30 hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family.
- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, the PHA must grant an exemption from the employment requirement if the PHA determines that it is needed as a reasonable accommodation.
- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option.
- Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.
- Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.631(c).

The PHA will impose the following additional initial requirements:

1. The family has had no family-caused violations of HUDs Housing Quality standards within the last 1-year time period.
2. The family has been an active continuous participant in the Portland Housing Authority Housing Choice Voucher Program under HAP Contract for at least 9 months.
3. The family does not owe money to the PHA.
4. The family has not committed any serious or repeated violations of a PHA Public Housing Lease or family obligations under the HCV program within the past 3-year time period.
5. Active program participants who Port into PHA that have not been approved for homeownership by the issuing housing authority, must follow the initial requirements above and may apply for Section 8 Homeownership three months prior to the end of their lease, subsidized by PHA HCV HAP Contract.
6. Housing Choice Voucher Project-Based participants and Public Housing transfer tenants may request participation in the homeownership program when the PHA is issuing vouchers to persons on the wait list whose application date is equal or less than the application date of the Project Based participant and/or PHA tenant. *(This will prevent Project-Based participants and Public Housing transfer tenants from circumventing the wait list to obtain placement before those on the wait list.)*

**Homeownership Counseling Requirements** [24 CFR 982.630]

When the family has been determined eligible, they must attend and complete Homeownership counseling sessions. The PHA will refer families to a HUD approved housing counseling agency. Such counseling shall be consistent with HUD-approved housing counseling.

The following topics will be included in the homeownership counseling sessions:

- Home maintenance (including care of the grounds);
- Budgeting and money management;
- Credit counseling;
- How to negotiate the purchase price of a home;
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;
- How to find a home, including information about homeownership opportunities, schools, and transportation in the PHA jurisdiction;
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- Information about Real Estate Settlement Procedures Act (12 U.S.C. 2601et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

**Eligible Units** [24 CFR 982.628]

The unit must meet all of the following requirements:

- The unit must meet HUDs Eligible Housing requirements. The unit may not be any of the following:
  - ❖ A Public Housing or Indian Housing unit;
  - ❖ A unit receiving Section 8 project-based assistance;

- ❖ A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;
  - ❖ A college or other school dormitory;
  - ❖ On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- The unit was already existing or under construction at the time the family enters into the contract of sale.
  - The unit must be a one-unit property (including a manufactured home) or a single dwelling unit in a cooperative or condominium.
  - If the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation; and the family has the right to occupy the home site for at least forty years.
  - The unit has been inspected by the PHA and by an independent inspector designated by the family.
  - The unit meets HUD Housing Quality Standards.
  - For PHA-owned units all of the following conditions must be satisfied:
    - The PHA informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a PHA-owned unit is freely selected by the family without PHA pressure or steering;
    - The unit is not ineligible housing;
    - The PHA obtains the services of an independent agency to inspect the unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any PHA provided financing. All of these actions must be completed in accordance with program requirements.

The PHA must not approve the seller of the unit if the PHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

**PHA Search and Purchase Requirements** [24 CFR 982.629]

The PHA has established the maximum time that will be allowed for a family to locate and purchase a home.

The family's deadline date for locating a home to purchase will be six months from the date the family's eligibility for the homeownership option is determined. If the family exceeds six month's without submitting a written request for an extension, the homeownership application will be withdrawn and they will have to reapply.

The family must obtain financing for the home within 90 calendar days of locating a home to purchase or as defined in the purchase and sale agreement.

The PHA may require periodic reports on the family's progress in finding and purchasing a home. Such reports will be provided by the family at intervals of 60 days.

If the family is unable to purchase a home within the maximum time limit, the PHA will continue in their current lease. The family may submit a written request for an extension. The PHA will determine on a case by case basis if the family's circumstances warrant an extension.

### **Inspection and Contract** [24 CFR 982.631]

The PHA may not commence monthly homeownership assistance payments or provide down payment assistance grants for a family until the PHA has inspected the unit and has determined that the unit passes HQS.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

The independent inspector must not be a PHA employee or contractor. The PHA will not require the family to use an independent inspector selected by the PHA, but the PHA has established the following standards for qualification of inspectors selected by the family.

#### **The PHA requires the following qualifications for independent inspectors:**

Copies of the independent inspection report will be provided to the family and the PHA. Based on the information in this report, the family and the PHA will determine whether any pre-purchase repairs are necessary. The PHA may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with HQS.

The family must enter into a Contract of Sale with the seller of the unit. A copy of the Contract must be given to the PHA. The Contract of Sale must specify the price and terms of sale, and provide that the purchaser will arrange for a pre-purchase independent inspection of the home. The contract must also:

- Provide that the purchaser is not obligated to buy the unit unless the inspection is satisfactory;
- Provide that the purchaser is not obligated to pay for necessary repairs; and
- Contain the seller's certification that he or she has not been debarred, suspended or subject to a limited denial of participation.

### **Financing** [24 CFR 982.632]

The family is responsible for securing financing. The PHA has established financing requirements, listed below, and may disapprove proposed financing if the PHA determines that the debt is unaffordable.

The PHA will prohibit the following forms of financing:

- Balloon payment mortgages
- Variable interest rate loans
- Seller financing

### **Continued Assistance** [24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. The family is not required to refund Homeownership assistance for the month when the family moves out if the mortgage for that month was paid. The family cannot keep any HAP for any month if they did not reside in the unit.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.

- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to CFR 982.551 (h) and (i).
- The family must supply information to the PHA or HUD as specified in CFR 982.551(b). The family must further supply any information required by the PHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The family must notify the PHA before moving out of the home.
- The family must notify the PHA if the family defaults on the mortgage used to purchase the home.
- No family member may have any ownership interest in any other residential property.
- The family must attend ongoing homeownership counseling if required by PHA.
- The home will be inspected if requested by the homeowner on an advisory basis only. Yearly Housing Quality Inspections will not be required.
- The family may not sublet the home while receiving Section 8 Homeownership Assistance.
- The family must comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to assistance under the homeownership **option: 24 CFR 982.51(c), (d), (e), (f), (g), and (j).**

**Maximum Term of Homeownership Assistance** [24 CFR 982.634]

Except in the case of elderly or disabled families, the maximum term of homeownership assistance is:

15 years, if the initial mortgage term is 20 years or longer, or

10 years in all other cases.

The elderly exception only applies if the family qualified as elderly at the start of homeownership assistance. The disabled exception applies if, at any time during receipt of homeownership assistance, the family qualifies as disabled.

If the family ceases to qualify as elderly or disabled during the course of homeownership assistance, the maximum term becomes applicable from the date assistance commenced. However, such a family must be afforded at least 6 months of homeownership assistance after the maximum term becomes applicable.

If the family receives homeownership assistance for different homes, or from different PHAs, the total is subject to the maximum term limitations.

**Homeownership Assistance Payments and Homeownership Expenses** [24 CFR 982.635]

The PHA may not commence monthly homeownership assistance payments for the family, until the PHA has reviewed the inspection report of the independent inspector.

The PHA may not commence monthly homeownership assistance payments for the family, until the family has entered into a contract of sale with the seller for the unit.

The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the PHA will use the same payment standard schedule, payment standard amounts, affordability criteria and subsidy standards as those described in this plan for the Housing Choice Voucher program. The 40% limit may be waived by the Director based on a request from the homeownership applicant on a case-by-case basis.

The PHA will pay the homeownership assistance payment to directly to the family.

Some homeownership expenses are allowances or standards determined by the PHA in accordance with HUD regulations. These allowances are used in determining expenses for all homeownership families and are not based on the condition of the home.

Homeownership expenses (not including cooperatives) only include amounts allowed by the PHA to cover:

- Principal and interest on mortgage debt;
- Mortgage insurance premium;
- Taxes and home insurance;
- The PHA utility allowance;
- The PHA allowance for major repairs and replacements costs will be .35% of the purchase price of the home and the PHA allowance for routine maintenance costs will be .15% of the purchase price of the home. If condo association fees are paid, we will not include duplicate allowances for major repairs and replacement costs, but may include a routine maintenance cost. This allowance can be waived by the Director if the house is under 10 years old; and
- Principal and interest on debt for improvements or to make the home accessible for a family member with a disability if the PHA determines the allowance for such costs is needed as a reasonable accommodation.
- If the home is a cooperative or condominium, expenses also include operating expenses or maintenance fees assessed by the homeowner association.

Homeownership expenses for a cooperative member may only include amounts allowed by the PHA to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- Home insurance;
- The PHA allowance for major repairs and replacements costs will be .35% of the purchase price of the home and the PHA allowance for routine maintenance costs will be .15% of the purchase price of the home. If condo association fees are paid, we will not include duplicate allowances for major repairs and replacement costs, but may include a routine maintenance;
- The PHA utility allowance for the home; and
- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

**Portability** [24 CFR 982.636, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and in Chapter 13 of this Plan, the family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families.

The receiving PHA may absorb the family into its voucher program, or bill the initial PHA. The receiving PHA arranges for housing counseling and the receiving PHA's homeownership policies apply.

**Moving With Continued Assistance** [24 CFR 982.637]

A family receiving homeownership assistance may move with continued homeownership or rental assistance. Continued assistance for a new unit cannot begin so long as any family member holds title to the prior home.

The PHA prohibits more than one move by the family during any one-year period.

The PHA will deny permission to move with continued rental or homeownership assistance if the PHA determines that it does not have sufficient funding to provide continued assistance.

The PHA may require the family to complete additional homeownership counseling prior to moving to a new unit with continued assistance under the homeownership option.

**Denial or Termination of Assistance** [24 CFR 982.638]

Termination of homeownership assistance is governed by the policies for the Housing Choice Voucher Program contained in Chapter 15 of the Administrative Plan. However, the provisions of CFR 982.551 (c) through (j) are not applicable to homeownership.

The PHA will automatically terminate homeownership assistance for a family 180 days after the last homeownership assistance payment on behalf of the family. However, the PHA **reserves the right to extend the period past the 180 days, should there be documented extenuating circumstances for an extension to the time period. Such documented extenuating circumstances include but are not limited to death in the family, loss of employment or income due to no fault of the family, documentation of a medical or financial hardship beyond the control of the family for a member of the assisted household. The family must submit a written request for an extension and must include an explanation of the circumstances as well as documentation supporting the request. The PHA will determine on a case-by-case basis whether to grant an extension and for what period of time.** In no case will the PHA postpone termination beyond an additional 90 days.

The PHA will terminate homeownership assistance if the family is dispossessed from the home due to a judgment or order of foreclosure. The PHA may permit such a family to move with voucher rental assistance.

The PHA may terminate homeownership assistance if the family violates any of the Family Obligations contained in this section.

**PROGRAM INTEGRITY ADDENDUM**  
**Department of Housing Services**

**INTRODUCTION**

The Portland Housing Authority (PHA) is committed to assuring that the proper level of benefits is paid to all participating families, and that housing resources reach only income-eligible families so that program integrity can be maintained.

PHA staff will take all steps necessary to prevent fraud, waste, and mismanagement so that program resources are utilized judiciously. This addendum outlines PHA's policies for the prevention, detection and investigation of program abuse and fraud.

**A. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD**

Under no circumstances will PHA undertake an inquiry or an audit of a participating family arbitrarily. PHA's expectation is that participating families will comply with HUD requirements, provisions of the Voucher or Statement of Family Responsibility and other program rules. PHA staff will make every effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, PHA has a responsibility to HUD, to the Community, and to eligible families in need of housing assistance, to monitor applicants and participants for compliance and when indicators of possible abuse come to PHA's attention to investigate such claims.

PHA will initiate an investigation of a participating family only in the event of one or more of the following circumstances:

**Referrals, Complaints, or Tips** - PHA staff will follow up on referrals from other agencies, businesses or individuals received by mail, by telephone, or in person that allege that a family is in non-compliance with, or otherwise violating the Family Obligations or any other program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable.

**Internal File Review** - A follow-up will be made if PHA staff discover (as a function of a certification or re-certification, an interim re-determination, or a quality control review) information that conflicts with previous file data, PHA's knowledge of the family, or is discrepant with statements made by the family.

**Verification of Documentation** - A follow-up will be made if PHA receives independent verification or documentation which conflicts with representations in the family's file (such as public records, reports from other agencies, benefit providers, employers, wage information).

**B. STEPS THE HA WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD**

PHA management and staff will utilize various methods and practices (listed below) to prevent program abuse, non-compliance, and willful violations of program rules by applicants and participating families. The objective of this policy is to establish confidence and trust in the information provided by emphasizing education as the primary means to obtain compliance by families.

**“Notice – Income Reporting”** - This program integrity bulletin (created by Portland Housing Authority) will be furnished and explained to all applicants and current participants to promote understanding of program rules and to clarify PHA's expectations for cooperation and compliance. It is included in certification and re-certification packets.

**Program Briefings** - Mandatory briefing sessions will be conducted by PHA staff for all prospective program participants, current participants moving and voucher port-in families upon issuance of a Voucher or for a Project-Based Voucher or Moderate Rehabilitation unit under the Tenancy Addendum/Statement of Family Responsibility.

A “Notice – Income Reporting” form is included in all briefing packets. At the conclusion of all briefing sessions, the family representative will be required to sign a certification form to confirm that all rules and pertinent regulations were explained to them.

**Resident Counseling** - The HA will routinely provide, as a part of every re-certification interview, clarification of program rules and requirements.

**Review and Explanation of Forms** - Staff will answer any questions about and review the contents of all (re)certification documents with the family representative.

**Use of Instructive Signs and Warnings** - Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse.

**Applicant/Participation Certification** - All family representatives will be required to sign the “Applicant/Tenant Certification” form as part of the issuance of a Voucher, a Tenancy Addendum/Statement of Family Responsibility or as part of a program re-certification.

### **C. STEPS THE HA WILL TAKE TO DETECT PROGRAM ABUSE AND FRAUD**

The HA Staff will maintain a high level of awareness to indicators of possible abuse and fraud by assisted families.

**Quality Assurance Reviews of client files** – All new admission and participant move-in files and approximately 20% of all subsequent monthly, re-certification files will be reviewed. Reviews shall include, but are not limited to:

- Verification of all income and deductions
- Proper documentation of reported Social Security Numbers or dates of birth
- Authenticity of file documents
- Significant differences between reported income and expenditures
- Consistency of signatures between current and previously signed file documents
- Forms are correctly dated and signed
- Subsidy calculations are correct

**Observation** - The HA Management and Occupancy Staff (to include inspection personnel) will maintain high awareness of circumstances that may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income and misuse of the rental unit. All observations will be documented in the family's file.

**Enterprise Income Verification (EIV) System** – This HUD provided data source will be used to identify unreported income and in some cases serve as verification of income during required re-certifications. Other EIV reports including the Income Discrepancy, Multi-Subsidy and New Hire reports will be reviewed on a scheduled basis to monitor abuse of the programs.

### **D. PHA'S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD**

All reports of program abuse and non-compliance will be evaluated initially on a **File Review**. An internal file review will be conducted to determine:

If the subject of the allegation is a client under a PHA program and, if so to determine whether or not the information reported has been previously disclosed by the family.

If any file documentation of past behavior will corroborate complaints.

If at the conclusion of the preliminary file review if any fact contained in the allegation conflicts with file data, and it is independently verifiable, an investigation of the allegation will be required.

#### **E. HOW PHA WILL INVESTIGATE ALLEGATIONS OF ABUSE AND FRAUD**

If PHA determines that an allegation or referral warrants follow-up, either PHA's Director of Housing Services or Chief of Program Compliance will be responsible for the investigation. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below.

- **Employers and Ex-Employers:** Employers or ex-employers may be contacted to verify wages, which may have been previously undisclosed or misreported.
- **Neighbors/Witnesses:** Neighbors and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to the HA's review.
- **Other Agencies:** Investigators, caseworkers or representatives of other benefit agencies may be contacted.
- **Public Records:** If relevant, the HA may review public records. Examples of public records which may be checked are: real estate information, marriage licenses, divorce decrees, uniform commercial code financing statements, voter registration records, judgments, court or police records, utility records, postal records, IRS records.

In most cases a **Tenant Conference** will be scheduled with the Director or designee or Chief of Program Compliance or designee to review the information and evidence obtained by the HA with the family and to provide the family an opportunity to explain any document findings which conflict with representations in the family's file. Any documents or mitigating circumstances presented by the family will be taken into consideration by the HA. The family will be given ten (10) business days to furnish such mitigating evidence. This conference will take place prior to any proposed action by the HA. The HA will discuss the allegation (or details thereof) with the Head of Household or family member by scheduling an appointment with the appropriate staff member. A high standard of courtesy and professionalism will be maintained by the HA staff person who conducts such interviews. Under no circumstances will inflammatory language, accusation, or any unprofessional conduct or language be tolerated by the management. If possible, an additional staff person will attend such interviews.

A secondary purpose of the **Tenant Conference** is to assist the HA in determining the course of action most appropriate for the case. The HA will consider:

The time period during which the violation occurred

The number of false statements made by the family

The family's ability to understand the rules

The family's willingness to cooperate, and to accept responsibility for his/her actions

The amount of money involved

The family's past history

## **F. PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS OBTAINED BY THE HA**

Documents and other evidence obtained by the HA during the course of an investigation will be considered "work product" and will either be kept in the participant's file, or in a separate "work file." In either case, the applicant or participant's file or work file shall be kept in a locked file cabinet. Such cases under review will not be discussed among HA Staff unless they are involved in the process, or have information which may assist in the investigation.

## **G. CONCLUSION OF THE HA'S INVESTIGATIVE REVIEW**

At the conclusion of the investigative review, the reviewer will report the findings to the Director of Housing Services or the Chief of Program Compliance. It will then be determined whether or not a violation has occurred or the facts are inconclusive.

## **H. EVALUATION OF THE FINDINGS**

If it is determined that a program violation has occurred, the Director and/or the Chief of Program Compliance will review the facts to determine:

- The type of violation: procedural non-compliance, misrepresentation.
- Whether the violation was intentional or unintentional.
- What amount of money (if any) is owed by the family.

## **I. ACTION PROCEDURES FOR VIOLATIONS WHICH HAVE BEEN DOCUMENTED**

The Director and/or the Chief of Program Compliance will determine the proper remedy or sanction based on the type and severity of the violation.

- **Procedural Non-Compliance – Failure to Perform** This category applies when the family fails to observe a procedure or requirement of the HA, but does not misrepresent a material fact intentionally, and there is no retroactive assistance payments owed by the family. Examples of Non-Compliance Violations are failure to appear at a pre-scheduled appointment or failure to return verification or required paperwork in time period specified by the HA.
  - **Warning Notice to the Family** - In such cases a notice will be sent to the family, which contains the following:
    - A description of the non-compliance and the procedure, policy or obligation that was violated
    - The date by which the violation must be corrected, or the procedure complied with
    - The action which will be taken by the HA if the procedure or obligation is not complied with by the date specified by the HA
    - The consequences if the family commits of repeated (similar) violation
- **Procedural Non-Compliance - Overpaid Assistance** The family owes money to the HA for failure to report changes in income or assets.

- **Notice of Overpayment of Assistance:** This Notice will contain the following:
  - A description of the violation(s) and the date(s)
  - Any amounts owed to the HA.
  - A statement the family's right to disagree and to request an Informal Hearing.
- **Intentional Misrepresentations:** When a participant falsifies, misstates, omits or otherwise misrepresents a material fact which results (or would have resulted) in an overpayment of housing assistance by the HA, the HA will evaluate whether or not the participant had knowledge that his/her actions were wrong, and the participant willfully violated the family obligations or the law.
  - **Knowledge that the action or inaction was wrong.** This will be evaluated by determining if the participant was made aware of program requirements and prohibitions. The participant's signature on various certifications including the Applicant/Tenant Certification; the Applications for Certification and Re-certification, and Certification of Briefing Information.
  - **The participant willfully violated the law.** Any of the following circumstances will be considered adequate to demonstrate willful intent:
    - Admission by the participant
    - The act was done repeatedly.
    - A false name or Social Security Number was used.
    - An admission was made to others of the illegal action or omission.
    - The participant omitted material facts, which were known to him/her
    - The participant falsified, forged or altered documents.
    - The participant uttered and certified to statements at an interim (re)determination which were later independently verified to be false.
- **Dispositions of Cases Involving Misrepresentations:** In all cases of misrepresentations involving efforts to recover monies owed, the HA may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:
  - **Criminal Prosecution:** If PHA has established criminal intent, and the case meets the criteria for prosecution, PHA may refer the case to the local State or District Attorney, notify HUD's Office of Inspector General.
  - **Termination of rental assistance:** PHA may issue a letter of termination of assistance.
  - **Administrative Remedies:** The HA will permit continued assistance at the correct level of assistance and execute an Administrative Repayment Agreement in accordance with PHA's repayment policy.
- **Notification to Participant of Proposed Action.** The HA will notify the family of the proposed action by certified mail.

**PROGRAM-SPECIFIC AFFIRMATIVELY FURTHERING FAIR HOUSING STATEMENT**  
**FOR**  
**THE FAMILY SELF-SUFFICIENCY (FSS) PROGRAM**  
**AND**  
**THE HOUSING CHOICE VOUCHER HOMEOWNERSHIP PROGRAM**  
**Section 8 Programs - Administrative Plan**

**All Procedures, policies, activities applying to applicants/tenants stated in the Administrative Plan's Fair Housing Statement also apply to any applicant/tenants participating in the FSS Program or Homeownership Program.**

**In addition, the following apply to the FSS and Homeownership programs:**

It is the policy of Portland Housing Authority (PHA) to comply fully with all Federal, State, and local non-discrimination laws and with rules and regulations governing Fair Housing and Equal Opportunity in housing and employment. PHA will comply with all laws relating to Civil Rights, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- Violence Against Women Act of 1994
- \*Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants or staff that may subsequently be enacted.

PHA administers Housing Choice Vouchers, both in Section 8 Existing and in Project-Based Programs. PHA also operates a Voucher Homeownership Program and an FSS Program for HCV tenants.

**Non-Discrimination Policy**

PHA will not, on account of race, color, sex, religion, familial status, disability, national origin, marital status, or sexual orientation, deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to lease housing suitable to his or her needs in the community. PHA will not treat a person differently in determining eligibility or other requirements for admission.

To further its commitment to full compliance with applicable Civil Rights laws, PHA will provide Federal/State/local information to applicants/tenants regarding "discrimination" and any recourse available to them if they believe they are victims of discrimination. Information is made available to consumers during the initial briefing session, and HUD's housing discrimination reporting form is available at the front desk upon request. HUD's Housing Discrimination poster is displayed in the waiting area of the office. Fair Housing issues are routinely referred to the low-income legal assistance program, Pine Tree Legal.

**Hiring Practice**

PHA will advertise in local newspapers and/or online employment sites for staff to operate the FSS Program and Homeownership Program when there is an opening. PHA will not discriminate because of race, color, sex, religion, familial status, disability, national origin, marital status, or sexual orientation.

### **Program Marketing**

The Family Self-Sufficiency Program is actively marketed through its collaborating agencies represented on the Program Coordinating Committee. PHA also distributes information at initial briefings and at annual recertifications. For its Homeownership Program, PHA conducts outreach to agencies that provide financial planning skills, homeownership education, IDA accounts and lenders. In addition, brochures for both programs are available in the housing authority lobby.

### **Accessibility**

PHA will not deny any person access to the same level of service given to any other person. PHA's office is accessible to persons with physical disabilities. There is a ramp, and accessible doors and bathroom. Accessibility for the hearing impaired is provided by the Pine Tree Society via relay system, and on-site as necessary. Accessibility for LEP is available through "Language-Line" or Catholic Charities RIS translation services.

In addition, the coordinator(s) in both programs has the flexibility to meet "off-site" with tenants who may require that accommodation.

### **Fair Housing Counseling and Referrals**

PHA posts a notice with contact information from the local low-income legal assistance agency, Pine Tree Legal, in the lobby. PHA also makes referrals to Maine Equal Justice Project and Maine Disability Rights, as appropriate.

### **Filing a Fair Housing Complaint**

Housing participants are routinely given a copy of HUD's Discrimination Complaint Brochure with phone number and address at their initial Briefing. A Fair Housing Poster is displayed in the lobby with contact information. The Housing Authority also keeps copies of the HUD reporting form at the front desk for distribution.

### **Demographic Background**

PHA's jurisdiction is the City of Portland and towns without a housing authority within a ten mile radius, as stated in the Administrative Plan for the Housing Choice Voucher Program. The composite population of the entire state, especially its immigrant and non-white population, is representative of the local jurisdiction of PHA. Like other major population centers, such as Lewiston, PHA serves a diverse population with over 13% ethnic background and people of color with a percentage of these families who have LEP. (Data extracted from our tenant information.)

### **Population Served**

Because the City of Portland is the central location for a number of services and agencies dedicated to serving persons with disabilities, 60% of the families PHA houses are composed of individuals with mental illness, cognitive and/or physical disabilities. Approximately 14% of the population served by PHA are 62 years of age or older. Due to the employment opportunities in the city, 26% of our non-elderly/non-disabled families are either gainfully employed or receiving TANF benefits.

### **Reducing Discrimination in Housing**

PHA works closely with individual case managers and the applicants/tenants themselves to ensure they are aware of fair housing information.

### **Overcoming Impediments to Fair Housing and Housing Choice**

Following are some of the actions PHA has taken to overcome impediments to fair housing choice for applicants/tenants:

- Maintains a system of duplicate mailing to caseworkers as a Reasonable Accommodation for any applicant/tenant who requests or requires this service
- Works closely with individual mental health workers and agency management to be sure that rental subsidies are not interrupted due to the tenant's action/inaction
- Maintains an active relationship with Pine Tree Legal, Shalom House and Catholic Charities
- Administers various Project-Based Voucher programs in association with several social service and mental health agencies
- Offers staff training in a variety of customer service areas including but not limited to: domestic violence issues, dealing with difficult clients, Maine Human Rights Commission, etc.

### **Promoting Fair Housing Rights and Fair Housing Choice**

Following are some of the actions PHA has taken to promote fair housing rights and fair housing choice for all applicants/tenants:

- Works directly with Pine Tree Legal (non-profit, low income legal services), to mediate applicant and tenant issues, either directly with PHA and/or with landlords
- Offers staff trainings in Fair Housing provided by Pine Tree Legal
- Offers tenants the Homeownership Option

PHA will continue outreach to organizations and agencies with a potential for identifying and/or addressing fair housing issues in order to continue to provide the services warranted by its High-Performing PHA status.

### **Recruiting Service Providers for Homeownership**

PHA has a small percentage of families who are able to meet basic eligibility criteria for the Homeownership Voucher Option due to the high cost of housing and property in the New England market coupled with the extremely low-incomes of our families. We will continue to work with Realtors, Rural Development and other financial industry partners to seek affordable housing opportunities for our clients, and continue to advocate for more tax-credit assisted construction of affordable housing in the Cumberland County area.

### **Record-Keeping**

Data on race, ethnicity, familial status and disability status is recorded in HUD-Form 50058 and reported to the PIC system routinely for any participating family receiving a subsidy, including ports. Data may also be maintained in individual case notes and files for FSS and Homeownership Program participants.