

# HOUSING AUTHORITY OF THE BIRMINGHAM DISTRICT

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## **SECTION 8 ADMINISTRATIVE PLAN February 1, 2023**

This Administrative Plan covers the requirements for the Section 8 Housing Choice Voucher Program, unless otherwise designated herein.

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# **SECTION I**

## **Introduction**

### **Mission Statement**

HABD'S goal is to provide decent, safe, and sanitary rental housing for eligible families and to provide opportunities and promote self-sufficiency and economic independence for Section 8 participants.

In order to achieve this mission, the HABD will:

- Recognize residents as our ultimate customer;
- Seek problem-solving partnerships with residents, landlords, and community and government leadership;
- Apply unlimited HABD resources to the effective and efficient management and operation of the Section 8 Housing Assistance programs.

### **Purpose of Policy**

The purpose of the Administrative Plan is to establish guidelines for the Housing Authority of the Birmingham District (HABD) staff to follow in administering the Section 8 Housing Assistance Programs. The basic guidelines for the Plan are pursuant to requirements of the Department of Housing and Urban Development (HUD) with latitude for local policies and procedures.

Federal Regulations shall mean those found in Sec. 24 CFR (Code of Federal Regulations).

Primary responsibilities of the HABD shall include:

- A. Informing eligible families of the availability of Section 8 assistance;
- B. Encouraging owners to make their units available for lease by Housing Voucher holders;
- C. Determining the maximum amount of housing assistance payments that can be used for family paid utilities and updating the utility allowances annually;
- D. Receiving applications from families and determining their eligibility for Section 8 assistance;
- E. Selecting families who qualify for Housing Vouchers;

- F. Inspecting of Section 8 units to determine if they meet Section 8 Housing Quality Standards (HQS);
- G. Approving leases;
- H. Making Housing Assistance Payments to owners;
- I. Performing annual and periodic re-examination of income, family composition, and determinations of rent.

### **Objective**

The objectives of this Plan are to:

- A. Promote the overall goal of decent, safe, and sanitary housing by using the Section 8 Program to house eligible families in private rental housing; therefore, increasing the housing stock for low and very low income families;
- B. Improve the City's housing stock by requiring participating landlords to meet Section 8 Housing Quality Standards for their rental property;
- C. Facilitate the efficient management of the HABD in compliance with Federal Regulations by establishing policies for the efficient and effective management of the Section 8 Program and staff;
- D. Comply, in letter and spirit, with Title VI of the Civil Rights Act of 1964, and all other applicable federal laws and regulations to ensure that admission to and continued occupancy in assisted housing are conducted without regard to race, color, religion, creed, sex, national origin, handicap, or familial status;
- E. The Housing and Community Development Act of 1974 reflects Congress's intent that, where possible, the nation's existing housing stock should be preserved. The Section 8 Program will allow the HABD to utilize existing housing stock and allow a family who qualifies for Section 8 assistance and lives in substandard housing to remain if the owner brings the unit up to HQS standards and the Section 8 participant decides to remain in that unit.

### **Outreach**

#### **1. Outreach to Owners**

The HA will encourage participation by owners of suitable units located in areas outside of low income and minority concentration by distributing and communicating information concerning property owners leasing units under the Section 8 program through the HABD website and through monthly landlord orientations.

## **2. Outreach to Potential Clients**

The HA may make known to the public, through publications in newspapers of general circulation as well as through minority media and other suitable means, the availability and nature of housing assistance for lower-income families. The notice shall inform such families where they may apply for Section 8 rental assistance. The HA shall take affirmative action to provide opportunities to participate in the program to persons who, because of such factors as race, ethnicity, sex of household head, age, or source of income, are less likely to apply for Section 8 rental assistance. The HA may hold meetings concerning the Section 8 programs with local social community agencies.

## SECTION II

### Fair Housing Policy and Equal Opportunity Housing Plan

#### Fair Housing Policy

The Fair Housing Policy of the HA is to comply with all Federal, State and local nondiscrimination laws and in accordance with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment and with the Americans with Disabilities Act.

No person shall, on the grounds of race, color, sex, religion, national or ethnic origin, familial status, sexual orientation, LGBT, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under HABD's programs.

Specifically, the HA shall not on the basis of race, color, religion, sex, handicap, familial status, and national origin, deny any family or individual the opportunity to apply for or receive assistance under HUD's Section 8 Programs, within the requirements and regulations of HUD and other regulatory authorities. To further its commitment to full compliance with applicable Civil Rights laws, the HA will provide access to Section 8 participants regarding "discrimination". Also, this subject will be discussed during the briefing session and any complaints will be documented and made part of the applicants/participants file.

For families and/or individuals who report apparent discrimination in obtaining assisted housing, the HA shall assist them by providing the family/individual with a HUD Housing Discrimination Complaint Form, HUD-903. The individual can complete this form and report apparent discrimination to the Birmingham HUD Office of Fair Housing and Equal Opportunity. For example, a resident may be trying to obtain other rental housing and/or is attempting to purchase a home and experiences apparent discrimination.

#### Equal Opportunity Housing Plan

The HA is a participant in the tenant-based program and is required to comply with equal opportunity requirements imposed by contract or federal law. This includes applicable requirements under:

- A. The Fair Housing Act, 42 U.S.C. 3610-3619;
- B. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d;
- C. The age discrimination act of 1975, 42 U.S.C. 6101-6107;
- D. Executive Order 11063, Equal Opportunity in Housing (1962), as amended, Executive Order 12259, 46 FR1253 (1980), as amended, Executive Order 12892, 59FR 2939 (1994);



- E. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794; and
- F. Title II of the American with Disabilities act, 42 U.S.C. 12101, et. Seq.
- G. Violence Against Women Reauthorization Act of 2005 (VAWA)

**Equal Opportunity Posting Requirements**

There shall be maintained in the HA’s office waiting room a bulletin board, which will accommodate the following posted materials:

- A. Section 8 Administrative Plan;
- B. Open Occupancy Notices (Applications being Accepted and/or Not Accepted);
- C. Income Limits for Admission;
- D. Utility Allowances;
- E. Informal Review and Hearing Procedure;
- F. Fair Housing Poster;
- G. Equal Opportunity in Employment Poster.

**Reasonable Accommodation Policy**

The Housing Authority of the Birmingham District’s (HABD) policies and practices will make reasonable accommodations for persons with disabilities to ensure that they may fully access and use the voucher program and related services. The opportunity for requesting an accommodation will be provided on the Housing Choice Voucher application and other forms or letters. This policy is intended to afford persons with disabilities equal opportunity to obtain the same results and gain the same benefits as those who do not have disabilities, and is applicable to all situations described in this plan including when a family initiates contact with the HABD, when the HABD initiates contact with a family including when a family applies, and when the HABD schedules or reschedules appointments of any kind.

Reasonable accommodation will be made only after applicants or participants with a disability request a change to the HABD’s generally applicable policies or practices. To be eligible to request reasonable accommodation, the individual making the request must first certify (if apparent) or verify (if not apparent) that they are a person with a disability under the applicable definitions in the Fair Housing Amendments Act of 1988, Section 504 of the 1973 Rehabilitation Act, and the Americans with Disabilities Act.

A family must request a reasonable accommodation by completing a Request for Reasonable Accommodation form or submitting a written request letter. The HABD will contact the health provider listed by the family to verify the person’s disability and need for the reasonable accommodation, review all requests and make a determination to approve or deny

based on the information provided. In accordance with Section 504 of the 1973 Rehabilitation Act, if the need for the accommodation is not readily apparent, the family must explain the relationship between the requested accommodation and the disability. In order for the HABD to approve a reasonable accommodation, there must be an identifiable relationship between the requested accommodation and the individual's disability.

The HABD may deny the request if it will cause an undue financial or administrative burden, or will change the fundamental nature of the program. Applicants and participants will be notified in writing. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, they may request an informal hearing to review HABD's decision. In requesting the informal hearing, the applicant/participant with disabilities can request a reasonable accommodation to participate in the informal hearing.

### **Denial or Termination of Assistance**

HABD's decision to deny or terminate a family's assistance that includes a person with disabilities is subject to consideration of reasonable accommodation (24 CFR 982.552 (2)(iv)). When reviewing reasonable accommodation requests, HABD will consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to HABD's decision to deny or terminate assistance.

### **Housing Search Assistance to Persons with Disabilities**

At the family's request, additional assistance during a housing search may be provided by the HABD as a reasonable accommodation. This includes providing information on accessible units in the market, housing search assistance, and extension of the search time. Depending on the nature of the request, persons requiring such assistance may be required to provide a request in writing to HABD as described in this section.

### **Improving Access to Services for Persons with Limited English Proficiency**

The HABD will comply with the Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal Register* in addition to Executive Order 120 and take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

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

- A. The number of applicants and participants in the jurisdiction who do not speak English and speak a different language;
- B. The estimated cost to HABD, per client, of the translation of documents into other languages; and
- C. The availability of local organizations, including City or County government staff to provide translation to non-English speaking families.

These factors are designed to promote meaningful access by LEP persons to services and programs while not imposing undue burdens on HABD.

### **Violence Against Women Act (VAWA): Terminating Assistance of Domestic Violence, Dating Violence or Stalking**

#### **Victims and Offenders**

The Violence Against Women Reauthorization Act of 2005 (VAWA) provides that “criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control shall not be a cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant’s family is the victim or threatened victim of that domestic violence, dating violence, or stalking.”

The HABD may exercise its authority to “terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.” VAWA does not limit the HABD’s authority to terminate the assistance of any participant if the HABD “can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance.”

#### **Victim Documentation**

When a participant family is facing assistance termination because of the actions of a participant, household member, guest, or other person under the participant’s control and a participant or immediate family member of the participant’s family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking, the HABD will require the individual to submit documentation affirming that claim. The HABD will accept one of three methods for certification of a claim:

- A. A completed HUD form 50066; and/or
- B. A federal, state, tribal or territorial or local police or court record; and/or
- C. Documentation signed and attested to by a qualified third-party, including a victim service provider or medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence or stalking, or the effects of abuse, in which the professional attests to the professional’s belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence or stalking has signed or attested to the documentation.

The required certification and supporting documentation must be submitted to HABD within 14 calendar days after the HABD issues its written request. The 14-day deadline may be extended at the HABD’s discretion. HABD reserves the right to require additional documentation if the original documentation is not sufficient for HABD to make a

determination of the request (ex: emergency move, transfer of voucher from head of household to family member). If the individual does not provide the required certification and supporting documentation within 14 calendar days, or the approved extension period, HABD may proceed with termination of assistance.

### **Terminating Assistance of a Domestic Violence Offender**

Although VAWA provides termination protection for victims of domestic violence, it does not provide protection for offenders. The HABD may exercise its explicit authority to “terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others...without terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant. “This authority supersedes any local, state, or other federal law to the contrary. However, if the HABD chooses to exercise this authority, HABD will follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance [Pub.L. 109-271].

When the actions of a participant or other family member result in a decision to terminate the family’s assistance and another family member claims that the actions involve criminal acts of physical violence against family members or others, the HABD will request that the victim submit the required certification and supporting documentation in accordance with the stated timeframe. If the victim submits certification and supporting documentation within the required timeframe, or any approved extension period, HABD will terminate the offender’s assistance. If the victim does not provide the certification and supporting documentation, as required, the HABD will proceed with termination of the entire family’s assistance.

If the HABD can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the participant’s tenancy is not terminated, the HABD will bypass the standard process and proceed with the immediate termination of the family’s assistance.

### **Portability**

The HABD may provide a voucher and allow a move in violation of the lease under portability procedures if the family has complied with all other obligations of the voucher program and has moved out of the assisted unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence or stalking and who reasonably believes that he or she is imminently threatened by harm from further violence if he or she remains in the assisted unit.

### **Confidentiality Requirements**

All information provided to the HABD regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared data base nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

## **SECTION III**

### **Privacy Rights**

Applicants will be required to sign the Federal Privacy Act Statement which states under what conditions HUD will release information concerning Section 8 participants. Requests for information by other parties must be accompanied by a signed release request in order for the HABD to release any information involving an applicant or participant, unless disclosure is authorized under federal or state law or regulation.

The Housing Authority of the Birmingham District recognizes as a matter of policy that data access and security of that data must be managed as confidential. Confidentiality is to be maintained and the information utilized as provided by law. Data access and security procedures are to be promptly established and implemented consistent with existing law or future corresponding provisions of law relating to receiving, maintaining or releasing applicant and resident/participant information. These procedures are to be designed to protect confidential electronic and physical data from unauthorized access, change, destruction, or disclosure. Every HABD employee is required to closely adhere to established policy and procedures. Information obtained through HUD electronic systems will be utilized consistent with law, including refraining from eviction or termination actions based solely on information received through HUD electronic systems. HABD employees are subject to the provisions of HABD Human Resources Policy pertaining to the use and disclosure of confidential information and may be disciplined for violations up to and including termination of employment.

## SECTION IV

### Definition of Terms

#### Definitions

1. Absorption: In portability, the point at which a receiving HA stops billing the initial HA for assistance on behalf of a portability family.
2. Adjusted Family Income: Adjusted Family Income is the income on which total tenant payment is to be based and means the total annual income less the following allowances:
  - A. A deduction of \$480.00 for each member of the family (other than head of household or spouse) who is:
    - i. Seventeen (17) years of age or younger;
    - ii. Who is eighteen (18) years of age or older and a verified full-time student and/or;
    - iii. Is disabled or handicapped according to this Section;
    - iv. A deduction of dollar amounts anticipated to be paid for the care of children (including foster children) less than thirteen (13) years of age where care is necessary to enable a family member to be gainfully employed or to further his/her education. The dollar amount must be verified and reflect reasonable charges and cannot exceed the amount of income from employment (if employed).
  - B. A deduction of \$400.00 for elderly family whose head, spouse or sole member is sixty-two (62) years of age or older and/or is handicapped or disabled according to this Section.
  - C. A deduction for any elderly family:
    - i. That has no Handicapped Assistance Expense, an allowance for medical expenses equal to the amount by which the medical expense shall exceed three percent (3%) of total annual family income;
    - ii. That has Handicapped Assistance Expenses greater than or equal to three percent (3%) of total annual family income, an allowance for handicapped assistance computed in accordance with paragraph E of this Section, plus an allowance for medical expenses that is equal to the family's medical expenses;

- iii. That has Handicapped Assistance Expenses that are less than three percent (3%) of total annual family income, an allowance for combined Handicapped Assistance Expenses and medical expense that is equal to the amount by which the sum of these expenses exceeds three percent (3%) of total annual family income. Expenses used to compute the deduction cannot be compensated for nor covered by insurance.
- D. A deduction for any family that is not an elderly family but has a handicapped or disabled member other than the head of household or spouse, Handicapped Assistance Expense in excess of three percent (3%) of total annual family income, but this allowance may not exceed the employment received by family members who are eighteen (18) years of age or older as a result of the Assistance to the handicapped or disabled person.

**NOTE: If the total annual income less the above allowances result in a rent that is less than the established minimum rent, the resident rent will be established at the HA established minimum rent.**

3. Administrative Fee: Fee paid by HUD to the HA for administration of the program and will include hard-to-house fees paid for moves by families with three or more minors, and extra counseling money that may be authorized by HUD.
4. Administrative Fee Reserve (formerly “operating reserve”): Account established by HA from excess administrative fee income. HA administrative fees may only be used to cover costs incurred to perform HA administrative responsibilities for the program in accordance with HUD regulations and requirements.
5. Administrative Plan: The administrative plan describes HA policies for administration of the tenant-based programs. This document is the administrative plan for the HA.
6. Admission: The effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program. This is the point when the family becomes a participant in the program.
7. Adult: An adult is a person who has reached his/her 19th birthday or 18 years of age and married (not common law), who has been relieved of the disability of non-age by the juvenile court, or who has been convicted of a crime as an adult under any Federal, State or tribal law. Only persons who are adults shall be eligible to enter into a lease agreement for occupancy.
8. Amortization Payment: In a manufactured home space rental, the monthly debt service payment by the family to amortize the purchase price of the manufactured home.
9. Annual Contributions Contract (ACC): A written contract between HUD and an HA. Under the contract HUD agrees to provide funding for operation of the program, and the HA agrees to comply with HUD requirements for the program.

10. Annual Income:

A. Annual income means all amounts, monetary or not, which:

- i. Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- ii. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- iii. Which are not specifically excluded in paragraph (c) of this section;
- iv. Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

B. Total Annual Family Income includes, but is not limited to, the following:

- i. The full amount, before any payroll deduction, of wages and salaries, and overtime pay, including compensation for personal services (such as commissions, fees, tips and bonuses);
- ii. Net income from the operation of a business or profession. (Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining Net Income.) An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or other assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.
- iii. Interest, dividends, and other net income of any kind from real or personal property. (For this purpose, expenditures for amortization of capital indebtedness and an allowance for depreciation of capital assets shall not be deducted to determine the net income from real or personal property.) All allowance for depreciation is permitted only as authorized in Paragraph B of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has Net Family Assets in excess of \$5,000.00, Annual Income shall include the greater of the actual income derived from all Net Family Assets or a percentage of the value of such assets based on the current passbook savings rate as determined by HUD.
- iv. The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefit and other similar types of periodic receipts, including a lump sum payment for the



delayed start of a periodic payment (excluding lump sum Supplemental Security Income (SSI) and lump sum Social Security benefits (SS));

- v. Payments in lieu of earnings, such as unemployment and disability compensation, social security benefits, workmen's compensation and severance pay, but see Paragraph 55-C in this section.
- vi. Welfare assistance:
  - a. Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:
    - (1) Qualify as assistance under the TANF program definition at 45 CFR 260.31; and
    - (2) Are not otherwise excluded under definition of income exclusions in this section.
  - b. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:
    - (1) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
    - (2) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.
- vii. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling. If the payments actually received are different than the determined amount, rent can be adjusted in accordance with Section III D of the dwelling lease.
- viii. All regular pay, special pay, and allowances of a member of the Armed Forces (except special pay for exposure to hostile fire).

**NOTE: If it is not feasible to anticipate a level of income over a 12-month period, the income anticipated for a shorter period may be annualized, subject to a redetermination at the end of the shorter period.**

C. Lump Sum Payments:

- i. Participants that receive lump sum payments that are included as income and fall in the categories listed above, (excluding lump sum SSI and lump sum SS), must report the income to the Section 8 Coordinator as soon as possible but no later than ten (10) calendar days after receipt of the funds and the applicable portion of the payment that is due as excess subsidy is due fourteen (14) days after the HA notifies the family of the amount due.

D. Unreported Income:

- i. If a participant fails to report income the assistance will be terminated under the terms of the voucher. If the act is determined by the HA to be intentional, the tenant will be obligated to pay the applicable portion of the subsidy for any and all unreported income. If the unreported income was unintentional by the participant the participant will be billed for the amount due the HA and the amount will be payable within fourteen (14) days. If the payment cannot be made in one payment, the participant may request the HA to approve a repayment schedule. Any repayment agreement must be in writing and signed by the participant and a HA representative. The HA has the sole discretion as to whether or not to enter into a repayment agreement and shall consider circumstances such as fraud and/or mistake in making the decision.

11. Applicant: A person or a family that has applied for admission to the program but is not yet a participant in the program.
12. Area of Operation: The jurisdiction of the HA as described in applicable State law and the HA's Articles of Incorporation.
13. Assets: Assets mean cash (including checking accounts), stocks, bonds, savings, equity in real property, or the cash value of life insurance policies. Assets do not include the value of personal property such as furniture, automobiles, and household effects or the value of business assets. **IMPORTANT: See the definition of Net Family Assets, for assets used to compute annual income.** (See 24 CFR 5.603 for definition of Net Family Assets.)
14. Care Attendant: A person that regularly visits the unit of a HA resident to provide supportive or medical services. Care attendants are not live-in aides, since they have their own place of residence (and if requested by HA must demonstrate separate residence) and do not live in the public housing unit. Care attendants have no rights of tenancy.
15. Catastrophic Involuntary Displacement: Displacement that may be caused by fire and/or acts of nature.
16. Child: A member of the family, other than the family head or spouse, who is under 18 years of age.

17. Child Care Expenses: Amounts anticipated to be paid by the Family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment (which shall be documented by the family to the satisfaction of the HA), be gainfully employed or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare, and, in the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of income received from such employment. The reasonable amount of charges is determined by the HA, by conducting surveys of local childcare providers.

**NOTE: If the total annual income less the above allowances result in a rent that is less than the established minimum rent, the tenant rent will be established at the HA established minimum rent.**

18. Child Custody: The applicant/participant must have primary custody of the child; The applicant/participant must provide sufficient evidence that the child would reside with the Section 8 participant.

**NOTE: The same child cannot be claimed by more than one applicant.**

19. Citizen: A citizen or national of the United States.

20. Co-Head of Household: A household where two persons are held responsible and accountable for the family, and where each co-head contributes to the rent.

21. Common Space: In shared housing, space available for use by the assisted family and other occupants of the unit.

22. Congregate Housing: Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing.

23. Contiguous Metropolitan Statistical Area (MSA): In portability, a MSA that shares a common boundary with the MSA in which the jurisdiction of the initial HA is located.

24. Continuously Assisted: An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the Section 8 program.

25. Contract Authority: The maximum annual payment by HUD to an HA for a funding increment.

26. Cooperative Housing (Mutual Housing): Housing owned by a non-profit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing.

27. Covered Person: For the purposes of screening and terminating participation for criminal activity, a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.
28. Dependent: A member of the household, other than head, spouse, sole member, foster child, or Live-in Aide, who is under 18 years of age, or 18 years of age or older and disabled, or a full-time student, and qualifies for a \$480 deduction when computing income-based rent. [24 CFR 5.603] An unborn child shall not be considered a dependent.
29. Disabled Family: A family whose head, including co-head, spouse, or sole member, is a person with disabilities. (Person with disabilities is defined later in this section.) The term includes two or more persons with disabilities living together, and one or more such persons living with one or more persons including live-in aides determined to be essential to the care and well-being of the person or persons with disabilities. A disabled family may include persons with disabilities who are elderly. [24 CFR 5.403]
30. Disabled Person (See Handicapped Person)
31. Displaced Family: A person, or family, displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.
32. Displaced Person: A person displaced by government action or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise recognized pursuant to Federal disaster relief laws. This definition is used for eligibility determinations only. It should not be confused with the former Federal preference for involuntary displacement. [(42 USC 1437a(b)(3))]
33. Divestiture Income: Imputed income from assets, including business assets, disposed of by applicant or resident in the last two years at less than fair market value. (See the definition of Net Family Assets [24 CFR 5.603] in this section.)
34. Domicile: The legal residence of household head or spouse as determined in accordance with State and local law.
35. Drug: A controlled substance as defined in the Controlled Substances Act. [24 CFR 5.100]
36. Drug Related Criminal Activity: 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. [24 CFR 5.100]
37. Elderly Family: A family whose head including co-head, or spouse (or sole member) is at least 62 years of age. It may include two or more elderly persons living together, and one or more such persons living with one or more persons, including live-in aides, determined to be essential to the care and well-being of the elderly person or persons. An elderly

family may include elderly persons with disabilities and other family members who are not elderly. [24 CFR 5.403]

38. Elderly Person: A person who is at least 62 years of age. [42 USC 1437a(b)(3)]
39. Enterprise Income Verification (EIV): A computerized Social Security Number matching system utilized to obtain income information.
40. Evidence of Citizenship or Eligible Immigration Status: The documents that must be submitted to evidence citizenship or eligible immigration status.
41. Extremely Low-Income Family: A Family whose Annual Income is equal to or less than 30% of Area Median Income, as published by HUD.
42. Fair Market Rent (FMR): The rent, including the cost of utilities (except telephone), that would be required to be paid in the housing market area to obtain privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. FMRs for existing housing are established by HUD for housing units of varying sizes (number of bedrooms), and are published in the Federal Register in accordance with 24 CFR, part 888.
43. Familial Status: A single pregnant woman and individuals in the process of obtaining custody of any individual who has not attained the age of 18 years are processed for occupancy the same as single persons. Individuals in the process of obtaining custody of any individual who has not attained the age of 18 years are only entitled to a one-bedroom unit. However, a single pregnant woman must be treated as a 2-person family to determine subsidy standard. Once custody is obtained, the family's subsidy standard will be redetermined and authorized to transfer as outlined in the Transfer Section if larger unit is required.
44. Family: Includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:
  - A. A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person;
  - B. A group of persons residing together, and such group includes, but is not limited to:
    - i. A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
    - ii. An elderly family;
    - iii. A near-elderly family;
    - iv. A disabled family;

- v. A displaced family;
- vi. And the remaining member of a tenant family.

**NOTE: By definition, a family must contain a competent adult of at least 19 years of age (or 18 years of age and married (not common law) to enter into a contract and capable of functioning as the head of the household. If an individual is 18 and qualifies under the definition of family by being married, the head of household and the spouse must be parties to the lease, if both are residing in the premises.**

C. The term family also includes the following terms defined in this Section:

- i. Elderly family;
- ii. Near elderly family;
- iii. Disabled family;
- iv. Displaced person;
- v. Single person;
- vi. Remaining member of a tenant family;
- vii. A foster care arrangement, or a kinship care arrangement.

D. Other persons, including members temporarily absent (e.g. a child temporarily placed in foster care or a student temporarily away at college), may be considered a part of the applicant family's household if they are living or will live regularly with the family. [24 CFR § 5 and 960]

- i. Live-in Aides may also be considered part of the applicant family's household. However, live-in aides are not family members and have no rights of tenancy or continued occupancy.
- ii. Foster Care arrangements include situations in which the family is caring for a foster adult, child, or children in their home who have been placed there by a public child placement agency, or a foster adult or adults placed in the home by a public adult placement agency. For purposes of continued occupancy. The term family also includes the remaining member of a resident family with the capacity to execute a lease.

45. Family Self-Sufficiency (FSS) Program: The program established by an HA to promote self-sufficiency of assisted families, including the provision of supportive services (42 U. S. C. 1437u). Reference 24 CFR, part 984.

46. Family Share: The portion of rent and utilities paid by the family.
47. Family Unit Size: The appropriate number of bedrooms for a family. Family unit size is determined by the HA under the HA subsidy standards.
48. Fixed Income: Periodic payments at reasonably predictable levels from one or more of the following sources:
- i. Social Security, Supplemental Security Income, Supplemental Disability Insurance
  - ii. Federal, state, local, or private pension plans
  - iii. Annuities or other retirement benefits programs, insurance policies, disability or death benefits, or other similar types of periodic receipts
  - iv. Any other source of income subject to adjustment by verifiable COLA or current rate of interest
49. Foster Children: With the prior written consent of the Landlord, a foster child may reside on the premises. The factors considered by the Landlord in determining whether or not consent is granted may include:
- A. Whether the addition of a new occupant may require a transfer of the family to another unit, and whether such units are available;
  - B. The Landlord's obligation to make reasonable accommodation for handicapped persons.
50. Full -Time Student: A member of a family (other than the head of household or spouse) who is carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. Educational institution shall include but not be limited to: college, university, secondary school, vocational school, or trade school [24 CFR 5.603]. The attended educational institution will supply verification.
51. Funding Increment: Each commitment of budget authority by HUD to an HA under the consolidated ACC for the HA program.
52. Gross Rent: The sum of the rent to owner plus any utility allowance.
53. Group Home: A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live- in aid).
54. Guest: A guest is 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 the lease apply to a guest as so defined.

55. Handicapped Assistance Expense: Reasonable expenses that are anticipated, during the period for which total annual family income is computed, for attendant care and auxiliary apparatus for a handicapped or disabled family member and that are necessary to enable a family member (including the handicapped or disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.
56. Handicapped Person And/Or Disabled Person: A person having a physical or mental impairment which:
- A. Is expected to be of long continued and indefinite duration,
  - B. Substantially impedes his/her ability to live independently, and
  - C. Is of such a nature that such disability could be improved by more suitable housing conditions.

**NOTE: All three conditions must be met to qualify as handicapped.**

A person who is under a disability as defined in Section 223 of the Social Security Act (42 U.S.C. 423) or in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 USC 6001(7)), or is handicapped as defined below:

- A. Section 223 of the Social Security Act defines disability as:
  - i. Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months; or
  - ii. In the case of any individual who has attained the age of fifty-five (55) and is blind (within the meaning of "blindness" as defined in Section 416(I) 1 of this title), the inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- B. Section 102(5), of the Development Disabilities Services and Facilities Construction Amendments of 1970 defines disability as:
  - i. A disability attributable to mental retardation, cerebral palsy, epilepsy or another neurological condition of an individual found by the Secretary (of Health and Human Resources) to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, which disability originates before such individual attains age eighteen (18), which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to such individual.



**NOTE: No individual shall be considered to be a person with a disability for purposes of eligibility for low-income housing solely on the basis of any drug or alcohol dependency.**

57. Hazardous Duty Pay: Pay to a family member in the Armed Forces away from home and exposed to hostile fire.
58. Head Of Household: The adult member of the family (identified by the family) who is the head of the household for purposes of determining income eligibility and rent. Also, the head of household is primarily responsible and accountable for the family, particularly in regard to family obligations.
59. Homeless Family: Any individual or family who:
- A. Lacks a fixed, regular, and adequate nighttime residence;
  - B. Has a primary nighttime residence that is:
    - i. A supervised publicly or privately-operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing or housing for the mentally ill);
    - ii. An institution that provides a temporary residence for individuals intended to be institutionalized; or
    - iii. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.
  - C. A homeless family does not include:
    - i. Any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State Law; or
    - ii. Any individual who is a Single Room Occupant that is not considered substandard housing.
60. Household: The family and a HA approved live-in aide.
61. Housing Agency: A State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. (Housing Agency (HA) and Public Housing Agency (PHA) are the same thing.)
62. Housing Assistance Payment (HAP): The monthly assistance payment made by the HA. The total assistance payment consists of:

- A. A payment to the owner for rent under the family's lease.
- B. An additional payment to the family if the total assistance payment exceeds the rent to owner. The additional payment is called a "utility reimbursement".

**NOTE: The HA may elect to pay the appropriate amount directly to the utility provider.**

- 63. Housing Assistance Payment Contract: A written contract between an HA and an owner, in the form prescribed by HUD, in which the HA agrees to make housing assistance payments to the owner on behalf of an eligible family.
- 64. Housing Quality Standards (HQS): The HUD minimum quality standards for housing assistance under the tenant-based programs.
- 65. HUD: The U. S. Department of Housing and Urban Development.
- 66. HUD Requirements: HUD requirements for the Section 8 program. HUD requirements are issued by HUD headquarters as regulations, Federal Register notices or other binding program directives.
- 67. Income Exclusions: Annual income does not include such temporary, non-recurring or sporadic income as the following:
  - A. Income from employment of children (including foster children) under the age of eighteen (18);
  - B. Payment received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
  - C. Kinship Care payments when foster children are placed with relatives;
  - D. Lump sum additions to family assets such as inheritances, insurance payments, (including payments under health and accident insurance and workmen's compensation), capital gains, and settlements for personal or property losses (except payment in lieu of earnings);
  - E. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
  - F. Income of a live-in aide (as defined in this policy);
  - G. The full amount of student financial assistance paid directly to the student or to the educational institution;

- H. The special pay to a family member serving in the armed forces who is exposed to hostile fire;
- I. Amounts received under training programs funded by HUD;
- J. Amounts received by a disabled person that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self Sufficiency (PASS);
- K. Amounts received by a participant in other publicly assisted programs which is specifically for, or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program;
- L. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the HA, on a part-time basis, that enhances the quality of life in public housing. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident initiatives coordination. No resident may receive more than one such stipend during the same period of time;
- M. Incremental earnings and benefits resulting to any family member from participation in State or local employment training programs (including training programs not affiliated with a local government) in training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;
- N. Temporary, nonrecurring, or sporadic income (including gifts);
- O. Reparation payments paid by a foreign government pursuant to claims under the laws of that government by persons who were persecuted during the Nazi era;
- P. Earning in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
- Q. Adoption assistance payments in excess of \$480 per adopted child;
- R. Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts;
- S. Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit;

- T. Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the costs of services and equipment to help keep the developmentally disabled family member at home;
- U. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977;
- V. Payments to volunteers in programs pursuant to the Domestic Volunteers Service Act of 1973;
- W. Payments received under the Alaska Native Claims Settlement Act;
- X. Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes;
- Y. Payments or allowances made under the Department of Health and Human Services Low Income Home Energy Assistance Program;
- Z. Payments received under programs funded in whole or in part under the Job Training Partnership Act. Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Work Force Investment Act of 1998;
- AA. Income derived from the disposition of funds to the Grand River Band of Ottawa Indians;
- BB. The first \$2,000.00 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interest of individual Indians in trust or restricted lands, including the first \$2,000.00 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands;
- CC. Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under federal work-study programs or under Bureau of Indian Affairs Student Assistance Programs;
- DD. Payments received from programs funded under Title V of The Older Americans Act of 1985;
- EE. Payments received on or after January 1, 1989, from the Agent Orange settlement fund or any other fund established pursuant to the settlement. In Re: Agent Product Liability Litigation M.D.L. No. 381 (EDNY);
- FF. Payments received under the Maine Indian Claims Settlement Act of 1980;

- GG. The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990;
- HH. Earned Income Tax Credit (EITC) refund payments received on or after January 1, 1991;
- II. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of Mescalero Reservation;
- JJ. Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990;
- KK. Any allowance paid under the provisions of 38 USC 1805 to a child suffering from Spina Bifida who is the child of a Vietnam Veteran;
- LL. Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the costs of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act;
- MM. Allowances, earnings, and payments to individuals participating in programs under the Work Force Investment Act of 1998;
- NN. Relocation payments made pursuant to Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- OO. Twelve Month Exclusions (Self Sufficiency incentives)(Disabled Families only):
  - i. The earnings and benefits to any resident resulting from the participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, Section 22 of the U.S. Housing Act of 1937, and the Quality Housing and Work Responsibility Act of 1998 (referred to as the 1998 Act) or any comparable Federal, State, or local law during the exclusion period. For purposes of this paragraph, the following definitions apply:
    - a. Comparable Federal, State or Local Law means a program providing employment training and supportive services that:
      - (1) Are authorized by a federal, state or local law;
      - (2) Are funded by federal, state or local government;
      - (3) Are operated or administered by a public agency;

- (4) Has as its objective to assist participants in acquiring job skills; and/or
- (5) If applicable, is a participant in the HA Family Self Sufficiency Program.

Exclusion period means the period during which the resident participates in a program described in this section, plus 12 months from the date the resident begins the first job acquired by the resident after completion of such program that is not funded by public housing assistance under the U.S. Housing Act of 1937 and the 1998 Act. Amount previously being received, including TANF, will continue to be counted as annual income.

- b. Earnings and benefits mean the incremental earnings and benefits resulting from a qualifying employment training program or subsequent job.
- ii. In addition to the training exclusion listed above, the 1998 Act excludes the income for 12 months of a family member who was previously unemployed for one or more years, which is defined as a minimum of 12 consecutive months. This includes a person who has earned income during the previous 12 months but the income was no more than 10 hours of work per week for 50 weeks at or below the established minimum wage. The 1998 Act also excludes the income for 12 months for any resident who received assistance under the Temporary Assistance for Needy Families (TANF) program in the last 6 months. The TANF funding received must be a minimum of \$500 over a 6-month period. A representative from the TANF agency must verify that the resident is or was receiving TANF benefits within the last 6 months. The 6-month period will start on the day the resident reports the income to the HA. Also, the 1998 Act excludes for 12 months the income resulting in the participation of a family member in the HA Family Self Sufficiency Program, if applicable to the HA.
- iii. Phase-In of Rent Increases: Upon the expiration of the 12-month exclusion period as described in this section, the rent payable by a family may be increased due to continued employment of the resident but the increase will be limited to 50% of the increase in the total rent increase. The increase will be effective on the first day of the thirteenth month and expire on the twenty-fourth month. After the conclusion of the 24-month period, the applicable rent calculated without exclusions, as described in this section, and in accordance with federal regulations will be due and payable on the first of the twenty-fifth month. Total income will include income counted in the previous 12 months plus 50% of the increase.
- iv. Maximum Four-Year Disallowance: The disallowance of increased income of an individual family member as provided above is limited to a lifetime 48-month period. It only applies for a maximum of 24 months as described above during the 48-month period starting from the initial exclusion period.

- v. Inapplicability to Admission: The disallowance of increases in income as a result of employment under this section does not apply for purposes of admission to the program.
    - a. If a person is employed prior to admission they will not qualify for this income exclusion;
    - b. If a family member begins employment after admission they may be eligible for income exclusion.
68. Infant: A child under the age of two years.
69. Initial Contract Rent: In the certificate program, the contract rent at the beginning of the initial lease term.
70. Initial HA: In portability, the term refers to both:
- A. A HA that originally selected a family that subsequently decides to move out of the jurisdiction of the selecting HA;
  - B. A HA that absorbed a family that subsequently decides to move out of the jurisdiction of the absorbing HA.
71. Initial Lease Term: The initial term of the assisted lease. The initial lease term must be for at least one year.
72. Initial Payment Standard: The payment standard at the beginning of the HAP contract term.
73. Initial Rent to Owner: The rent to owner at the beginning of the initial lease term.
74. INS: The U. S. Immigration and Naturalization Service.
75. Interim Redetermination of Rent: Changes of rent between admissions and reexaminations and the next succeeding reexamination.
76. Involuntary Displacement: Families that meet the definition of involuntary displaced qualify for a preference in the selecting applicants for admission to public housing and/or Section 8 waiting list.
77. Jurisdiction: The area in which the HA has authority under State and local law to administer the program.
78. Lease: A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the HA.

**NOTE: In cooperative housing, a written agreement between a cooperative and a member of the cooperative. The agreement established the conditions for occupancy of the member's cooperative dwelling unit by the member's family with housing assistance payments to the cooperative under a HAP contract between the cooperative and the HA. For purposes of part 982, the cooperative is the Section 8 "owner" of the unit, and the cooperative member is the Section 8 "tenant".**

79. Lease Addendum: In the lease between the tenant and the owner, the lease language required by HUD.
80. Live-in Aide: A person who resides with an elderly person(s), near elderly person(s) or person(s) with disabilities and who:
- A. Is determined by the HA to be essential to the care and well being of the person(s);
  - B. Is not obligated to support the family member; and
  - C. Would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403]. HA policy on Live-in Aides stipulates that:
    - i. Before a Live-in Aide may be moved into a unit, a third-party verification must be supplied that establishes the need for such care and the fact that the live-in aide is qualified to provide such care;
      - a. Move in of a Live-in Aide must not result in overcrowding of the existing unit according to the maximum number of persons per unit standard (although, a reasonable accommodation for a resident with a disability may be to move the family to a larger unit);
      - b. Live-in Aides have no right to the unit as a remaining member of a resident family;
      - c. Relatives who satisfy the definitions and stipulations above may qualify as Live-in Aides, but only if they sign a statement prior to moving in relinquishing all rights to the unit as the remaining member of a resident family;
      - d. A Live-in Aide will be required to meet HA's screening requirements with respect to past behavior especially:
        - (1) A record of disturbance of neighbors, destruction of property, or living or housekeeping habits at present or prior residences that may adversely affect the health, safety, or welfare of other tenants or neighbors;
        - (2) Criminal activity such as crimes of physical violence to persons or property and other criminal acts including drug related criminal activity



that would adversely affect the health, safety, or welfare of other residents or staff or cause damage to the unit or the development; and

(3) A record of eviction from housing or termination from residential programs.

81. Low-Income Household: A family whose annual income does not exceed 80 percent (80%) of the median income for the area as determined by HUD with adjustments for smaller and larger families. [42 USC 1437a(b0)]
82. Manufactured Homes: A Manufactured structure that is built on a permanent chassis that is designed for use as a principal place of residence, and meets the HQS.
83. Manufactured Home Space: In manufactured home space rental a space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space.
84. Medical Expense: Those necessary medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance. Medical expenses, in excess of three percent (3%) of annual income, are deductible from income by elderly families only [24 CFR 5.603].
85. Military Service: Military Service means the active military service of the United States, which includes the Army, Navy, Air Force, Marine Corps, Coast Guard, and, since July 29, 1945, the commissioned corps of the United States Public Health Service.
86. Minimum Rent: The HA has the discretion to establish the minimum rent from \$0 up to \$50.
87. Minimum Rent Hardship Exemptions: The HA shall immediately grant an exemption from application of the minimum monthly rent to any family making a proper request in writing who is unable to pay because of financial hardship, which shall include:
  - A. The family has lost eligibility for, or is awaiting an eligibility determination for a federal, state, or local assistance program, including a family that includes a member who is an alien lawfully admitted for permanent residence under the Immigration and Nationalization Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996;
  - B. The family would be evicted as a result of the implementation of the minimum rent;
  - C. The income of the family has decreased because of changed circumstance, including loss of employment;
  - D. A death in the family has occurred which affects the family circumstances;

E. Other circumstances which may be decided by the HA on a case-by-case basis.

**NOTE: All of the above must be proven by the resident providing verifiable information in writing to the HA prior to the rent becoming delinquent and before the lease is terminated by the HA.**

If a resident requests a hardship exemption (prior to the rent being delinquent) under this section, and the HA reasonably determines the hardship to be of a temporary nature, exemption shall not be granted during a 90-day period beginning upon the making of the request for the exemption. A resident may not be evicted during the 90-day period for non-payment of rent. In such a case, if the resident thereafter demonstrates that the financial hardship is of a long-term basis, the HA shall retroactively exempt the resident from the applicability of the minimum rent requirement for such 90-day period. This paragraph does not prohibit the HA from taking eviction action for other violations of the lease.

88. Minor: A minor is a person under nineteen (19) years of age. Provided that a married person, 18 years of age or older, shall be considered to be of the age of majority. (An unborn child may not be counted as a minor.) Some minors are permitted to execute contracts, provided a court declares them emancipated.
89. Mixed Family: A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.
90. Monthly Adjusted Income: One twelfth of Adjusted Annual Income.
91. Monthly Income: One twelfth of Annual Income.
92. Mutual Housing (See definition of cooperative housing.)
93. Multifamily Housing Project: For purposes of Section 504, means a project containing five or more dwelling units. [24 CFR 8.3]
94. National: A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.
95. Net Family Assets: [24 CFR 5.603] The net cash value, after deducting reasonable costs that would be incurred in disposing of:
  - A. Real property (land, houses, mobile homes);
  - B. Savings (CDs, IRA or KEOGH accounts, checking and savings accounts, precious metals);
  - C. Cash value of whole life insurance policies;

- D. Stocks and bonds (mutual funds, corporate bonds, savings bonds);
- E. Other forms of capital investments (business equipment).

Net cash value is determined by subtracting the reasonable costs likely to be incurred in selling or disposing of an asset from the market value of the asset. Examples of such costs are brokerage or legal fees, settlement costs for real property, or penalties for withdrawing saving funds before maturity. Net family assets also include the amount in excess of any consideration received for assets disposed of by an applicant or resident for less than fair market value during the two years preceding the date of the initial certification or reexamination. This does not apply to assets transferred as the result of a foreclosure or bankruptcy sale. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be less than fair market value if the applicant or resident receives important considerations not measurable in dollar terms. [24 CFR 5.603(b)(3)]

- 96. Non-Citizen: A person who is neither a citizen nor national of the United States.
- 97. Notice of Funds Availability (NOFA): For budget authority that HUD distributes by competitive process, the federal register document that invites applications for funding. The document explains how to apply for assistance and the criteria for awarding the funding.
- 98. Other Person Under the Tenant's Control: The person, although not staying as a guest 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 (e.g. the pizza delivery person).
- 99. Owner: Any person or entity with the legal right to lease or sublease a unit to a participant.
- 100. Participant: A family that has been admitted to the HA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the HA for the family.
- 101. Payment Standard: The maximum subsidy payment for a family (before deducting the family contribution). The HA sets a payment standard in the range from 90 percent (90%) to 110 percent (110%) of the current FMR.
- 102. Person with Disabilities [42 USC 1437a(b)(3)]: Means a person who:
  - A. Has a disability as defined in Section 223 of the Social Security Act (42 USC 423);  
or

- B. Has a physical, mental or emotional impairment that:
- i. Is expected to be of long continued and indefinite duration;
  - ii. Substantially impedes his/her ability to live independently; and,
  - iii. Is of such nature that such disability could be improved by more suitable housing conditions; or,
  - iv. Has a developmental disability as defined in Section 102 (5) (b) of the Developmental Disabilities Assistance and Bill of Rights Act [42 USC 6001 (5)].

**NOTE: A person with disabilities may be a child.**

103. Portability: Renting a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the initial HA.
104. Preference: At the option of the HA, a preference system can be used to select among applicant families.
105. Premises: The building or complex in which the dwelling unit is located, including common areas and grounds.
106. Private Space: In shared housing, the portion of a contract unit that is for the exclusive use of an assisted family.
107. Program: The tenant-based housing voucher program.
108. Project-Based: Rental assistance that is attached to the structure.
109. Public Housing Agency (PHA): Any State, county, municipality or other government entity or public body (or agency or instrumentality thereof) that is authorized to engage in or assist in the development of operation of housing for lower income families.
110. Reasonable Rent: A rent to owner that is not more than either rent charged for comparable units in the private unassisted market; or rent charged by the owner for a comparable unassisted unit in the building or premises.
111. Receiving HA: In portability, a HA that receives a family selected for participation in the tenant-based program of another HA. The receiving HA issues a certificate or voucher, and provides program assistance to the family.
112. Reexamination: Reexamination is sometimes called recertification. The process of securing documentation, which indicates that tenants meet the eligibility requirements for, continued occupancy.

113. **Reexamination Date:** The date on which any rent change is effective or would be effective if required as a result of the annual reexamination of eligibility and rent. The reexamination date(s) is the anniversary date (month) of the lease.
114. **Remaining Member of The Resident Family:** The person(s) of legal age remaining in the leased unit after the person(s) who signed the lease has (have) left the premises, other than by eviction, which may or may not normally qualify for assistance on their own circumstances. An individual must occupy the unit to which he claims head of household status for one year before becoming eligible for subsidized housing as a remaining family member. This person must complete forms necessary for housing within ten days from the departure of the leaseholder and may retain assistance for a reasonable time pending the verification and hearing process. This person must, upon satisfactory completion of the verification process, then execute a new lease and cure any monetary obligations in order to remain on the program. Any person who claims him or herself as a remaining member shall, in the event that the HA declares him or her ineligible for remaining member status, be entitled to the hearing process upon notice to him or her that he or she is not considered to be a remaining member of the household. The person requesting remaining member status must request this hearing in writing within ten days from the date of the departure of the head of household. The HA does not recognize the person as a participant by giving him or her opportunity for a hearing. A remaining member shall not be considered to be a participant until such time as a new lease is executed by the HA and the person granted tenant status after the verification status.
115. **Rent to Owner:** The total monthly rent payable to the owner under the lease for the unit. Rent to Owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.
116. **Set-Up Charges:** In a manufactured home space rental, charges payable by the family for assembling, skirting, and anchoring the manufactured home.
117. **Shared Housing:** A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family.
118. **Single Person:** A person who lives alone or intends to live alone, and who does not qualify as an elderly family or a displaced person, or as the remaining member of a tenant family.
119. **Single Room Occupancy:** Single Room Occupancy (SRO) Housing is a unit which does not contain sanitary facilities or food preparation facilities, or which contains one but not both types of facilities, and is suitable for occupancy by an eligible individual who is capable of independent living. SRO Housing is not substandard solely because it does not contain sanitary facilities or food preparation facilities, or both.

120. Special Admission: Admission of an applicant that is not on the HA waiting list, or without considering the applicant's waiting list position.

121. Spouse: A spouse is the legal husband or wife of the head of the household.

122. Standard Permanent Replacement Housing: Is housing:

A. That is decent, safe, and sanitary;

B. That is adequate for the family size; and

C. That the family is occupying pursuant to a lease or occupancy agreement.

Such housing does not include transient facilities, such as motels, hotels, or temporary shelters for victims of domestic violence or homeless families, and in the case of domestic violence, does not include the housing unit in which the applicant and the applicant's spouse or other member of the household who engages in such violence live.

**NOTE: A "homeless family" does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.**

123. Subsidy Standards: Standards established by a HA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and composition.

124. Substandard Housing: A unit is substandard if it:

A. Is dilapidated;

i. Does not have operable indoor plumbing;

ii. Does not have a usable flush toilet inside the unit for the exclusive use of a family;

iii. Does not have a usable bathtub or shower inside the unit for the exclusive use of a family;

iv. Does not have electricity, or has inadequate or unsafe electrical service;

v. Does not have a safe or adequate source of heat;

vi. Should, but does not, have a kitchen; or

vii. Has been declared unfit for habitation by an agency or unit of government.

B. A housing unit is dilapidated if it does not provide safe and adequate shelter, and in its present condition endangers the health, safety, or well-being of a family, or it has one or more critical defects, or a combination of intermediate defects in sufficient

number or extent to require considerable repair or rebuilding. The defects may involve original construction, or they may result from continued neglect or lack of repair or from serious damage to the structure.

An applicant who is a "homeless family" is living in substandard housing. For purposes of the preceding sentence, a "homeless family" includes any individual or family who:

- A. Lacks a fixed, regular, and adequate nighttime residence; and
- B. Has a primary nighttime residence that is:
  - i. A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing programs);
  - ii. An institution that provides a temporary residence for individuals intended to be institutionalized; or
  - iii. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

125. Suspension: Stopping the clock on the term of a family's certificate or voucher on the date that the HA receives the request for lease approval by the family.

126. Temporarily Absent Family Members: Any person(s) on the lease that is not living in the household for a period of more than thirty (30) days is considered temporarily absent. Absences of more than six (6) months are not generally considered to be temporary and must be approved by the HA.

127. Tenant Rent: The amount payable monthly by the Family as rent to the landlord. Where all utilities (gas, water, and electricity) are supplied by the landlord, tenant rent equals total tenant payment or minimum rent. Where some or all utilities (gas, water and electricity) are not supplied by the HA and the cost thereof is not included in the amount paid as rent, tenant rent equals total tenant payment or minimum rent less the utility allowance. Telephone and cable television service is not a utility.

128. Total Tenant Payment (TTP): The TTP, or income based rent, is calculated using the following formula:

- A. For the Public Housing Program, the TTP must be the greater of:
  - i. 30 percent (30%) of family monthly adjusted income (see note);
  - ii. 10 percent (10%) of family monthly income; or
  - iii. Which is the minimum rent set by the HA.

- B. If the resident pays any of the utilities directly to the utility supplier, the amount of the Utility Allowance is deducted from the TTP. [24 CFR 5.613] See the definition for Tenant Rent. It is possible for Section 8 participants to qualify for a utility reimbursement despite the requirement of a minimum rent. For example, if a participant family's TTP is the minimum rent of \$25 and the utility allowance for the size and type unit the family has selected is \$60, the family would receive a utility reimbursement of \$35 (\$60 less \$25) for tenant purchased utilities.
129. Utilities: Utilities means water, electricity, gas, other heating, refrigeration and cooking fuels, trash collection, and sewerage services. Telephone service is not included as a utility.
130. Utility Allowance: If the cost of utilities (except telephone and cable) and other housing services for an assisted unit is not included in the rent, but is the responsibility of the family occupying the unit, then the utility allowance is an amount equal to the estimate made or approved by the HA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy conservative household of modest circumstances consistent with the requirements of a safe, sanitary and healthful living environment. If the family pays directly for one or more utilities or services, the amount of the allowance is deducted from the gross rent in determining the contract rent and is included in the gross family contribution.
131. Utility Reimbursement Payment (URP): Utility Reimbursement Payment is the amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Tenant Payment for the family occupying the unit. At the discretion of the HA, the check may be made payable jointly to the resident and utility provider or directly to the utility provider.
132. Very Low-income Family: A lower income family means a family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent (50%) of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. [42 USC 1437a(b)]
133. Veteran/Veteran Family: Person that is currently serving or has served in any branch of the United States military, including the National Guard or Reservist, spouses, or their surviving spouse. Surviving Spouse: A person who had a valid marriage to a veteran and who was the spouse of the veteran at the time of the veteran's death; lived with the veteran continuously from the date of marriage to the date of death, and/or, a veteran and/or spouse as defined by the U.S. Department of Veteran Affairs at <https://www.va.gov>.



134. Violent Criminal Activity: 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.
135. Voucher: A document issued by a HA to a family selected for to the housing voucher program. The voucher describes the program and the procedures for HA approval of a unit selected by the family. The voucher also states the obligation of the family under the program.
136. Voucher Holder: A family holding a voucher with unexpired search time.
137. Wage Earner: A person in a gainful activity who receives any wages. Said wages or pay covers all types of employee compensation including salaries, vacation allowances, tips, bonuses, commissions, and unemployment compensation.

**NOTE: The terms “wage earner” and “worker” are used interchangeably.**

138. Waiting List Admission: An admission from the HA waiting list.
139. Welfare Assistance: Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, State or local governments.
140. Gender Identity: Actual or perceived gender-related characteristics.
141. Sexual Orientation: Homosexuality, heterosexuality, or bisexuality.

## **SECTION V**

### **Applying for Assistance**

#### **How to Apply**

Families wishing to apply for housing assistance shall complete an application.

Applications will be accepted at a location to be announced by Public Notice.

Applications are taken to compile a waiting list. Due to the demand for housing assistance in the HABD's jurisdiction, the HABD may take applications on an "open enrollment" basis, depending on the length of the waiting list.

Complete applications will be accepted for all applicants. The information will be verified by the HABD staff.

Applications may be made in person and/or electronically at the HABD during specified dates and business hours posted at the HABD's office.

The application must be dated when received in the HABD's office where applications are processed.

Individuals who have a physical impairment which would prevent them from completing an application in person may call the HABD to make special arrangements to complete their applications. A Telecommunication Device for the Deaf (TDD) is available for the hearing impaired. If the applicant is visually impaired, all notices must be in a format understandable by the applicant.

#### **Closing of Application Taking**

The HABD may suspend the taking of applications if the waiting list is such that additional applicant could not be housed within the next twelve-month period.

#### **Opening of Application Taking**

When the HABD opens application taking the following procedures will be followed: The HABD will make known to the public by advertising in newspapers of general circulation, minority media, and other suitable means the availability and nature of housing assistance for eligible families. Applications will always be accepted for applicants requiring relocation as part of the HABD Witness Support Program, regardless of whether or not the application process has been closed.

The public notice must contain the following:

- A. HABD will publish the date applications will be accepted and the location where pre-applications may be obtained or where applications may be completed;

**NOTE: If the HABD anticipated suspending the taking of applications after a period of time, the date of acceptance and closing of applications will be published.**

- B. State the applicants for Section 8 assistance must specifically apply for Section 8 assistance and that applicants for Section 8 assistance may also apply for Public Housing and they will not lose their place on the Section 8 Housing Waiting List if they also apply for Public Housing;
- C. To reach persons who cannot read the newspapers; the HABD will distribute fact sheets to the broadcasting media.

Application Period (Dates): The application closing date may be determined administratively at the same time that the HABD determines to open enrollment. The open enrollment period shall be long enough to receive the projected number of applications needed to fully utilize available funding for Section 8 vouchers for the next twelve month period.

## SECTION VI

### Missed Appointments

An applicant or person receiving assistance who fails to keep an appointment without notifying the HABD and without rescheduling the appointment shall be sent a Notice of Termination of the process for failure to supply such certification, release of information or documentation as the HABD or HUD determines to be necessary (or failure to allow the HABD to inspect the dwelling unit at reasonable times and after reasonable notice, if applicable), in the following situations:

- A. Completion of the Application
- B. Providing Verification Information
- C. Program Briefing
- D. Leasing Signature Briefing
- E. HQS Inspections (this does not apply to missed re-inspections)
- F. Re-Certification
- G. Interim Adjustment
- H. Appointments or requirements to bring in other documentation as listed in this Plan
- I. Scheduled Counseling Sessions

#### Process When Appointments Are Missed

1. For each of the functions above, the family may be given two appointments.
2. If the family does not appear or call to reschedule the appointments as required, the HABD may begin termination procedures. The applicant or tenant will be given an opportunity for an informal review or hearing (in accordance with regulations).

If the representative of the HABD makes a determination in favor of the applicant or tenant, the HABD will comply with the decision unless the HABD is not bound by a hearing decision concerning a matter for which the HABD is not required to provide an opportunity for a hearing.

Letters Mailed to Applicants or Tenants by the HABD: If an applicant or tenant claims they did not receive a letter mailed by the HABD requesting the applicant or tenant to

provide information or to attend an interview, the HABD will determine whether the letter was returned to the HABD. If the letter was not returned, the HABD will conclude the applicant or tenant received the letter provided.

If the letter, or other mail, was returned to the HABD and the applicant or tenant can provide evidence that they were living at the address to which the letter or mail was sent, the action regarding termination of housing assistance or tenant status will be reinstated without interruption.

## **SECTION VII**

### **Misrepresentation by the Applicant or Voucher Holder**

If an applicant or voucher holder is found to have made willful misrepresentation at any time, which resulted in them being classified as eligible, when in fact they were ineligible, the applicant will be declared ineligible and the voucher will be terminated because of the act of fraud by the applicant or voucher holder. If such misrepresentation resulted in the voucher holder paying a lower rent than was appropriate, the voucher holder shall be required to pay the difference between the actual payments and the amount that should have been paid. In justifiable instances, the HABD may take such action as it deems appropriate, including referring the voucher holder to the proper authorities for possible criminal prosecution.

## SECTION VIII

### Section 8 Eligibility Criteria

All individuals who are admitted to the Section 8 Program must be individually determined eligible under the terms of this Plan. In order to be determined eligible, an applicant must meet the following requirements:

- A. The applicant family must qualify as a family;
- B. The applicant's total annual family income must not exceed family income limits established by HUD for the Section 8 Housing Assistance Programs;
- C. Head of household must be:
  - i. nineteen years of age or older;
  - ii. eighteen years of age and married; or
  - iii. a person that has been relieved of the disability of nonage by a juvenile court.
- D. The applicant's family must have properly completed all application requirements, including verifications. Misrepresentation of income, family composition, or any other information affecting eligibility will result in the family being declared ineligible. In the event the misrepresentation is discovered after admission, the assistance will be terminated.

Applicants are not automatically determined eligible to receive federal assistance. An applicant will not be offered Section 8 assistance under the following circumstances:

- A. If the applicant's annual family income exceeds the income limits established by HUD and published in the Federal Register, the applicant will be declared ineligible;
- B. If the applicant owes a prior debt to the HABD or any other federally subsidized housing program, the applicant will be declared eligible upon payment of the debt, with the date and time of application being the time of payment and meeting other criteria;
- C. If the applicant is a former Public Housing or Section 8 participant who vacated the unit in violation of program requirements, the applicant may be declared ineligible.

If the applicant has failed to meet any outstanding requirements for eligibility and is determined ineligible, he/she will be so informed and the reasons stated in writing. The applicant will have ten days from the date of written notification to request an informal

review. The applicant may bring any person he/she wishes to represent them at the informal meeting. The request for an informal meeting must be submitted in writing.

In addition, the HABD is permitted to determine, as eligible, single persons living alone or intending to live alone who do not meet any of the definitions of family.

Single persons are only eligible for a one-bedroom voucher.

Once an applicant becomes a tenant in the HABD's tenant-based program, and the head of household requests permission to add another person to the family composition, the person being added must meet all eligible requirements before the HABD will approve any additions to the family composition.

Declaration of Citizenship: Section 214 of the Housing and Community Development Act of 1980 prohibits HAs from making financial assistance available to a person other than United States citizens, national or certain categories of eligible citizens in HUD's assisted housing programs. This law is referred to as the Non-Citizens Rule.

### **STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612 and FR Notice 4/10/06]**

Section 327 of Public Law 109-115 and the implementing regulation at 24 CFR 5.612 established new restrictions on the eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from his/her parents in accordance with the HABD policy, the income of the student's parents will not be considered in determining the student's eligibility. The new law does not apply to students who reside with parents who are applying to receive HCV assistance. It is limited to students who are seeking assistance on their own, separately from their parents.

#### **Definitions**

In determining whether and how the new eligibility restrictions apply to a student, the HABD will rely on the following definitions [FR 4/10/06, p. 18148]:

##### **Dependent Child**

In the context of the student eligibility restrictions, *dependent child* means a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* in 24 CFR 5.603, which states that the dependent must be a member of the assisted family, other than the head of household or spouse, who



is under 18 years of age, or is a person with a disability, or is a full-time student. Foster children and foster adults are not considered dependents.

### **Independent Student**

The PHA will consider a student “independent” from his or her parents and the parents’ income will not be considered when determining the student’s eligibility if the following criteria are all met:

- The individual is of legal contract age under state law;
- The individual has established a household separate from his/her parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education’s definition of independent student.

To be considered an independent student according to the Department of Education, a student must meet one or more of the following criteria:

- Be at least 24 years old by December 31 of the award year for which aid is sought;
- Be an orphan or a ward of the court through the age of 18;
- Be a veteran of the U.S. Armed Forces;
- Have one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent);
- Be a graduate or professional student;
- Be married;
- The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents’ most recent tax forms.

The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

The HABD will verify that a student meets the above criteria in accordance with the policies in verification section of the administrative plan.

### **Institution of Higher Education**

The PHA will use the statutory definition under section 102 of the Higher Education Act of 1965 to determine whether a student is attending an institution of higher education.

**Parents**

For purposes of student eligibility restrictions, the definition of parents includes biological or adoptive parents, or current stepparents and legal guardians (e.g., grandparents, aunt/uncle, godparents, etc.).

**Person with Disabilities**

The PHA will use the statutory definition under section 3(b)(3)(E) of the 1937 Act to determine whether a student is a person with disabilities.

**Veteran**

A veteran is a person who served in the active military, naval, or air service and who was discharged or released from such service under conditions other than dishonorable.

**Determining Student Eligibility**

If a student is applying for assistance on his/her own, apart from his/her parents, the HABD must determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, the HABD must ensure that: (1) the student is individually eligible for the program; (2) either the student is independent from his/her parents or the student's parents are income eligible for the program; and (3) the "family" with which the student is applying is collectively eligible for the program.

For any student who is subject to the 5.612 restrictions, the HABD will:

- Follow its usual policies in determining whether the student individually is eligible for the program;
- Determine whether the student is independent from his/her parents in accordance with the definition of independent student in this section; and
- Follow the policies below, if applicable, in determining whether the student's and the student's family, collectively, are income eligible for the program.

If the HABD determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, the HABD will send a notice of denial in accordance with the policies contained in this administrative plan, and the applicant family will have the right to request an informal review in accordance with the policies this administrative plan.

**Determining Parental Income Eligibility**

For any student who is subject to the 5.612 restrictions and who does not satisfy the definition of independent student in this section, the HABD will determine the income eligibility of the student's parents as follows:

- If the student's parents are married and living together, the HABD will obtain a joint income declaration and certification of joint income from the parents;

- If the student's parent is widowed or single, the HABD will obtain an income declaration and certification of income from that parent;
- If the student's parents are divorced or separated, the HABD will obtain an income declaration and certification of income from each parent.
- If the student has been living with one of his/her parents and has not had contact with or does not know where to contact his/her other parent, the HABD will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. The HABD will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

In determining the income eligibility of the student's parents, the HABD will use the income limits for the jurisdiction in which the parents live.

## **SECTION IX**

### **Verification and Documentation**

Families are required to provide Social Security Numbers (SSN) for all family members prior to admission. All members of the family defined above must provide an original valid social security card. These requirements do not apply to the following:

- A. Persons who do not contend to have an eligible immigration status;
  - B. Participants (but not applicants) age 62 or older;
  - C. Participants who have previously disclosed a valid SSN;
  - D. When a person under the age of 6 is added to the household, the participant must provide and verify an SSN for the child within 90 days of the addition;
  - E. The HABD must deny or terminate assistance to anyone not meeting the SSN requirements.
1. Current Family members without a copy of the social security card in the tenant file must provide an original valid card during an interim reexamination or by the next annual recertification.
  2. The family must submit proof of citizenship or eligible immigration status, as required by HABD.
  3. Verification will be done through the providing of a valid Social Security card issued by the Social Security Administration.
    - A. The HABD will accept copies of the Social Security card when it is necessary for the HABD to verify the continuing eligibility of participant families.
    - B. If an applicant or tenant cannot provide his/her Social Security card, other documents listed below showing his/her SSN may be used for verification. He/she may be required, by the HABD, to provide one or more of the following alternative documents to verify is/her SSN, until a valid Social Security card can be provided.

These documents include:

- i. Driver's License that displays SSN;
- ii. Identification card issued by a Federal, State, or Local Agency;

- iii. Identification card issued by an employer or trade union;
  - iv. Identification card issued by a medical insurance company;
  - v. Earnings statements or payroll stubs;
  - vi. Bank Statements;
  - vii. IRS Form 1099, or W-2 Form;
  - viii. Benefit Award Letters from Government Agencies;
  - ix. Medicaid Cards;
  - x. Unemployment Benefit Letter;
  - xi. Retirement Benefit Letter;
  - xii. Life Insurance Policies;
  - xiii. Court Records such as Real Estate, Tax Notices, Marriage, and Divorce documents, Judgment or Bankruptcy Records;
  - xiv. Verification of SS Benefits from the SS Administration (SSA);
  - xv. If the HABD verifies SS Benefits with the SSA, the acceptance of the SSN by the SSA may be considered documentation of its validity;
  - xvi. Proof of citizenship or eligible immigration status.
- C. Applicants may not become participants until the documentation is provided and verified. The applicants will retain their position on the waiting list during this period. The applicant will be given a reasonable time, subject to circumstances, to furnish the documentation before losing their place on the waiting list and the time may be extended, if such circumstances require an extension. The decision will be made by a HABD representative and documented, in writing, and placed in the applicant's file.

Additional documentation that may be required in determining eligibility:

- i. Temporary Assistance to Needy Families (TANF);
- ii. Birth Certificate, or Driver's License that displays the date of birth and/or forms that are issued by a Federal, State, City or County Agency that displays the date of birth;
- iii. Child Care Verification;

- iv. Employer's Verification;
- v. Landlord Verification;
- vi. Social Security Benefits;
- vii. Assets Verification;
- viii. Bank Accounts: Checking - \$500 plus balance; Savings - \$100 plus balance;
- ix. The couple certified in their application for housing that they are living together as a married couple; or the couple certifies in the application that they are married;
- x. Marriage Certificate or, if a marriage certificate is not available, other acceptable documentation of marriage would include documents issued by Federal, State, City or County Government indicating that the individuals are living as a married couple. Couples that are considered married under common law can provide the same information as listed above documenting that they are living together as a married couple;
- xi. Supplemental Social Security Income (SSI) Benefits;
- xii. Unemployment Compensation;
- xiii. Veterans Administration (VA) Benefits;
- xiv. Any other reasonable information needed to determine eligibility may be requested by the HABD.

**Note: For the purposes of this plan, if a member of the current family has committed acts of fraud or has an arrest record, including a drug related arrest, that reflects that the family member may be a danger to the health, safety, or welfare of the community, then that person will not be allowed to be a participant on the program. The HA shall prohibit assistance to any household that includes an individual who is subject to a lifetime registration requirement under a state sex offender registration program.**

**Individuals who have been evicted from any housing complex for engaging in criminal activities, including drug-related criminal activities may be denied assistance.**

Separation means the ending of cohabitation by mutual consent. If an applicant is divorced or separated from a person and has children by that person or former spouse, the applicant must provide at least one of the verifications listed below:

- A. A final divorce decree;
- B. Receiving court-ordered child support from former spouse;

- C. Verification that applicant is pursuing child support through the Department of Human Resources Child Support Unit or Circuit Court Clerk's Office;
- D. If applicant is receiving personal child support, then applicant can make arrangements to have the child support paid through the court system, either through the Circuit Court Clerk's Office, the Department of Human Resources, or through a court referee;
- E. Receiving TANF through the Department of Human Resources for former spouse's children;
- F. A notarized statement from current landlord (not family) verifying that the current landlord knows that the applicant and spouse have not lived together for the last six months or more;
- G. Income tax statements from both husband and wife indicating both filed income taxes separately for the last year and that they filed from different addresses;
- H. A written statement from an Attorney that the applicant has filed suit for divorce because of physical abuse;
- I. A written statement from an abuse shelter, law enforcement agency, social service agencies that the applicant needs housing due to physical abuse;
- J. Food Stamp Verification, if no other documentation is available.

If applicant is divorced or separated from a person and has no children by that person, applicant must provide at least one of the verifications listed below:

- A. A final divorce decree;
- B. A notarized statement from current landlord (not family) verifying that the current landlord knows that the applicant and spouse have not lived together for the last six months or more;
- C. Income tax statements from both husband and wife indicating both filed income taxes separately for the last year and that they filed from different addresses;
- D. A written statement from an Attorney that the applicant has filed suit for divorce because of physical abuse;
- E. A written statement from an abuse shelter, law enforcement agency, social service agencies that the applicant needs housing due to physical abuse;
- F. Food Stamp Verification, if no other documentation is available.

**Note: This section also applies to program participants.**

### **U. S. CITIZENSHIP Verification and Appeal Procedures**

The housing authority (HA) must follow the verification procedures (to be provided by HUD) and verify the person or persons declaration of U.S. Citizenship through the INS SAVE system.

Once the verification is completed and verification from the INS SAVE system confirms the declaration of U.S. Citizenship and the applicant(s) meets all other conditions for occupancy, as outlined in the Section 8 Administrative Plan, the application will be processed for assistance.

If the INS SAVE system does not confirm U.S. citizenship, the HA must request that a manual search be conducted of INS records. The HA must request the secondary verification (manual search) by INS within ten calendar days of receipt of the initial failed verification. If the secondary verification fails to confirm eligible immigration status, the HA shall notify the family of the right of appeal to INS. If INS is unable to issue a decision within 30 days, the INS will inform the family and the HA of the reasons for the delay. When the HA receives a copy of the INS decision (and the decision does not confirm the declaration of U.S. Citizenship), the HA will notify the family of its right to request an informal hearing. The informal hearing will be conducted in accordance with regulations:

- A. Assistance to an applicant may not be delayed, denied, or terminated, if:
  - i. The primary and secondary verification of any immigration documents that were timely submitted have not been completed;
  - ii. The family member of who required evidence has not been submitted has moved;
  - iii. The family member who is determined not to be in an eligible immigration status following INS verification has moved;
  - iv. The INS appeals process has not been concluded;
  - v. Assistance is prorated;
  - vi. Assistance for a mixed family is continued.
  
- B. Assistance to an applicant shall be denied, and a tenant's assistance shall be terminated, upon the occurrence of any of the following:
  - i. Evidence of citizenship (i.e. the declaration) is not timely submitted;



- ii. Evidence of citizenship and eligible immigration status is timely submitted but INS primary and secondary verification does not verify eligible immigration status;
  - iii. The family does not pursue INS appeal or HA informal hearing rights;
  - iv. INS appeal and informal hearing rights are pursued, but the final appeal or hearing decisions are decided against the family member.
- C. Notice must be given to the family and shall advise:
- i. That financial assistance or housing will be denied or terminated, and provide a brief explanation of the reasons;
  - ii. That they may be eligible for proration of assistance;
  - iii. In the case of a tenant, the criteria and procedures for obtaining relief for mixed families and other families; and
  - iv. All future appeal rights have been exercised.

## SECTION X

### Grounds for Denial or Termination of Assistance

1. The HABD will deny an applicant admission to participate in the Section 8 Program or, with respect to a current participant, will refuse to issue another Housing Voucher for a move to another unit, approve a new lease, or execute a new contract, if the applicant or participant:
  - A. Owes rent or other amounts, or judgments, to HABD or any other federally subsidized housing program;
  - B. Owes for rent or for other responsibilities under the lease with their current owner, including amounts for damages to the unit which may be in excess of the family's Security Deposit.

**NOTE: Applicants that owe a PHA or any other federally subsidized program will not be processed for receiving assistance. The applicant must pay the funds owed prior to the application being processed. After the application is processed, the applicant must meet all other conditions for receiving assistance. Repaying funds that are due does not necessarily qualify an applicant for housing assistance. Such payments will be considered along with the other factors in the application process. Any money owed to a PHA which has been discharged by bankruptcy shall not be considered in making this determination. The mere filing of a bankruptcy petition does not mean that the debt has been discharged.**

- C. As a previous participant in the Section 8 Program or as a participant in the Public Housing Program, the applicant has not reimbursed the HABD or another PHA for any amounts owed by the Family under its lease and for a vacated unit;
- D. Has violated a family obligation listed on the Housing Voucher;
- E. Has engaged in drug-related criminal activity or violent criminal activity, including criminal activity by a family member;
- F. Breaches a repayment agreement to the HABD and/or owner;
- G. Committed acts that constitute fraud in connection with and/or has been evicted from any federally assisted housing program;
- H. Did not provide information required within the time frame specified during the application process;

- I. The HABD shall deny the admission of a Family, if the applicant or any member of the applicant's family does not sign and submit consent forms that are provided by the HABD for the purpose of verifying employment and income information;
- J. Individuals, who have been evicted from any housing complex for engaging in criminal activities, including drug-related criminal activities, may be denied assistance;
- K. The applicant and all adults must sign a release allowing the HA to request a copy of a police report from the National Crime Information Center, police department or other law enforcement agencies. If the HA uses the information to deny or terminate assistance, the HA must provide a copy of the report to the applicant/participant.
  - i. If an applicant is denied admission, the HABD will notify the applicant in writing of its determination and inform the applicant that they have an opportunity for an informal review on such determination. The denial letter will allow the applicant ten calendar days to request an informal review, in writing, with the HABD. An HABD representative will hear the appeal and issue a decision within ten calendar days of the meeting;
  - ii. As a general rule, applicants may be denied admission to the Section 8 programs for the following time frames:
    - (1) Denied admission for one year for violation of housing voucher program requirements and illegal use or possession for personal use of a controlled substance or alcohol;
    - (2) Denied admission for five years for the following:
      - a) Fraud which includes giving false information on the application;
      - b) An arrest record that indicated that the applicant has engaged in drug-related criminal activity or in violent criminal activity;
    - (3) Denied admission for ten years for a conviction of drug trafficking;
    - (4) If the applicant is a former Public Housing or Section 8 participant who vacated the unit in violation of program requirements, the applicant may be declared ineligible.
    - (5) Denied admission for 3 years for the following: Persons evicted from Public Housing, Indian Housing, Section 8 or Section 23 programs because of drug related criminal activity are ineligible for admission for a 3-year period beginning on the date of such eviction.

## SECTION XI

### Selection and Participation Plan – Housing Voucher

#### 1. Housing Voucher Selection and Participation Plan

- A. Equal Opportunity – The Fair Housing Act makes it illegal to discriminate on the basis of race, color, religion, sex, handicap, familial status and national origin. The HABD shall not deny any family the opportunity of applying for a Housing Voucher.
- B. Types of Selection – The HABD may admit an applicant for participation in the program: (1) as a special admission (see definition below); or (2) as a waiting list admission. Also, the holder of a Voucher is responsible for finding existing housing units suitable to the holder’s needs and desires.
- C. Special Admissions – If HUD awards HABD program funding that is targeted for specifically named families, families living in specified units, or for other specified families, the HABD 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, or their waiting list position being considered. The HABD must maintain records showing that the family was admitted with HUD-targeted assistance. Additionally, the HABD must use the assistance for the targeted families.

The following are examples of types of program funding that may be designated by HUD for families living in a specified unit;

- (1) A family displaced because of demolition or disposition of a public or Indian housing project;
- (2) A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;
- (3) For housing covered by the Low-Income Housing Preservation and Resident Home Ownership Act of 1990;
- (4) A family residing in a project covered by a project-based Section 8 HCV HAP contract at or near the end of the HAP contract term; and
- (5) A non-purchasing family residing in a Hope 1 or Hope 2 Project.
- (6) Vouchers for Foster Youth to Independence Initiative (FYI)

(7) **Special Cooperation with States Attorneys and/or Law Enforcement Agencies to Relocate Households:** The Authority from time to time may cooperate with states attorneys and/or law enforcement agencies to relocate households eligible for rental assistance for protection of potential witnesses. Such action will be taken with administrative discretion and approval of the Authority's President/CEO or designee. An example of such action may but not necessarily be limited to, a household whose member(s) has extended them self in the public interest which placed them in personal jeopardy.

(8) **Special Transfers of Relocation by Authority/Victims of Crime in Public Housing:** The Authority from time to time may need to relocate or transfer a household to and from our Section 8 or Public Housing Programs for various reasons. Such action will be taken with administrative discretion and approval of the Authority's President/CEO or designee.

D. Organization of the Waiting List: The HABD waiting list must contain the following information for each applicant listed:

- i. Applicant name;
- ii. Family unit size (number of bedrooms for which family qualifies under PHA occupancy standards);
- iii. Date and time of application;
- iv. Qualification for any local preference, if available;
- v. Racial or ethnic designation of the head of household.

(1) When a Housing Voucher is available, the HABD will select the applicant who according to date and time of the application, and as sorted by the computer, has the oldest application on the Waiting List with a local housing preference, if available/applicable.

If there are no preference holders, the HABD will select the next applicant who, according to date and time of the application, has the oldest application on the Waiting List. The order of admission from the Waiting List may not be based on family size, or on the family unit size for which the family qualified under the HABD occupancy guides. If the HABD does not have sufficient funds to subsidize the family unit size of the family at the top of the waiting list, the HABD may not skip the top family to admit an applicant with a smaller family. Instead, the family at the top of the waiting list will be admitted when sufficient funds are available.

(2) Provided, however, the provisions of the Deconcentration Rule contained within this policy shall supersede the selection of applicants based on date,

social security number computer sorting and local preference points, if applicable, and allow the HA to skip families on the waiting list to accomplish this goal.

- E. Maintaining the Waiting List – It is the plan of the HABD to administer its waiting list in accordance with HUD’s regulations. The HABD will remove an applicant’s name from the Waiting List under the following circumstances:
  - i. The HABD will remove names of applicants who do not respond to HABD’s request for information or updates;
  - ii. The HABD will remove the names of applicants who refuse the HABD’s offer of tenant-based assistance;
  
- F. Procedure for Removing an Applicant’s Name from the Waiting List – The applicant will be notified by the HABD, in writing, that they have ten calendar days from the date of the written correspondence to respond to HABD’s request. The correspondence will also indicate that their name will be removed from the Waiting List if they fail to respond within the time frame specified. The HABD’s system of removing applicants’ names from the Waiting List WILL NOT violate the rights of a disabled person. If an applicant’s failure to respond to a request from HABD for information or updates was caused by the applicant’s disability, the HABD will provide reasonable accommodations and give the applicant an opportunity to respond. An example of a reasonable accommodation would be to allow an applicant to be reinstated on the waiting list based on the date of the application. If the applicant indicated they did not respond due to a disability and if the disability is not apparent, the HABD may request the applicant to have a doctor submit a written statement indicating that the applicant did not respond due to their disability.
  
- G. Purging the Waiting List – To ensure that the HABD Waiting List reflects the most current applicant information, the Waiting List will be updated and purged no less than every 36 months. The purpose for purging the waiting list is to remove applicants who are no longer interested, have moved, or circumstances have changed, and ineligible determination. Purging of the waiting list also prevents leasing activity delays, which can correlate with declining leasing rates.
  - i. The HABD will send letters to those families that they anticipate being selected from the waiting list within the next 12 months, a letter of interest to return to the office within 10 business days, along with a postage paid self-addressed envelope to return the letter.
    - a. Any letters returned through U.S. mail stating invalid address, undeliverable, forward address expired, addressee unknown, or similar postage messages will be withdrawn from the waiting list. The return mail will be placed in the file and a withdrawal letter will be placed in the file.
    - b. Any applicant who does not reply to the letter with the 10-business day time period will be withdrawn from the waiting list and a withdrawal letter will be mailed to the

applicant. The applicant will have the standard 10 calendar days to reply to the withdrawal notice for an informal review request.

- c. Any applicant who selects an option referencing that they are no longer interested in the Section 8 Program will be withdrawn from the waiting list and a withdrawal letter will be mailed, stating such request.

*\*A person who was withdrawn from the waiting list, that includes a person with disabilities, is subject to reasonable accommodation requirements. For example, if an applicant family fails to respond to the HABD's request for information due to a family member's disability, the family will be reinstated on the waiting list as a reasonable accommodation for the disability. Such requests should be in writing.*

In the event HABD shifts to an online system, all families will be notified via U.S. mail of how to update their information online.

## SECTION XII

### Determination of Participant Rent

Rent, as initially determined or at annual re-examination, will remain in effect for the period between regular reexamination of family income and composition unless the following changes in family circumstances occur. Also, the Section 8 participant agrees to report, in writing, and provide certification following any change in annual income within ten calendar days of the occurrence.

- A. Loss or addition to the composition of any family member through birth, death, divorce, removal or other continuing circumstances and the amount, if any, of family member's income;
- B. Employment, unemployment, or changes in employment of a permanent nature of the family head, spouse, or other wage earner that is eighteen years of age; or
- C. To correct errors made when determining eligibility or a reexamination.

**NOTE: If an error results in a retroactive rent payment due to the participant not providing correct information concerning annual income, the Voucher holder may request the HABD representative to approve a repayment schedule. The Voucher Holder must make the request, in writing, to the HABD representative. The HABD representative will provide the Voucher holder with a written response to their request, and if approved, the written notification will include the amount of the monthly repayment plus the due date of the first payment.**



## SECTION XIII

### Income Verification – Total Tenant Payment Determination and Documentation

The HABD requires verifications as follows:

1. “Verification of Employment” for wage earners;
2. Verification of public assistance for those persons who receive public assistance;
3. Documentation of exceptional medical and/or other expenses (elderly family status);
4. Verifications of assets (savings, stocks, bonds, etc.);
5. Other means or sources of income verification.

As soon as a determination can be made, applicants will be informed in writing by an authorized HABD representative, that they have been declared eligible or ineligible. Applicants who are determined ineligible will be informed, in writing, of their right to an informal meeting if they believe that such determination is unjust.

When a Housing Voucher is issued, the family can begin the process of locating housing that meets the requirement of the Section 8 program. There is no minimum income requirement, but the staff should use good interviewing skills to determine whether there is income that is not being reported.

The final estimate of Gross Family Income will be made by the HABD on the basis of verified information regarding income.

Families will be required to report any changes in their income status within ten calendar days of the occurrence of employment and/or any other type of income received. Families with zero income may be requested to re-certify more frequently.

#### **Zero Income:**

There is not minimum income requirement for families to have in order to be eligible for assistance. However, families who report zero income must fulfill the requirement listed below.

Families will be required to report any changes in their income status within then calendar days of the occurrence of employment and/or any other type of income received. Families with zero income will be required to re-certify at least every 120 days or more frequently on a case by case basis.

1. Head of Household is required to complete a written certification (zero income packet) every 120 days in person at the HABD office.
2. Head of Household is required to provide information/verification regarding their means of basic subsistence, such as food, utilities (3 months of bills), transportation, etc., for each time period.
3. If the family's expenses exceed their known income, the HABD will make inquiry of the Head of Household as to the nature of the family's accessible resources.
4. If the family's expenses exceed their known income, the HABD, will use the zero income packet to calculate their anticipated income.
5. Families who report zero income will be referred to the Family Self-Sufficiency program, the HABD Section 3 program, and to other self-sufficiency oriented workshops or classes.

### **HUD's Verification Hierarchy**

HUD authorizes the PHA to use five methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the HABD uses a lesser form of verification. In order of priority, the forms of verification that the HABD will use are:

1. Up-front Income Verification (UIV) whenever available;
2. Third-party Written Verification;
3. Third-party Oral Verification;
4. Review of Documents;
5. Self-Certification.

Before an applicant is issued a voucher, and at subsequent annual/triennial recertifications, the HABD must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The HABD will not pass on the cost of verification to the family.

Third-party verification is considered to be the most effective means of verifying information provided by the family. The HABD will include verification forms in the annual/triennial recertification package with a request for return by the appropriate third-party source within a specified timeframe. The HABD will use any source available for verifying income, including inquiries with the Internal Revenue Service (IRS). Each client file contains a record

of the documentation that has been provided. Verification of eligibility items may not be more than 60 days old from time of receipt by the HABD to the voucher issuance date.

Any documents used for verification must be the original (the HABD will keep photocopies and return the originals). The documents must not be damaged, altered or in any way illegible.

In the event that third-party written verification cannot be obtained, staff will document the file accordingly and obtain oral verification via a telephone call or in-person meeting.

When third-party oral verification is used, staff will complete a form to be included in the case file noting the source's name, date and time of the conversation and the information provided. In the event that third-party oral verification cannot be obtained, the HABD will either review submitted documents or accept a certification/self-declaration (notarized statement) from the applicant of the reported information. If third-party verification is received after documents have been accepted as provisional verification, and there is a discrepancy, the HABD will use the third-party verification.

The HABD will also accept as third-party verification computer printouts, computer matching or digital images provided from other government agencies. Such sources include but are not limited to: the Social Security Administration, Veterans Administration, the U.S. Department of Housing and Urban Development, Alabama Department of Human Resources Administration, and other approved state agencies, when appropriate. The HABD will accept computer printouts from these agencies that are hand carried by the family.

The HABD may also accept as third-party verification computer printouts, computer matching or digital images provided from trustworthy non-governmental sources, such as companies that provide employment verification services under contract for a participant's employer.

### **File Documentation**

The HABD must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

### **Other Factors Influencing the Adjusted Income or Income-Based Rent Determination**

When the PHA is unable to obtain 3rd party verification, the PHA will document in the family file the reason that third-party verification was not available and will place a photocopy of any original document(s) in the family file:

## 1. Admission - Regulatory Requirement

The timing of verification is critical at admission. Verifications are usable for calculation purposes for only 60 days from the time they are received by the HABD until the voucher is issued. Therefore, if more than 60 days has elapsed between the date of verification and the issuance of a voucher for initial admission, the item must be reverified.

## 2. Recertification

Verification documents are usable for calculation purposes for 120 days from the time they are received in the office until the effective date of the recertification. They must be dated within 60 days of the date they are provided to the HABD. The HABD will accept documents dated up to six months before the effective date of the family's reexamination if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity only provides semi-annual reports, the HABD would accept the most recent report.

### **Verification Factors and Required Documentation**

The HABD verifies household composition, family income and assets, citizenship/eligible immigration status, factors allowing a local preference, and other items relating to program eligibility before an applicant is issued a voucher. The table below lists the factors to be verified along with acceptable forms of documentation within each category.

For applicants, verification of U.S. citizenship/eligible immigration status occurs at the same time as verification of other factors of eligibility. Upon request, HABD will grant an extension of 60 days for families to submit evidence of eligible immigrant status prior to removing the family from the waiting list.

### **Enterprise Income Verification**

The HABD uses the Enterprise Income Verification (EIV) system to verify income reported by tenants in assisted housing programs. The EIV system compares tenant income data obtained from various sources, including tenant-supplied information recorded on Form HUD-50058, wage information from the National Directory of New Hires, and Social Security and Supplemental Security Income from the Social Security Administration.

The HUD Office of Public and Indian Housing (PIH) is responsible for administering and maintaining the EIV system. At admissions and when adding a member to the household, HABD will also use EIV to review reports related to:

- Existing tenants- To determine if a tenant is receiving subsidy in another housing program. Federal regulations prohibit individuals from receiving rental assistance if they are receiving another housing subsidy (24 CFR 982.551).

- Prior debts owed to another PHA- To determine if a tenant owes money to another PHA and is therefore ineligible for assistance from the HABD. If applicants owe the HABD or another PHA any debt, they will be denied assistance.
- Adverse Termination from another PHA- To determine if a tenant was terminated from another housing program for a reason that would make him/her ineligible to receive assistance from the HABD. Adverse termination reasons of Criminal Activity – Drugs, Criminal Activity – Sex Offender and Failure to Report Income are reasons that may lead to denial of subsidy. At the end of participation of an assisted family, the HABD will use EIV to enter the reason for termination of subsidy if it is for any reason other than the tenant voluntarily giving up subsidy or experiencing no rent hardship.

**Authorization**

Signed Form HUD-9886 or HPD’s Authorization for the Release of Information / Privacy Act Notice (Form G – Alternative to Form HUD-9886) authorizes the HABD to obtain and verify income information from various sources, including current and former employers, state agencies, and the Social Security Administration. The HABD may use income verification information at new admission, interim recertification, annual recertification, or at any other time it deems appropriate. Information obtained through third-party verification is protected under the Privacy Act.

**Security**

The HABD will designate a security officer to monitor the EIV system. The security officer’s responsibilities include:

- Maintaining a record of users with approved access;
- Recording and monitoring security issues;
- Enforcing security procedures;
- Conducting quarterly reviews of all user IDs;
- Revoking or modifying access rights as appropriate;
- Reporting evidence of unauthorized access or security breaches.

All HABD employees will be trained in EIV security policies and procedures before receiving access to EIV information. In addition, the HABD will conduct annual briefings on security policies and procedures. EIV access will be limited to the HABD staff whose duties require access to EIV information. The HABD will maintain a record of all approved users. Users who no longer require access will have their access rights revoked. The security officer will conduct periodic reviews to ensure that EIV access is limited to authorized individuals. The HABD will maintain the physical security of EIV data by instructing staff not to print income information, when possible, and instead print the introductory screen of the tenant’s

EIV record to document that the record has been reviewed. In the event that income information needs to be printed, any printed information will be kept in the file for use during the conference or informal review.

### **EIV Income Discrepancies**

If EIV data shows a significant difference from tenant-reported income, or a source of income not reported by the tenant, the HABD will request written third-party verification from the source of income. In addition, the HABD may require the tenant to provide tax returns or historical income documentation that shows patterns of employment, paid benefits, etc. The HABD defines a significant difference in income as \$5,000 or more annually between the annual income last reported to the HABD and the income earned for the same period as reported by a third-party source of information.

EIV cannot be used to calculate current employment and/or unemployment income.

No adverse action can be taken against a tenant as a result of the EIV system until the HABD has independently verified the EIV information and the tenant has been granted an opportunity to contest any findings through established procedures.

### **Underreporting Income**

Cases of suspected fraud will be referred to the Section 8 Program and Integrity Compliance (PIC) Unit. Serious cases (those involving verified discrepancies exceeding \$10,000) may be referred to the Department of Housing and Urban Development Office of Inspector General for further investigation. In cases where the HABD is able to verify unreported income, the HABD will take actions it deems appropriate in accordance with the HABDs repayment agreement guidelines e.g. adjusting future HAP payments, requiring a Repayment Agreement, or termination. These will be determined by Section 8/Leased Housing staff. In such cases, the designated staff reserves the right to take into consideration the following before deciding on an appropriate action:

- Whether or not the unreported income is excludable;
- Whether or not the difference in income impacts the HAP amount, and by how much.

If an employer or asset manager charges a fee for third-party verification of income, the HABD can deem it “unavailable”. In addition, if income anticipated from a specific source is so insignificant that spending the time to verify the amount isn’t cost effective, the HABD may choose not to seek third-party verification.

<b>Upfront (UIV)</b>	<b>Highest (Highly Recommended, highest level of third party verification)</b>
<b>Written 3<sup>rd</sup> Party</b>	<b>High (Mandatory if upfront income verification is not available or if UIV data differs substantially from tenant-reported information)</b>
<b>Oral 3<sup>rd</sup> Party</b>	<b>Medium (Mandatory if written third party verification is not available)</b>
<b>Document Review</b>	<b>Medium-Low (Use on provisional basis)</b>
<b>Tenant Declaration</b>	<b>Low (Use as a last resort)</b>

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Wages/Salaries	Use of computer matching agreements with a State Wage Information Collection Agency (SWICA) to obtain wage information electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the independent sources to obtain wage information.	In the event the independent source does not respond to the PHA's written request for information, the PHA may contact the independent source by phone or make an in person visit to obtain the requested information.	When neither form of third party verification can be obtained, the PHA may accept original documents such as consecutive pay stubs (HUD recommends the PHA review at least three months of pay stubs, if employed by the same employer for three months or more), W-2 forms, etc. from the tenant. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from earnings. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available.
	Agreements with private vendor agencies, such as The Work Number or ChoicePoint to obtain wage and salary information.	The PHA may have the tenant sign a Request for Earnings Statement from the SSA to confirm past earnings. The PHA mails the form to SSA and the statement will be sent to the address the PHA specifies on the form.			
	Use of HUD systems, when available.				
<p><b>Verification of Employment Income:</b> The PHA should always obtain as much information as possible about the employment, such as start date (new employment), termination date (previous employment), pay frequency, pay rate, anticipated pay increases in the next twelve months, year-to-date earnings, bonuses, overtime, company name, address and telephone number, name and position of the person completing the employment verification form.</p> <p><b>Effective Date of Employment:</b> The PHA should always confirm start and termination dates of employment.</p>					

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Self-Employment	Not Available	The PHA mails or faxes a verification form directly to sources identified by the family to obtain income information.	The PHA may call the source to obtain income information.	The PHA may accept any documents (i.e. tax returns, invoices and letters from customers) provided by the tenant to verify self-employment income. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not obtained.	The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from self-employment. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available.
<b>Verification of Self-Employment Income:</b> Typically, it is a challenge for PHAs to obtain third party verification of self-employment income. When third party verification is not available, the PHA should always request a notarized tenant declaration that includes a perjury statement.					
Social Security Benefits	Use of HUD Tenant Assessment System (TASS) to obtain current benefit history and discrepancy reports.	The PHA mails or faxes a verification form directly to the local SSA office to obtain social security benefit information. <b>(Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)</b>	The PHA may call SSA, with the tenant on the line, to obtain current benefit amount. <b>(Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)</b>	The PHA may accept an original SSA Notice from the tenant. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly social security benefits. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available.
Welfare Benefits	Use of computer matching agreements with the local Social Services Agency to obtain current benefit amount electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the local Social Services Agency to obtain welfare benefit information.	The PHA may call the local Social Services Agency to obtain current benefit amount.	The PHA may review an original award notice or printout from the local Social Services Agency provided by the tenant. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly welfare benefits. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available.



Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Child Support	Use of agreement with the local Child Support Enforcement Agency to obtain current child support amount and payment status electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The PHA may call the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The PHA may review an original court order, notice or printout from the local Child Support Enforcement Agency provided by the tenant to verify current child support amount and payment status. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares current child support amount and payment status. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available.
Unemployment Benefits	Use of computer matching agreements with a State Wage Information Collection Agency to obtain unemployment compensation electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the State Wage Information Collection Agency to obtain unemployment compensation information.	The PHA may call the State Wage Information Collection Agency to obtain current benefit amount.	The PHA may review an original benefit notice or unemployment check stub, or printout from the local State Wage Information Collection Agency provided by the tenant. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares unemployment benefits. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available.
	Use of HUD systems, when available.				
Pensions	Use of computer matching agreements with a Federal, State, or Local Government Agency to obtain pension information electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the pension provider to obtain pension information.	The PHA may call the pension provider to obtain current benefit amount.	The PHA may review an original benefit notice from the pension provider provided by the tenant. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly pension amounts. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Assets	Use of cooperative agreements with sources to obtain asset and asset income information electronically, by mail or fax or in person.	The PHA mails, faxes, or emails a verification form directly to the source to obtain asset and asset income information.	The PHA may call the source to obtain asset and asset income information.	The PHA may review original documents provided by the tenant. <b>Note: The PHA must document in the tenant file, the reason third party verification was not available.</b>	The PHA may accept a notarized statement or affidavit from the tenant that declares assets and asset income. <b>Note: The PHA must document in the tenant file, the reason third party verification was not available.</b>
Comments	Whenever HUD makes available wage, unemployment, and SSA information, the PHA should use the information as part of the reexamination process. Failure to do so may result in disallowed costs during a RIM review.	<b>Note:</b> The independent source completes the form and returns the form directly to the PHA. Agency. The tenant should not hand carry documents to or from the independent source.	The PHA should document in the tenant file, the date and time of the telephone call or in person visit, along with the name and title of the person that verified the current income amount.		The PHA should use this verification method as a last resort, when all other verification methods are not possible or have been unsuccessful. <b>Notarized statement should include a perjury penalty statement.</b>
<b>Note:</b> The PHA must not pass verification costs along to the participant.					
<b>Note:</b> In cases where the PHA cannot reliably project annual income, the PHA may elect to complete regular interim reexaminations (this policy should be apart of the PHA's written policies.)					

## **Minimum Rent (24 CFR 5.630)**

Minimum Rent is set at \$50.00 minimum refers to the Minimum Total Tenant Payment (TTP) and includes the combined amount a family pays towards rent and/or utilities when it is applied.

## **Hardship Requests for an Exception to Minimum Rent**

The HABD recognizes that are some circumstances the minimum rent may create a financial hardship for families. The HABD will review all relevant circumstances brought to the PHA's attention regarding financial hardship as it applies to the minimum rent.

The following section states the HABD's procedures and policies in regard to minimum rent financial hardship as set forth by the Quality Housing and Responsibility Act of 1998. HUD has defined circumstances under which a hardship could be claimed.

## **Criteria for Hardship Exception**

In order for a family to qualify for a hardship exception the family's circumstance must fall under one of the following HUD hardship criteria:

- a) The family has lost eligibility or is awaiting an eligibility determination for Federal, State, or Local assistance program, including a family having noncitizen household member lawfully admitted for permanent residence and who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996;
- b) The family would be evicted as a result of the imposition of the minimum rent requirement;
- c) The income of the family has decreased because of changed circumstances including the loss of employment;
- d) When a death has occurred in the assisted family, which has a continuing financial impact on the family;
  - The death of an immediate family member means those relatives or step relatives bearing the following relationship to the head, spouse or co-head, spouse, domestic partner, mother, father, son, daughter, sister, brother, grandparent, grandchild, aunt or uncle.

The PHA does not have any discretionary or additional hardship qualification other than what HUD requires as noted above.

## **PHA Notification to Families of Right to Hardship Exception**

The PHA will notify all families subject to minimum rents of their right to request a minimum rent hardship exception. Subject to minimum rent means “the minimum rent was the greatest figure in the calculation of the greatest of 30% of monthly adjusted income, 10% of monthly income, minimum rent or welfare rent”.

If the minimum rent is the greatest figure in the calculation of Total Tenant Payment (TTP), The HABD staff will include a copy of the notice regarding hardship to the family in the family’s file.

The HABD notification will advise families that hardship exception determination are subject to HABD review and hearing procedures.

The HABD will review all family requests for exception from the minimum rent due to financial hardships.

All requested for minimum rent hardship exceptions are required to be in writing to include the following:

- (1) Statement of the family hardship that qualify the family for an exception; and
- (2) Supporting documentation as proof of financial hardship

The HABD will use its standard verification procedures to verify circumstances which have resulted in financial hardship.

### **Suspension of Minimum Rent**

The HABD will grant the minimum rent exception to all families who request it, effective the first of the following month.

The minimum rent will be suspended until the HABD determines whether the hardship is temporary or long term. “Temporary” is considered to be a period of less than 90 days.

“Suspension” means that the HABD must not use the minim rent calculation until the HABD has make a decision.

During the minimum rent suspension period, the family will not be required to pay a minimum aren’t and the housing assistance payment (HAP) will be increased accordingly.

### **Temporary Hardship**

If the HABD determines that the hardship is temporary, a minimum rent will not be imposed for a period of up to 90 days from the date of the family’s request. At the end of the temporary suspension period, a minimum rent will be imposed retroactively to the time of suspension.

The HABD will offer a reasonable repayment agreement to the family for any such rent not paid during the temporary hardship period, for the amount owed to the PHA.

**Long-Term Duration Hardship [24 CFR 5.61(c) (3)]**

- (1) If the HABD determines that there is a qualifying long-term hardship, the HABD will make the family exempt from the minimum rent requirements.
- (2) The hardship exemption will begin the month following the request for a hardship exemption until the end of the qualifying hardship.
- (3) However, the family receiving the financial hardship will be required to notify the HABD once the family's income has changed at an annual or interim re-examination and the family's calculated TTP is greater than the minimum rent.

**Determination of No Financial Hardship**

- (1) If HABD determines that there is no financial hardship, the minimum rent is reinstated from the start of suspension and the family must repay the back rent owed.
- (2) The family will be offered an opportunity to enter into a reasonable repayment agreement established by HABD for the amount of back rent accrued during the suspension period.

## **SECTION XIV**

### **Orientation of Families and Issuance of Housing Voucher**

#### **Briefing**

The purpose of the briefing is to go over the Housing Voucher holder's packet in order to fully inform the participant about the program so that he/she will be able to discuss it with potential landlords.

#### **Briefing Attendance Requirements**

All families (head of household) are required to attend the briefing when they are initially issued a Housing Voucher. No Housing Voucher will be awarded unless the household representative has attended a briefing.

Failure to attend a scheduled briefing, without notice to the HABD, will result in the family's application being placed in the inactive file and the family may be required to reapply for assistance. Applicants who provide prior notice of an inability to attend a briefing will be scheduled for the next briefing.

Failure of an applicant, without good cause, to participate in a scheduled briefing shall result in withdrawal of his/her application. The applicant will be notified of such withdrawal and determination of ineligibility and of his/her right to an informal review.

#### **Format of the Briefing**

#### **Briefing of Housing Voucher Holders**

When a family initially receives its Housing Voucher, a full explanation of the following shall be provided to assist the family in finding a suitable unit and to apprise the family of its responsibilities and the responsibilities of the Owner. The briefing may be done either in group or individual sessions, in person, or in a virtual setting. Families will be given adequate opportunity to raise questions and to discuss the information listed below.

#### **Information Packet**

When a family is selected to participate in the program, HABD will provide the family a packet, in person, via mail, via electronic mail, or any other electric and/or virtual means, that includes information of the following subjects:

#### **Oral Briefing**

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;

- Where the family can lease a unit, including renting a unit inside or outside the PHA's jurisdiction;
- For families eligible under portability, an explanation of portability. The PHA cannot discourage eligible families from moving under portability;
- For families living in high-poverty census tracts, an explanation of the advantages of moving to areas outside of high-poverty concentrations; and
- For families receiving welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.

The term of the Voucher, and HABD policy on any extensions or suspensions of the term; information explaining how the family can request a term extension;

How the HABD determines the housing assistance payment for a family; information on the payment standard and the HABD utility allowance schedule;

How the HABD determines the maximum rent for an assisted unit;

What the family should consider in deciding whether to lease a unit, including the condition of the unit, whether the rent is reasonable, the cost of any tenant paid utilities and whether the unit is energy efficient, and the location of the unit, including proximity to public transportation, centers of employment, schools and shopping;

Where the family may lease a unit. For a family that qualified to lease a unit outside the HABD jurisdiction under portability procedures, the information packet must include an explanation of how portability works;

The HUD required "lease addendum"; the lease addendum is the language that must be included in the lease;

The form of request for lease approval, and an explanation of how to request HABD approval to lease a unit;

A statement of the HABD policy on providing information about a family to prospective owners;

HABD subsidy standards, including a statement that no exceptions to the standards will be granted;

The HABD brochure on how to select a unit

The HUD lead-based paint (LBP) brochure

Information on federal, state, and local equal opportunity laws, and a copy of the housing discrimination complaint form;

A list of landlords or other parties known to the HABD who may be willing to lease a unit to the family, or help the family find a unit;

Notice that if the family includes a disabled person, the family may request a current listing of accessible units known to the HABD that may be available;

Family obligations under the program;

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

HABD informal hearing procedures: The information must describe when the HABD is required to give a participant family the opportunity for an informal hearing and how to request a hearing.

The number of Housing Vouchers issued – The issuance of the number of Housing Vouchers is based on the funds available for the Housing Voucher Program. Therefore, the HABD must maintain accurate accounting records to determine the number of Housing Vouchers that can be issued.

If funds are insufficient to house the family at the top of the waiting list, the HABD must wait until it has adequate funds before it calls another family from the list.

If the HABD determines that there is insufficient funding after a voucher has been issued, the PHA may rescind the voucher and place the affected family back on the waiting list. The HABD will determine whether it has sufficient funding in accordance with federal regulations.

Families who have their vouchers rescinded will be notified in writing and will be reinstated to their former position on the waiting list. When funding is again available, families will be selected from the waiting list in accordance with HABD Selection policies.

Initial Term – the initial term of a voucher must be at least sixty calendar days. The initial term must be stated on the voucher.

### **Voucher Term**

The term of the voucher is 90 days from the date of issuance. Prior to expiration, the family may contact the HA to inquire about assistance the HA can provide the family in locating suitable housing. The family must submit a Request for Tenancy Approval within the 90-day period unless an extension has been granted by the HA. Once the family has submitted a Request for Tenancy Approval the clock is stopped and/or suspended on the term of the voucher (See “Suspension”). If the unit is not approved for any reason, the remaining days



will be reinstated. If the initial term is not adequate for finding a unit to lease, the family may request an extension of the initial term as described below.

### **Requesting for Extensions of the Term**

A family may request an extension of the Voucher time-period. All requests for extensions should be received prior to the expiration date of the Voucher. Extensions are permissible at the discretion of the HA primarily for the following reasons:

- A. Extenuating circumstances such as hospitalization or a family emergency for an extended period of time which has affected the family's ability to find a unit within the initial 90-day time period. The HA representative will verify the extenuating circumstances prior to granting an extension.
- B. The family has evidence that they have made a consistent effort to locate a unit and request support services from the HA, throughout the initial 90-day period with regard to their inability to locate a unit.
- C. The family has turned in a Request for Tenancy Approval prior to the expiration of the 90-day time period, but the unit has not passed HQS.

### **Extensions of Term**

At its discretion, the HABD may grant a family one or more extensions of the initial term. If a member of the family is a disabled person, and the family needs an extension because of the disability, the HABD must grant a request to extend the term of the Voucher as a reasonable accommodation.

Suspension of Term – The HABD may, at its discretion, grant a family a suspension of the voucher term if the family has submitted a request for lease approval during the term of the voucher. The HABD may grant a suspension for any part of the period after the family has submitted a request for lease approval up to the time when the HABD approves or denies the request.

Progress Report by Family to the HABD – During the initial or any extended term of a voucher, the family may be required to report progress in leasing a unit. Such report may be required at such intervals or times as determined by the HABD.

### **Approval of Lease and Execution of Related Documents**

Program Requirements – the HABD may not give approval for the family to lease a dwelling unit, or execute a HAP contract, until the HABD has determined that all the following meet program requirements.

- The unit is eligible;
- The unit has been inspected by the HABD and passes HQS;
- The lease is approvable and includes the lease addendum;

- The rent to owner is reasonable.

### **Actions Before Lease Term**

All the following must always be completed before the beginning of the lease term:

- The HABD has inspected the unit, and has determined that the unit satisfied the HQS;
- The landlord and the tenant have executed the lease; and
- The HABD has approved leasing of the unit accordance with program requirements.

### **When HAP Contract Is Executed**

The HABD must use best efforts to execute the HAP contract before the beginning of the lease term. The HAP contract must be executed no later than sixty days from the beginning of the lease term.

The HABD may not pay any housing assistance payment to the owner until the HAP contract has been executed.

If the HAP contract is executed during the period of sixty calendar days from the beginning of the lease term, the HABD will pay housing assistance payments after the execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of sixty days).

Any HAP contract executed after the sixty-day period is void, and the HABD may not pay any housing assistance payment to the owner.

### **Notice to Family and Owner**

After receiving the family's request for approval to lease a unit, the HABD must promptly notify the family and owner whether the assisted tenancy is approved.

### **Procedure After HABD Approval**

If the HABD has given approval for the family to lease the unit, the owner and the HABD execute the HAP contract.

## **SECTION XV**

### **HABD Disapproval of Owner**

The HABD must not approve a unit if it has been informed (by HUD or otherwise) that the owner is barred, suspended, or subject to a limited denial of participation.

When directed by HUD, the HABD must not approve a unit if:

- 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 requirement, and such action pending; or
- A court or administrative agency has determined that the owner violated the Fair Housing Act or other Federal equal opportunity requirement.

In its administrative discretion, the HABD may deny approval to lease a unit from an owner for any of the following reasons:

- The owner has violated obligations under housing assistance payment contract;
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in drug trafficking;
- The owner has a history or practice of noncompliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing programs;
- The owner has a history or practice of renting units that fail to meet state or local housing codes; or
- The owner has not paid state or local real estate taxes, fines or assessments;
- The owner is the parent, child, grandparent, grandchild, sister or brother of any member of the family unless HABD determines that approving the unit would provide reasonable accommodation;
- Nothing in this rule is intended to give any owner any right to participate in the program;
- For purposes of this section, “owner” includes a principal or other interested party.

## SECTION XVI

### Owner Responsibility for Screening Tenants

#### Owner Screening

Listing a family on the HABD waiting list, or selecting a family for participation in the program is not a representation by the HABD to the owner about the family's expected behavior, or the family's suitability for tenancy. At or before HABD approval to lease a unit, the HABD must inform the owner that the HABD has not screened the family's behavior or suitability for tenancy and that such screening is the owner's responsibility.

Owners are permitted and encouraged to screen families on the basis of their tenancy histories. An owner may consider a family's background with respect to such factors as:

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

#### HABD Information About the Tenant

The HABD must give the owner:

- The family's current address, as shown in the HABD records; and
- The name and address, if known to the HABD, of the landlord at the family's current and prior address.

The HABD must give the family a statement of the HABD policy on providing information to owners. The statement must be included in the information packet that is given to a family selected to participate in the program. The HABD policy must provide that HABD will give the same types of information to all families and to all owners.

## SECTION XVII

### Lease

Tenant's legal capacity to enter lease – the tenant must have legal capacity to enter into a lease under state or local law.

HABD approval of lease – The assisted lease between the tenant and owner (including any new lease or lease revision) must be approved by the HABD. Before approving the lease or revision, the HABD must determine that the lease meets the requirements of this section.

#### **Required Lease Provisions**

“Lease Addendum” means the lease language required by HUD.

The lease must include word for word all provisions of the lease addendum (e.g., by adding the lease addendum to the form of lease used by the owner for unassisted tenants). However, the HABD may not require families and owners to use a model program lease.

If there is any conflict between the lease addendum and any other provisions of the lease, the provisions required by HUD shall control.

## **SECTION XVIII**

### **Terms of Assisted Tenancy**

#### **Term of HAP Contract**

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

The HAP contract terminates if the lease terminates.

#### **Term of Lease**

The initial term of the lease must be for at least one year.

Endless Lease Elimination: The Owner may not terminate a Section 8 tenancy except for serious or repeated lease violations, for violation of applicable Federal, State, or local law, or for other good cause. Criminal activity is grounds for the tenancy termination.

The Owner may terminate the lease without cause at the end of the initial term and at the end of any term extension.

The lease may provide either automatic definite extensions of the lease term or automatic yearly renewal of the lease. If the owner lease provides for an automatic indefinite extension of the lease after the initial term (i.e. does not provide for a month-to-month or year-to-year extension), the owner may only terminate the tenancy after the initial term for cause. If an owner has a lease for successive definite terms, the owner may offer the family a new or revised lease. The tenant's refusal to accept the new or revised lease may be other good cause for eviction.

The term of the lease terminated if any of the following occurs:

- The owner terminates the lease;
- The tenant terminated the lease;
- The owner and the tenant agree to terminate the lease;
- The HABD terminates the HAP contract; or
- The HABD terminates assistance for the family.

Relation of Lease to ACC: the HABD may approve the lease, and execute the HAP contract, even if there is less than one year remaining from the beginning of the lease term to the end of the last expiring funding increment under the consolidated ACC.

**Lease Termination by the Family**

The family may terminate the lease at any time after the first year, unless the lease is for more than one year. The lease may not require the family to give more than sixty calendar days notice of such termination to the owner.

If the family terminated the lease on notice to the owner, the family must give the HABD a copy of the notice of termination at the same time. Failure to do this is a breach of family obligation under the program.

**New Lease or Revision**

Any new lease or lease revision must be approved in advance by the HABD. The new lease or revision must meet the requirements of this section. The HABD and owner must enter a new HAP contract for the tenancy under the new or revised lease.

The owner may offer the family a new lease, for a term beginning at any time after the initial term. The owner must give the tenant written notice of the offer, with a copy to the HABD, at least sixty calendar days before the proposed beginning date of the new lease term. The offer must specify a reasonable time limit for acceptance by the family.

**Move from Unit**

The family must notify the HABD and the owners before the family moves out of the unit. Failure to do this is a breach of family obligation under the program.

## **SECTION XIX**

### **Owner Termination of Tenancy**

#### **Grounds**

During the term of the lease, the owner may not terminate the tenancy except on the following grounds:

- Serious or repeated violations of the terms and conditions of the lease;
- Violation of federal, state, or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises; or
- Other good cause.

#### **Nonpayment by HABD**

Not grounds for termination of tenancy.

The family is not responsible for payment of the portion of rent to owner covered by the housing assistance payment under the HAP contract between the owner and the HABD.

The HABD failure to pay the housing assistance payment to the owner is not a violation of the lease between the tenant and the owner. During the term of the lease, the owner may not terminate the tenancy of the family for nonpayment of the HAD housing assistance payment.

#### **Criminal Activity**

Any of the following types of criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control shall be cause for termination of tenancy:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents;
- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; or
- Any drug-related criminal activity on or near the premises.

#### **Other Good Cause**

“Other good cause” for termination of tenancy by the owner may include, but is not limited to, any of the following examples:

- Failure by the family to accept the offer of a new lease or revision;



- A family history of disturbance of neighbors or destruction of property, or of living or housekeeping habits resulting in damage to the unit or premises;
- The owner’s desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit;
- A business or economic reason for termination of the tenancy, such as sale of the property, renovation of the unit, desire to lease the unit at a higher rental rate.

During the first year of the lease term, the owner may not terminate the tenancy for “other good cause”, unless the owner is terminating the tenancy because of something the family did or failed to do. For example, during this period, the owner may not terminate the tenancy for “other good cause” based on any of the following grounds:

- Failure by the family to accept the offer of a new lease or revision;
- The owner’s desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit;
- The owner’s desire to change the use of the unit for a business or economic reason.

**Owner Notice of Termination - Notice of Grounds**

The owner must give the tenant written notice that specifies the grounds for termination of tenancy. The notice of grounds must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

**Eviction Notice**

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action.

The Owner must give the HABD a copy of any owner eviction notice to the tenant.

**Eviction by Court Action**

The owner may only evict the tenant from the unit by instituting a court action.

## **SECTION XX**

### **Housing Assistance Payments**

#### **Payments Under HAP Contract**

Housing assistance payments are paid to the owner in accordance with the terms of the HAP contract. Housing assistance payments may only be paid to the owner during the lease term, and while the family is residing in the unit. Housing assistance payments are considered paid as of date mailed.

#### **Termination of Payment When the Owner Terminates the Lease**

Housing assistance payments terminate when the lease is terminated by the owner in accordance with the lease. However, if the owner has commenced the process to evict the tenant, and if the family continues to reside in the unit, the HABD must continue to make housing assistance payment to the owner in accordance with the HAP contract until the owner has obtained a court judgment or other process allowing the owner to evict the tenant. The HABD may continue such payments until the family moves from or is evicted from the unit.

Other reasons for HAP termination:

- The lease terminated;
- The HAP contract terminates; or
- The HABD terminates assistance for the family.

#### **Family Moves Out**

If the family moves out of the unit, the HABD may not make any housing assistance payment to the owner for any month after the month when the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit), and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

## **SECTION XXI**

### **Absence from the Unit**

The family may not be absent from the assisted unit for a period of more than fourteen (14) consecutive calendar days. Absences exceeding fourteen consecutive calendar days must be approved by the HABD, in writing, PRIOR to the absence. Those absences exceeding the maximum fourteen days must be supported by evidence of extenuating circumstances.

Housing assistance payments terminate if the family is absent for longer than the maximum period permitted. The term of the HAP contract and assisted lease also terminate. The owner must reimburse the HABD for any housing assistance payment for the period after the termination.

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

Information, certification, and verification regarding absences:

- The family must supply any information or certification, requested by the HABD to verify that the family is residing in the unit, or relating to family absence from the unit. The family must cooperate with the HABD for this purpose. The family must promptly notify the HABD of absence from the unit, including any information requested on the purposes of the family absences;
- The HABD may adopt appropriate techniques to verify family occupancy or absence, including letters to the family at the unit, phone calls, visits or questions to the landlords or neighbors;
- HABD will consider resumption of assistance after an absence, including re-admission, upon written request. No consideration will be given such request unless evidence of extenuating circumstances is verified.

## **SECTION XXII**

### **Security Deposit – Amounts Owed by the Tenant**

The owner may collect a security deposit from the tenant.

The HABD may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

When the tenant moves out of the dwelling unit, the owner, subject to state or local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid rent payable by the tenant, damages to the unit or for the other amounts the tenant owes under the lease.

The owner must give the tenant a written list of all items charges against the security deposit, and the amount of each item. After deducting the amount, if any, used to reimburse the owner, the owner must refund promptly the full amount of the unused balance to the tenant.

If the security deposit is not sufficient to cover amount the tenant owes under the lease, the owner may seek to collect the balance from the tenant. The HABD is not responsible for any damages to the unit and will not process any damage claims.

## SECTION XXIII

### Move with Continued Tenant-Based Assistance

A participant family may move to a new unit with continued tenant-based assistance if:

- The assisted lease for the old unit has terminated. This includes a termination because:
  - The HABD has terminated the HAP contract for the Owner's breach; or
  - The lease has terminated by mutual agreement of the owner and the tenant.
  - The tenant has given notice of lease termination (if the tenant has a right to terminate the lease on notice to owner, for owner breach or otherwise).

#### **HABD Restricts the Number of Moves**

No move is allowed during the initial year of assisted occupancy.

No more than one move will be allowed during any one-year period.

**NOTE: An exception would be granted only if the unit occupied by the tenant is disqualified because of HQS violations.**

Policy regarding the number of moves applies to moves within the HABD jurisdiction by a participant family, and to moves by a participant family outside the HABD jurisdiction under portability procedures.

#### **Family Notice of Intent to Vacate**

If the family terminated the lease on notice to the owner, the family must give the HABD a copy of the notice at the same time. The family is asked to notify HABD of their plans to move 90 days prior to the planned moving date to allow time for income verifications and calculations.

If the family wants to move to a new unit, the family must notify the HABD and the owner before moving from the old unit. If the family wants to move to a new unit that is located outside the HABD jurisdiction, the notice must specify the area where the family wants to move.

The HABD may deny permission to move if:

- Sufficient funding is not available for continued assistance;

The HABD will deny a family permission to move on grounds that the HABD does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the HABD; (b) the HABD can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) the HABD can demonstrate, in accordance with federal regulations, that it does not have sufficient funding in its annual budget to accommodate the high subsidy costs. This policy applies to moves within the HABD's jurisdiction as well as to moves outside it under portability.

- At any time, in accordance with 24 CFR (grounds for denial or termination of assistance).

## SECTION XXIV

### Family Break-Up 24 CFR 982.315

HABD has discretion to determine which members of an assisted family continue to receive assistance in the program if the family breaks up. The factors to be considered in making this decision will include, in the order of priority:

- The interest of minor children, or if ill, elderly or disabled family members;
- Whether family members are forced to leave the unit as a result of actual or threatened physical violence against family members by a spouse or other member of the household;
- Whether the assistance should remain with family members remaining in the original assisted unit.

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

**In the event that the Head of Household dies and the remaining household members are minors:** The PHA will allow a temporary adult guardian to reside in the unit and receive subsidy until a court-appointed guardian is established. The temporary guardian must sign an affidavit acknowledging that he/she is aware of the process and may be required to move from the assisted unit or the assistance may be moved from their current unit to the new court-appointed guardian's residence (pending the unit is eligible for assistance). The temporary guardian must complete the following steps in order to become and remain eligible, until the court award:

- Complete an affidavit, or form subscribed by the PHA;
- Upon request for subsidy transfer, submit any/all household documents for eligibility of assistance to be determined, including but not limited to: completion of an application, background check, government issued photo ID (ages 18 and older), social security cards, birth certificates, wages, unemployment benefits, social security/SSI income, any other income received, bank statements, food stamp award letters, any other asset information, child care (if any), and any other deductions. This information is needed for every household member to be added into the assisted household;
- Submit an updated status report regarding permanent court-awarded guardianship every 90 days.

HABD will work with Child Protective Services and/or DHR to determine the best temporary guardian, in the event that the agency, HABD, is presented with possible multiple guardians.

*\*Failure to abide by program regulations and providing requested information may lead to denial of the assistance transfer request and/or termination of assistance.*

**In the event that the Head of Household dies and the remaining household member is a live-in aide:** The live-in aide is not entitled or eligible for any rental assistance or continued occupancy in a subsidized unit. By definition, the live-in aide would not be living in the subsidized unit except to provide the necessary supportive services on behalf of the person needing the live-in aide's assistance. The live-in aide may not be designated as the new head of household, nor should a change in relation code on Form 50058 for them to become an eligible household member, nor shall HAP on behalf of the live-in aide be paid for any month after the head of household died.

**In the event that the Head of Household dies in a single member household:** The PHA must terminate assistance to be effective the last date of the month when the head of household died. The landlord is only entitled to receive HAP for the month in which the tenant death occurred. Any subsequent payment must be recouped from the landlord/owner within 30 days of knowledgeable error.

**In the event that the Head of Household dies with multiple adult household members:** The PHA will follow the priority level listed above under Family Break-Up and factors surrounding each individual case to determine who will be eligible for continued assistance.



## **SECTION XXV**

### **Ineligible Housing Types**

The following types of housing may not be assisted by the HABD in the tenant-based programs:

- A public housing or Indian housing unit;
- A unit receiving project-based assistance under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- Nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services;
- College or other school dormitories;
- Units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions;
- A unit occupied by its owner or by a person with any interest in the dwelling unit.

#### **Prohibition Against Other Housing Subsidy**

A family may not receive the benefit of tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance, including tenant-based assistance;
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 Farmers Home Administration program;
- Any local or state rent subsidy; or

- Any other duplicative federal, state, or local housing subsidy, as determined by HUD; for this purpose, “housing subsidy” does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

## SECTION XXVI

### Where Family Can Lease a Unit with Tenant-Based Assistance

#### **Assistance in the Initial HA Jurisdiction**

The family may receive tenant-based assistance to lease a unit located anywhere in the jurisdiction (as determined by state and local law) of the initial HA.

#### **Portability**

Assistance outside the initial HA jurisdiction: Families living in the jurisdiction of the initial HA may receive tenant-based assistance to lease a unit in the jurisdiction of a HA anywhere in the United States that is administering a tenant-based program.

**Note: Non-resident applicants (applicants that do not live in the legal jurisdiction of the initial HA) that apply for tenant-based assistance do not have any right to lease a unit outside of the initial HA's jurisdiction during the twelve (12) month period from the time the family is admitted to the program. However, the family may lease a unit outside the initial HA's jurisdiction under portability procedures if the initial HA chooses.**

#### **Income Eligibility**

For admission to the Voucher program, a family must be income eligible in the area where the family initially leases a unit with assistance in the Voucher program.

If a portable family was already a participant in the initial HA program, income eligibility is not redetermined.

#### **Leasing In-Place**

If the dwelling unit is approvable, a family may select the dwelling unit occupied by the family before selection for participation in the program.

#### **Freedom of Choice**

When the family selects eligible housing that meets all program requirements, the HABD may not directly or indirectly reduce the family's opportunity to select among available units.

## **SECTION XXVII**

### **Portability - Administration by Initial HA Outside the Initial HA Jurisdiction**

When a family moves under portability to an area outside the HABD jurisdiction, the HABD must administer assistance for the family if the unit is located within the same state as the HABD, in the same metropolitan statistical area (MSA) as the HABD but in a different state, or in a MSA that is next to the same MSA as the HABD (but in a different state); and no other HA with a tenant-based program has jurisdiction in the area where the unit is located.

In these conditions, the family remains in the program of the HABD. The HABD has the same responsibilities for administration of assistance for the family living outside the HABD jurisdiction as for other families assisted within the HABD jurisdiction. For the purpose of permitting HABD administration of program assistance for the family in the area outside of the HABD jurisdiction as defined by state and local law (and thereby to satisfy the family's right to portability under federal law), the federal law and this regulation preempt limits on the HABD jurisdiction under state and local law.

The HABD may choose to use another HA, a private management entity or other contractor or agent to help administer assistance outside the HABD jurisdiction as defined by state or local law.

## **SECTION XXVIII**

### **Portability - Administration by Receiving HA**

When a family moves under portability to an area outside the initial HA jurisdiction, another HA (receiving HA) must administer assistance for the family if a HA with a tenant-based program has jurisdiction in the area where the unit is located.

In these conditions, a HA with jurisdiction in the area where the family wants to lease a unit must issue the family a Voucher. If there is more than one such HA, the initial HA may choose the receiving HA.

The initial HA must advise the family how to contact and request assistance from the receiving HA. The initial HA must promptly notify the receiving HA to expect the family.

The family must promptly contact the receiving HA, and comply with the receiving HA procedures for incoming portable families.

The initial HA must give the receiving HA the most recent HUD Form 50058 (Family Report) for the family, and related verification information. The receiving HA may not delay issuing the family a Voucher or otherwise delay approval of a unit unless the re-certification is necessary to determine income eligibility.

When the portable family requests assistance from the receiving HA, the receiving HA must promptly inform the initial HA whether the receiving HA will bill the initial HA for assistance on behalf of the portable family, or will absorb the family into its own program.

The receiving HA must issue a Voucher to the family. The term of the receiving HA voucher may not expire before the expiration date of the initial HA Voucher. The receiving HA must determine whether to extend the Voucher term. The family must submit a request for lease approval to the receiving HA during the term of the receiving HA voucher.

The receiving HA must determine the family unit size for the portable family. The family unit size is determined in accordance with the subsidy standards of the receiving HA.

The receiving HA must promptly notify the initial HA if the family has leased an eligible unit under the program, or if the family fails to submit a request for lease approval for an eligible unit within the term of the voucher.

To provide tenant-based assistance for portable families, the receiving HA must perform all HA program functions, such as reexaminations of family income and composition. At any time, either the initial HA or the receiving HA may make a determination to deny or terminate assistance to the family.

**Absorption by the Receiving HA**

If funding is available under the consolidated ACC for the receiving HA voucher program when the portable family is received, the receiving HA may absorb the family into the receiving HA voucher program. After absorption, the family is assisted with funds available under the consolidated ACC for the receiving HA tenant-based program.

HUD may require that the receiving HA absorb all or a portion of the portable families.

**Portability Billing**

To cover assistance for a portable family, the receiving HA may bill the initial HA for housing assistance payments and administrative fees. This paragraph describes the procedure.

The initial HA must promptly reimburse the receiving HA for the full amount of the housing assistance payments made by the receiving HA for the portable family. The amount of the housing assistance payment for a portable family in the receiving HA's program is determined in the same manner as for other families in the receiving HA's program.

The initial HA must promptly reimburse the receiving HA for 80% of the initial HA on-going administrative fee for each unit month that the family receives assistance under the tenant-based programs from the receiving HA.

HUD may reduce the administrative fee to an initial HA if the HA does not promptly reimburse the receiving HA for housing assistance payments or fees in behalf of portable families.

In administration of portability, the initial HA and the receiving HA must comply with financial procedures required by HUD, including the use of HUD-required billing forms. The initial and receiving HA must comply with billing and payment deadlines under the financial procedures. HUD may assess penalties against an initial or receiving HA for violation, as determined by HUD, or HUD portability requirements.

A HA must manage the HA tenant-based program in a manner that ensures that the HA has the financial ability to provide assistance for families that move out of the HA program under the portability procedures that have not been absorbed by the receiving HA, as well as for families that remain in the HA program.

When a portable family moves out of the tenant-based program of a receiving HA that has not absorbed the family, the HA in the new jurisdiction to which the moves becomes the receiving HA, and the first receiving HA is no longer required to provide assistance for the family.

## XXIX

### Subsidy Standards 24 CFR 982.402

HUD guideline require that PHA's establish subsidy standards for the determination of family unit size and those standards provide for a minimum commitment of subsidy while avoiding overcrowding. The standards used for the unit size selected by the family must be within the minimum unit size requirements of HUD's Housing Quality Standards. This Section explains the subsidy standards that will be used to determine the voucher size (family unit size) for various sized families when they are selected from the waiting list, as well as the HABD's procedures when a family's size changes or a family selects a unit size that is different from the Voucher.

#### A. DETERMINING FAMILY UNIT (VOUCHER) SIZE

1. The HABD does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the Voucher. The HABD's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines.
2. All standards in this section relate to the number of bedrooms on the Voucher, not the family's actual living arrangements.
3. The unit size on the Voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.
4. One bedroom will generally be assigned for each two family members, except in the following circumstances:
  - Persons of the opposite sex (other than head/co-head) will be allocated separate bedrooms,
  - Family members of different generations will be allocated separate bedrooms regardless of sex or age (ex. Grandmother; mother; daughter),
  - Dependents of the same sex with an age differential of more than ten (10) years will be allocated separate bedrooms,
  - A pregnant individual with no other household members will be allocated a two bedroom,
  - HABD will consider alternative voucher sizes for households as a reasonable accommodation for medical purposes,

- Live-in attendants will be provided a separate bedroom. No additional bedrooms are provided for the attendant’s family.
5. Space will not be provided for a family member, who will be absent most of the time, other than for the following persons:
- a spouse, for such reasons as being away in the military;
  - a child who is temporarily away from the home because of placement in foster care;
  - a person who is temporarily away from the home because they are enrolled in college or other higher leaning facility.

Voucher Size	Number of Persons	
	Minimum	Maximum
1 BR	1	2
2 BR	2	4
3 BR	3	6
4 BR	4	8
5 BR	5	10
6 BR	6	12

**B. EXCEPTIONS TO SUBSIDY STANDARDS**

The HABD shall grant exceptions from the subsidy standard if the family requests and the HABD determines, the exceptions are justified based on the relationship, age, sex, health, handicap or disability of family members, or other individuals’ circumstances. All such must be verified (i.e., doctor). The HABD will grant 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.

**Request for Separate Bedroom Due to Medical Reasons:**

The family must request the exception in writing. A physician or other qualified medical professional must verify via third-party documentation, the medical need for the separate bedroom. These accommodations will be granted upon verification that they meet the need presented by the disability or medical condition. The HABD will assess if the need can be met without a separate bedroom (i.e., separated beds instead). The family must also provide written documentation justifying an additional bedroom at the time of each subsequent annual re-certification. If the request is denied, the family will be notified in



writing with the reason and have a right to request an informal review or informal hearing.

### **PHA Error**

If the HABD makes an error in the bedroom size designation, the family will be issued a Voucher of the appropriate size at the time the error is discovered. If the family decides to remain in the same unit, and it is not overcrowded, the payment standard will be corrected to the lower of the new voucher size, or the actual unit size effective on the reexamination date.

### **Changes for Applicants**

The composition is defined at the time of intake as the members identified in the full application. The voucher size is determined prior to the briefing by comparing the family composition to the HABD subsidy standards. If an applicant requires a change in the voucher size, after the voucher has been issued, based on the requirements of the HABD subsidy standards, the above referenced guidelines apply.

If a family member identified in the full application will be temporarily absent for reasons not detailed in Section A. Determining Family Unit Size #6, the family voucher size will be issued without that member. If the family requests to add the absent member with proper verification within 60 days of the initial voucher issuance date, the HABD will grant the family an increase in the voucher size, as warranted by the addition of that member, regardless of birth, adoption or court-awarded custody status. However, if the family has already been housed at the time of the request to add the member, this new voucher size with the increase will not be issued until the next re-exam, as long as it does not exceed housing quality standard space limitations. If this occurs before the family is initially housed, the voucher size can increase at that time.

### **Changes for Participants**

The HABD must approve the members of the family residing in the unit. 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 HABD within 10 (ten) calendar days. The above guidelines will apply.

When a family composition change results in a change of family voucher size (increase or decrease) and the family is currently housed, the HABD will not issue the new voucher size, nor change the subsidy level (payment standard) until the next annual re-exam interim move (unit transfer), unless the unit fails to meet HQS guidelines for space limitations.

If HQS space limitations are adversely affected, the family will be issued the new voucher size and allowed to break the lease, in accordance with HUD's contract and lease addendums and allowable moves under this Administrative Plan. If the family is not currently housed, the voucher will be adjusted at the time.

### **Bedroom Size Rules on Existing Participants:**

At the time of the annual recertification, every household, whether moving or staying, will be evaluated using the new subsidy standard rules to determine bedroom size eligibility.

The HABD will issue a voucher using the subsidy rules that are/will be in effect at the time of the HAP Contract effective date, not the voucher issuance date.

If the new subsidy eligibility results in a decrease in bedroom size:

- The family will NOT be grandfathered in at the current larger voucher size, regardless of moving or staying.
- The family will be issued a voucher with the new reduced bedroom size. The family will be given opportunity to move to a smaller unit, within the guidelines contained in this Administrative Plan regarding moves and family obligations. The affordability test does not apply if the family decides to stay in the oversized unit.

### **Under-Housed Over-Housed Families:**

If the family's voucher size changes during the term of a HAP contract, the HABD must factor the payment standard for the new family voucher size at the next annual re-examination. This is true, regardless of whether the HABD has made any changes in its payment standard schedule. A voucher will not be issued; the file will be documented with reported change only.

**Under Housed** – This may occur when there is an **increase** in family size (results in unit being smaller than what the family is eligible for).

- a) If the unit meets HQS space standards, the HABD may issue a voucher at the next re-examination. In order for the family to move, they must follow their lease and this Administrative Plan's rules for allowable moves with continued assistance.
- b) If the unit does not meet HQS space standards due to an increase in family size, by birth, adoption, marriage or court-awarded custody, the HABD will issue a new voucher of the appropriate size and assist the family in locating a suitable unit, even if the family is currently housed. The effective date for factoring the increased subsidy in the rent calculation is the effective date of the new HAP Contract.
- c) The HABD will not approve additions to the family, other than by birth, adoption, court-awarded custody, if it will cause overcrowding. The family may have the option of first eliminating the reason for overcrowding. This can be done by moving to a larger unit (within the rules for moving with continued assistance contained in this Administrative Plan and lease provisions). However, the voucher size and subsidy will not change. The family may choose to eliminate

overcrowding by an existing family member moving out and providing third-party verification of permanence of said move.

**Over-Housed**- This may occur when there is a **reduction** in family size (results in unit being bigger than what the family is eligible for).

- a) If a family is occupying a unit, which has more bedrooms than allocated under the HABD's subsidy standards, the HABD will allow the family to remain in the same unit without changing the payment standard until the next re-examination. The family may opt to stay in the over-housed unit at re-examination, factoring the payment standard of the new decreased voucher size in the rent calculation effective with the new re-examination period. The family acknowledges the increased financial responsibility, if they choose to remain in the oversized unit. This is within HUD and HABD guidelines.

**Exceptions to Over-Housed and Under- Housed policy**: The HABD will also notify the family of the circumstances under which an exception will be granted, such as:

- a) If a family with a disability is under-housed in an accessible unit (causing and overcrowded unit).
- b) If a family requires the additional bedroom because of a health problem that has been verified by the PHA.

### **C. UNIT SIZE SELECTED**

The family may select a different size dwelling unit than that listed on the Voucher. The following criteria shall apply:

**Subsidy Limitation**: The family size is determined for a family under the HABD subsidy standard for a family assisted in the voucher program is based on the HABD's adopted payment standards. The payment standard for a family shall be the lower of the following:

- a) The payment standard amount for the family unit size (voucher); or
- b) The payment standard amount for the unit size rented by the family (actual).

**Affordability Limitation**: If a family enters into a new lease agreement which requires the Housing Authority to execute a new Housing Assistance Payments (HAP) contract for a dwelling unit with a gross rent in excess of the payment standard as determined above, the total tenant payment cannot exceed 40% of the household's monthly adjusted income. HABD will not approve a lease for a unit that is not affordable pursuant to this 40% limitation.

**Utility Allowances:** The utility allowance used to calculate the gross rent is the lesser of the size of the dwelling unit leased by the family or the family unit size, as determined under the PHA subsidy standards.

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

## **SECTION XXX**

### **Inspections of Private Landlord's Property**

When the HA receives a Request for Lease Approval, the HA shall inspect the unit for compliance with the HA's housing quality standards (HQS). The HA's inspector will inspect the unit for compliance with HQS standards and send the owner the results of the inspection. If there are defects or deficiencies which must be corrected in order for the unit to comply with HQS standards, the owner shall be advised, in writing, by the HA of the work required to be done before a contract can be executed. The unit will be reinspected to ascertain that the necessary work has been performed and the unit meets HQS standards for occupancy.

The HA will maintain a copy of every inspection and re-inspection report for three years, with one exception. If the unit inspected requires testing for lead-based paint and/or the unit requires treatment of chewable surfaces based on the testing, the HA shall keep indefinitely the test results and, if applicable, the owner certification of the treatment. The inspection reports will specify the defects or deficiencies which must be corrected in order for the unit to meet HQS standards. The inspection report will also reflect any other defects or deficiencies that do not cause the unit to fail, in the event of a subsequent claim by the owner that they were caused during the period of occupancy by the family.

## **SECTION XXXI**

### **Inspection Standards**

Before a unit can be approved for occupancy under the Section 8 Program, the unit must meet the performance requirements set forth in 24 CFR Housing Quality Standards (HQS's).

#### **HQS Inspection Areas**

The following areas are included in HQS inspections:

- Sanitary facilities;
- Food preparation and refuse disposal;
- Space and security;
- Thermal environment;
- Illumination and electricity;
- Structure and materials;
- Interior air quality;
- Water supply;
- Defective paint surfaces (in units built prior to 1978);
- Access;
- Site and neighborhood;
- Sanitary condition; and
- Smoke detectors.

The HA's inspection only certifies that the unit meets HQS requirements and the HA is not responsible for items not included in the HQS inspection. The HA will use HUD approved inspection forms to perform Section 8 inspections.

## **Special Requirements for Defective Paint Surfaces (units built prior to 1978)**

### **Non-EBL Children**

When children under six years of age live in a household where the HQS inspection revealed deteriorated paint surfaces, including chipping, peeling, chalking, teeth marks, or any other defects in the paint surface in excess of the limits as found in the Federal Regulations, the landlord must test and/or stabilize the lead based hazard in accordance with the applicable federal and/or state rules and regulations. The family must be protected in accordance with the regulations.

### **EBL Children**

If a family member under six (6) years of age with an EBL is to reside in a unit built prior to 1978, the unit must be tested for lead based paint and, if found positive, treated with interim controls or abated in accordance with the regulations or have Health Department certification that the lead based paint hazard reduction is complete. The family must be protected in accordance with the regulations.

### **Types of HQS Inspections**

Initial Inspections: Performed by the HA Inspectors after receiving the Request for Lease Approval from the applicant.

Yearly Inspections: As required by HQS for tenants continuing to receive assistance and remaining in the same unit.

Biennial Inspections: HABD hereby adopts the flexibility allowed by Congress and HUD to conduct inspections on a biennial basis. HUD requires the HABD to inspect each unit under a HAP contract at least annually or biennially to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.

For participants continuing to receive assistance and remaining in the same unit, a new inspection is required within 730 days of the last inspection. The HABD reserves the right to inspect certain dwelling units annually if the history of past inspections reflects a high rate of HQS failures, or more frequently if a special inspection is requested.

Section 220 of the 2014 Appropriations Act allows the HABD to comply with the requirement to inspect assisted dwelling units during the term of a HAP contract by inspecting such units not less than biennially instead of annually and to rely upon alternative inspection methods to meet this requirement. However, the HABD may not use the alternative inspection method in lieu of the initial unit or any interim inspection. Any alternate inspection method used by the HABD, will be in compliance with HQS requirements and consistent with federal regulations.

The HABD is still required to conduct an initial inspection, prior to entering into a HAP contract, and interim inspections, if a family or government official notifies the HABD of a

unit's failure to comply with housing quality standards, in accordance with the HQS of the HCV program.

If a family or government official reports a condition that is life-threatening (i.e., the HABD would require the owner to make the repair within no more than 24 hours in accordance with 24 CFR 982.404(a)(3)), then the HABD must inspect the housing unit within 24 hours of when the HABD received the notification. If the reported condition is not life-threatening (i.e., the HABD would require the owner to make the repair within no more than 30 calendar days), then the HABD must inspect the unit within 15 days of when the HABD received the notification. In the event of extraordinary circumstances, such as if a unit is within a Presidentially declared disaster area, HUD may waive the 24-hour or the 15-day inspection requirement until such time as an inspection is feasible.

Re-Inspections: Inspections that are performed by HA staff for the purpose of verifying that deficiencies noted in the previous inspection have been corrected and meet HQS.

Quality Control Inspections: The Leased Housing Manager will re-inspect a minimum of five (5) percent, with an annual goal of ten (10) percent, based on a random sample of the total number of Section 8 units under HAP contract to insure that inspections are being performed in compliance with HQS standards. The Vice President of Assisted Housing may perform some of the inspections, as needed. The Leased Housing Manager will maintain a file that documents the quality control inspections.

Special Inspections: These types of inspections may be necessary when a Federal Official visits the HA to perform a compliance review and/or the Owner may request a special inspection be performed to document the condition of the unit.



## **SECTION XXXII**

### **Terminating HAP Contract – When Unit Is Too Large or Small**

If the HABD determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, the HABD must issue the family a new voucher and the family must try to find an acceptable unit as soon as possible.

If an acceptable unit is available for rental by the family, the HABD must terminate the HAP contract in accordance with its terms. When the HABD terminates the HAP contract, HABD must notify the family and the owner of the termination.

## **SECTION XXXIII**

### **Maintenance - Owner and Family Responsibility; HABD Remedies**

#### **Owner Obligation**

The owner must maintain the unit in accordance with HQS. If the owner fails to maintain the dwelling unit in accordance with HQS, the HABD must take prompt and vigorous action to enforce the owner obligations. HABD remedies for such breach of the HQS include termination, suspension, or reduction of housing assistance payments and termination of the HAP contract.

The HABD must not make any housing assistance payments for a dwelling unit that fails to meet the HQS unless the owner corrects the defect within the period specified by the HABD and the HABD verifies the correction. If a defect is life threatening, the owner must correct the defect within no more than 24 hours. For other defects, the owner must correct the defect within no more than 30 calendar days (or any HABD approved extension).

The owner is not responsible for a breach of the HQS that is not caused by the owner and for which the family is responsible. However, the HABD may terminate assistance to a family because of HQS breach caused by the family.

#### **Family Obligation**

The family is responsible for a breach of the HQS that is caused by any of the following:

- The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the tenant;
- The family fails to provide and maintain any appliances that the owner is not required to provide but which are to be provided by the tenant; or
- Any member of the household or guest damages the dwelling unit or premises (damages beyond ordinary wear and tear).

If an HQS breach caused by the family is life threatening, the family must correct the defect within no more than 24 hours. For other family caused defects, the family must correct the defect within no more than 30 calendar days (or any HABD approved extension).

If the family has caused a breach of the HQS, the HABD must take prompt and vigorous action to enforce the family obligations. The HABD may terminate assistance for the family.

#### **Verification of HQS Repairs**

All deficiencies and/or failed items identified during an HQS inspection must be corrected within the timeframe noted on the inspection notice or any approved extension periods

granted by The Housing Authority of the Birmingham District (HABD). The HABD must verify all required repairs were completed.

The HABD will verify that corrections have been made by re-inspecting the unit. In situations where it is not feasible to re-inspect the unit timely or the deficiencies/violations are minimal and/or not considered serious violations or life threatening in nature, the HABD may accept a written certification from the landlord that the corrections have been made in lieu of conducting a re-inspection. The HABD may, on a case-by-case basis at their discretion, conduct a physical re-inspection.

If the property has failed inspection and all repairs have been completed in a satisfactory manner, the landlord and tenant must sign the Housing Quality Standards Self-Certification Repair Form to verify that all deficiencies listed on the HQS Failed Notice have been corrected. The Housing Authority will allow self-certification for corrections of non-life threatening, non-emergency HQS deficiencies that are the responsibility of the landlord. Landlords can only self-certify repairs for annuals, special and quality control inspections.

## **SECTION XXXIV**

### **Housing Assistance Payments Contract**

The housing assistance payments contract (HAP contract) is a contract between the HABD and an owner. In the HAP contract for tenant-based assistance, the owner agrees to lease a specified dwelling unit to a specified eligible family, and the HABD agrees to make monthly housing assistance payments to the owner for the family.

The contract must be in the form required by HUD.

The term of the HAP contract is the same as the term of the lease.

The amount of the monthly housing assistance payment by the HABD to the owner is determined by the HABD in accordance with HUD regulations and other requirements. The amount of the housing assistance payment is subject to change during the HAP contract term.

The monthly housing assistance payment by the HABD is credited toward the monthly rent to owner under the family's lease.

The total of rent paid by the tenant plus the HABD 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 HABD.

The part of the rent to owner which is paid by the tenant may not be more than the rent to owner minus the HABD housing assistance payment to the owner.

The owner may not demand or accept any rent payment from the tenant in excess of this maximum, and must immediately return any excess rent payment to the tenant.

The family is not responsible for payment of the portion of the rent to owner covered by the housing assistance payment under the HAP contract between the owner and the HABD.

The HABD must pay the housing assistance payment promptly when due to the owner in accordance with the HAP contract. If the HABD failed to make timely payment, the HABD may be obligated to pay a late payment fee in accordance with state or local law. However, unless authorized by HUD, the HABD may only use the following sources for payment of such late payment fee:

- Administrative fee income;
- Administrative fee reserve

## **SECTION XXXV**

### **Owner Responsibilities**

The owner is responsible for performing all of the owner's obligations under the HAP contract and the lease.

The owner is responsible for:

- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit and deciding if the family is suitable for tenancy of the unit;
- Maintaining the unit in accordance with HQS, including performance of ordinary and extraordinary maintenance;
- Complying with equal opportunity requirements;
- Preparing and furnishing to the HABD information required under the HAP contract;
- Collecting from the family any security deposit, the tenant contribution, and any charges for unit damage by the family;
- Enforcing tenant obligations under the lease;
- Paying for utilities and services (unless paid by the family under the lease).
- Obtaining and keeping home owner's and/or rental insurance for the unit to be rented on the Section 8 Program effective with any new HAP contracts as of 07/01/2018:
  - In the event of involuntary displacement (fire or natural disaster) whereas the unit is uninhabitable, the owner should assist with temporary living arrangements for the family;
  - Proof of property and/or rental insurance should be submitted at the time of executing the HAP Contract.

## **SECTION XXXVI**

### **Owner Breach of Contract**

Any of the following actions by the owner (including a principal or other interested party) is a breach of the HAP contract by the owner:

- If the owner has violated any obligation under the HAP contract for the dwelling unit, including the owner's obligation to maintain the unit in accordance with the HQS;
- If the owner has violated any obligation under any other housing assistance payment contract under Section 8 of the 1937 Act;
- If the owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable mortgage insurance or loan program, with the mortgage or mortgage note, or with the regulatory agreement; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan;
- If the owner has engaged in drug trafficking.

The HABD rights and remedies against the owner under the HAP contract include recovery of overpayment or other reduction of housing assistance payment, termination of housing assistance payments, and termination of the HAP contract.

## **SECTION XXXVII**

### **Termination of HAP Contract – Insufficient Funding**

The HABD may terminate the HAP contract if it determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

The HABD will determine whether there is sufficient funding to pay for currently assisted families according to federal regulations. If the HABD determines there is a shortage of funding, prior to terminating any HAP contracts, the HABD will determine if any other actions can be taken to reduce program costs. If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current program participants, the HABD will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, the HABD will inform the local HUD field office. The HABD will terminate the minimum number needed in order to reduce HAP costs to a level within the HABD's annual budget authority.

If the HABD must terminate HAP contracts due to insufficient funding, the HABD will do so in accordance with the following criteria and instructions:

- The HABD will utilize a lottery system that includes all then current HABD participants in order to determine those families who will be terminated from the program as a result of insufficient funding. Assistance for the elderly, disabled, families in the extremely low income category and Homeownership families will not be terminated;
- The HABD will utilize the services of an independent source to develop and implement the lottery system for the purpose of determining those families who will be terminated from the program as a result of insufficient funding.

## **SECTION XXXVIII**

### **Termination of HAP Contract – Expiration**

The HAP contract terminates automatically 180 calendar days after the last housing assistance payment to the owner.



## **SECTION XXXIX**

### **Third Parties**

Even if the family continues to occupy the unit, the HABD may exercise any rights and remedies against the owner under the HAP contract.

The family is not a party to or third-party beneficiary of the HAP contract. The family may not exercise any right or remedy against the owner under the HAP contract. However, the tenant may exercise any right or remedies against the owner under the lease between the tenant and the owner.

The HAP contract shall not be construed as creating any right of the family or other third-party (other than HUD) to enforce any provision of the HAP contract, or to assert any claim against HUD, the HABD or the owner under the HAP contract.

## **SECTION XL**

### **Family Obligations – Denial and Termination of Assistance**

#### **Obligations of a participant family under the program**

##### **Supplying Required Information**

The family must supply any information the HABD or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status. Information includes any requested certification, release or other documentation.

The family must supply any information requested by the HABD or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirement.

The family must disclose and verify social security numbers and must sign and submit consent forms for obtaining information.

Any information supplied by the family must be true and complete.

The family is responsible for a Housing Quality Standards breach caused by the family.

The family must allow the HABD to inspect the unit at reasonable times and after reasonable notice.

The family may not commit any serious or repeated violation of the lease.

The family must notify the HABD and the owner before the family moves out of the unit, or terminates the lease on notice to the owner.

The family must promptly give the HABD a copy of any owner eviction notice.

##### **Use and Occupancy of Dwelling Unit**

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 HABD. The family must promptly inform the HABD of the birth, adoption, or court-awarded custody of a child. The family must request HABD approval to add any other family member as an occupant of the unit. The family must promptly notify the HABD if any family member no longer resides in the unit. If the HABD has given approval, a foster child or live-in aide may reside in the unit. 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 for residency by members of the family. The family must not sublease or let the unit. The family must not assign the lease or transfer the unit.

The family must supply any information or certification requested by the HABD to verify that the family is living in the unit, or relating to family absence from the unit, including any HABD requested information or certification of family absence. The family must promptly notify the HABD of absence from 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 program.

The members of the family may not engage in drug-related criminal activity or violent criminal activity.

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 federal, state, or local housing assistance program.

## **SECTION XLI**

### **Denial or Termination of Assistance for Family**

This section states the grounds on which the HABD may deny assistance for an applicant or terminate assistance for a participant under the program because of the family's action or failure to act. The provisions of this section do not affect denial or termination of assistance for grounds other than action or failure to act by the family.

Denial of assistance for an applicant may include any or all of the following:

- Denying listing on the HABD waiting list;
- Denying or withdrawing Voucher;
- Refusing to enter into a HAP contract or approve a lease; and
- 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.

This section does not limit or affect exercise of the HABD rights and remedies against the owner under the HAP contract, including termination, suspension, or reduction of housing assistance payments, or termination of the HAP contract.

The HABD may at any time deny program assistance for an applicant or terminate program assistance for a participant for any of the following grounds:

- If the family violates any obligations under the program;
- If any member of the family has ever been evicted from public housing;
- If a Housing Authority has ever terminated assistance under the certificate or Voucher program for any member of the family;
- If any member of the family commits drug-related criminal activity or violent criminal activity;

- If any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- If the family currently owes rent or other amounts to the HABD, or to another HA, in connection with any federal housing program;
- If the family has not reimbursed HABD, or another HA, for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease;
- If the family breaches an agreement with the HABD, or another HA, to pay amounts owed to the HA, or amounts paid to an owner by a HA. The HABD, at its discretion, may offer a family the opportunity to enter a repayment agreement. The HABD may prescribe the terms of the agreement;
- If a family participating in the FSS program fails to comply, without good cause, with the family's FSS contract of participation;
- If the family has engaged in or threatened abusive or violent behavior toward HABD personnel.

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the HABD has discretion to consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

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

The HABD must deny or terminate assistance if any member of the family fails to sign and submit consent forms.

The family must submit required evidence of citizenship or eligible immigration status.

The HABD must give the family a written description of:

- Family Obligations under the program;
- The grounds on which the HABD may deny or terminate assistance because of action or failure to act;
- The HABD informal hearing procedures.

## **SECTION XLII**

### **Crime by Family Members**

At any time, the HABD may deny assistance to an applicant, or terminate assistance to a participant family if any member of the family commits:

- Drug related criminal activity; or
- Violent criminal activity.

If the HABD seeks to deny or terminate assistance because of illegal use, or possession for personal use, of a controlled substance, such use or possession must have occurred within one year before the date that the HABD provides notice to the family of the HABD determination to deny or terminate assistance. The HABD may not deny or terminate assistance for such use or possession by a family member, if the family member can demonstrate that he or she:

- Has an addiction to a controlled substance, has a record of such an impairment, or is regarded as having such an impairment; and is recovering, or has recovered from, such addiction and does not currently use or possess controlled substances. The HABD may require a family member who has engaged in the illegal use of drugs to submit evidence of participation in, or successful completion of, a treatment program as a condition to being allowed to reside in the unit.

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

## **SECTION XLIII**

### **Informal Review for Applicant**

The HABD must give an applicant for participation prompt notice of a decision denying assistance to the applicant. The notice must contain a brief statement of the reasons for the HABD decision. The notice must also state that the applicant may request an informal review of the decision and must describe how to obtain the informal review.

The HABD must give an applicant an opportunity for an informal review of the HABD decision denying assistance to the applicant. The review procedures must comply with the following:

- The review may be conducted in person, over the phone, virtual platform, or any other platform that HABD deems necessary to conduct said reviews;
- The review may be conducted by any person or persons designated by the HABD, other than a person who made or approved the decision under review or a subordinate of this person;
- The applicant must be given an opportunity to present written or oral objections to the HA decision;
- The HABD must notify the applicant of the HABD final decision after the informal review, including a brief statement of the reasons for the final decision;

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

- Discretionary administrative determinations;
- General policy issues or class grievances;
- A determination of the family unit size under the HABD subsidy standards;
- HABD determination not to approve an extension or suspension of a voucher;
- HABD determination not to grant approval to lease a unit under the program or to approve a proposed lease;
- HABD determination that a unit selected by the applicant is not in compliance with HQS;

- HABD determination that the unit is not in accordance with HQS because of the family size or composition.



## SECTION XLIV

### Informal Hearing for Participant

#### Family Request for an Informal Hearing

The request for an informal hearing must be submitted by the family to the Housing Authority within 10 calendar days upon receipt of the hearing termination letter. The Housing Authority will use the date of the letter or the metered mail stamp to determine the 10 day period in the event if there is a challenge of when the request was received.

HABD must give a participant family an opportunity for an informal hearing to consider whether the following HABD decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations, and HABD policies:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment;
- A determination of the appropriate utility allowance for tenant paid utilities from the HABD utility allowance schedule;
- A determination of the family unit size under the HABD subsidy standards.

In the above cases, the HABD must notify the family that the family may ask for an explanation on the basis of the determination, and that if the family does not agree with the determination, the family may request an informal hearing on this decision:

- A determination that a program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the HABD subsidy standards, or the determination to deny the family's request for an exception from the standards.
- A determination to terminate assistance for a participant family because of the family's action or failure to act.
- A determination to terminate assistance because the participant family has been absent from the assisted unit for more than 14 calendar days in a calendar year.
- A determination to deny participation under the Section 8 Homeownership Program; or to disqualify the family's financing arrangements.

In the three (3) circumstances listed above, the HABD must give the family prompt written notice that the family may request a hearing. The notice must:

- Contain a brief statement of reasons for the decision;

- State that if the family does not agree with the decision, the family may request an informal hearing on the decision, and
- State the deadline for the family to request an informal hearing.

In those cases where a hearing is required, the HABD must given the opportunity for an informal hearing before the HABD terminates housing assistance payments for the family under an outstanding HAP contract.

The HABD is not required to provide a participant family an opportunity for an informal hearing for any of the following:

- Discretionary administrative determinations;
- General policy issues or class grievances;
- Establishment of the HABD schedule of utility allowances;
- HABD determination not to approve an extension or suspension of a Voucher term;
- HABD determination not to approve a unit or lease;
- HABD determination that an assisted unit is not in compliance with HQS. However, the HABD must provide the opportunity for an informal hearing for a decision to terminate assistance e for a breach of the HQS caused by the family;
- HABD determination that the unit is not in accordance with HQS because of the family size;
- Determination of family unit size under HA subsidy standards.

Where a hearing for a participant family is required under this section, the HABD must proceed with the hearing in a reasonably expeditious manner, upon the request of the family. The hearing may be conducted in person, over the phone, virtual platform, or any other platform that HABD deems necessary to conduct said meeting.

## **Hearing Procedures**

### **Discovery by Family**

The family must be given the opportunity to examine, before the HABD hearing, any HABD documents that are directly relevant to the hearing. The family must be allowed to copy any such document at the family's expense. If the HABD does not make the document available for examination on request of the family, HABD may not rely on the document at the hearing.

### **Discovery by HABD**

The HABD must be given the opportunity to examine at HABD offices, before the hearing, any family documents that are directly relevant to the hearing. The HABD must be allowed to copy any such document at HABD expense. If the family does not make the document available upon request of the HABD, the family may not rely on the document at the hearing.

### **Documents**

The term “documents” includes records and regulations.

### **Representation of Family**

At its own expense, the family may be represented by a lawyer or other representative.

### **Hearing Officer**

The Hearing Officer will be the Vice President of Assisted Housing Department, department head, or designee. The Hearing Officer may regulate the conduct of the hearing in accordance with HABD hearing procedures.

### **Evidence**

The HABD and the family must be given the opportunity to present evidence, and may question any witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

### **Issuance of Decision**

The Hearing Officer must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family shall be based on a preponderance of the evidence presented at the hearing. A copy of the hearing decision shall be furnished promptly to the family.

### **Effect of Decision**

The HABD is not bound by a hearing decision:

- Concerning a matter for which the HABD is not required to provide an opportunity for an informal hearing under this section, or that otherwise exceeds the authority of the person conducting the hearing under the HABD hearing procedures.
- Contrary to HUD regulations or requirements, or otherwise contrary to federal, state, or local law.

If the HABD determines that it is not bound by a hearing decision, the HABD must promptly (within ten calendar days) notify the family of the determination and of the reasons for the determination.

## SECTION XLV

### Reexamination of Income and Family Circumstances

#### Annual Reexamination

Once each year, or as required by HABD, the HABD must reexamine the income and family composition of all families participating in the Section 8 program. Verifications acceptable to the HABD shall be obtained and determinations made. In the event of failure or refusal of the family to report the necessary information, the HABD may terminate the assistance.

Records shall be maintained by the HABD to insure that every participant's income and family composition has been reexamined within a 12 month period.

Upon completion of reexamination and verification, the participant shall be notified in writing no later than 30 days prior to the effective date of the following:

- Any change in rent and the date on which it becomes effective;
- Any change required because of a change in the composition of the family.

**Note: The family may not receive 30 days' notice if the family has delayed in providing required information and/or verifications.**

#### Streamlined Income Determination for Fixed Income Sources *24 CFR 982.516(b)*

PHAs are permitted to implement streamlined requirements for verifying and adjusting fixed income sources over a three-year cycle for families with an unadjusted income consisting of 90 percent or more from fixed income sources. HABD establishes the flexibility to implement the streamlined-income process for eligible households.

In the initial year (first year) of the three-year cycle, HABD will complete a full annual income determination, applicable with all HUD regulations, guidance, and HABD requirements. Year two and year three of the three-year cycle, HABD will obtain a certification from the family stating that their fixed income sources have not changed from the prior year and that their household income is still made of at least 90 percent from fixed sources. If the certification for years two and three are provided, HABD will adjust the fixed income sources based on the Cost-of-Living Adjustment (COLA) that is applicable to said income source. Non-fixed income from the previous year's calculation will be used.

When using the streamlined income determinations, the family's fixed income must be adjusted using a COLA or current interest rate that applies to each specific source of fixed income and is available from a public source or through tenant-provided, third party-generated documentation. If no public verification or tenant-provided documentation is

available, third-party verification of the income amounts must be requested to calculate the change in income for the source.

HABD will create a special application for families eligible for the stream-lined process, to include a certification section, along with assets and deduction certifications. The application will also include HUD's required forms 9886 and 9887. Additional forms will be added as needed or required by HUD.

HABD must continue to abide by the Enterprise Income Verification (EIV) discrepancy requirements by addressing any discrepancies or new income sources reported in HUD's EIV system.

For any income determined pursuant to a streamlined income determination, third party verification of all income sources and amounts must be conducted every three years.

### **Interim Redetermination of Rent**

Rent, as determined at admission or Annual Reexamination, will remain in effect for the period between regular rent determinations unless change in family circumstances occurs. The participant is required and agrees to report, in writing, the following specified changes in family income and composition within ten calendar days of occurrence:

- Loss or addition to family composition of any kind through birth, death, marriage, divorce, removal or other continuing circumstance and the amount, if any, of such family member's income. Any such addition, other than birth, must be approved by the HABD in advance, and must qualify the same as an applicant or any prospective new participant;
- The following changes may be reported by the family prior to the annual reexamination:
  - Employment, unemployment or changes representing a decrease in income for employment of a permanent nature of the family, head, spouse or other wage earner eighteen years of age or older;
  - The stopping of, or decrease of any benefits or payments received by any member of the family or household from Old Age Pension, TANF, Black Lung, Railroad Retirement, Private Pension Fund, Disability Compensation, Veterans Administration, Child Support, Alimony, Regular Contributions or Gifts. Lump sum payments or retroactive payments or benefits from any of the above sources which constitute the sum of monthly payments for a preceding year paid in a lump sum must be reported and rent adjusted retroactively on such income to date of eligibility for any family member residing in the household for that period of time;
  - Cost of living increases in Social Security or public assistance grants need not be reported until next reexamination and redetermination of rent;

- Errors of omission made at admission or reexamination shall be corrected by the HABD. Retroactive payments will be made to the participant if the error is in his/her favor.

All increases in income shall be reported during the annual reexamination period. If a household's income increases outside of the annual reexamination period, it should be reported the following period. No income increases will be processed outside of the annual reexamination period, unless the participant is on the Family Self Sufficiency (FSS) Program, in which, the reported increases in income is a position reflection of previously set individual goals, which has an effect on their escrow account balances.

The effective dates of Interim Redetermination of rent will be as follows:

- Any decrease in rent resulting from any decreases in family income will be made effective the first of the month following the date the decrease in family income was reported and verified in writing;

If the PHA makes a calculation error at admission to the program or at an Annual Recertification resulting in an increase in rent, an Interim Recertification will be conducted, if necessary, to correct the error, but the family will not be charged retroactively. The increase to the tenant's portion of the rent will be effective on the first day of the month after the thirty-day notice to tenant. Families will be given decreases when applicable, retroactive to when the decrease for the change would have been effective if calculated correctly.

Any interim change in rent will require re-verification and updating of only those elements reported to have changed.

Participant agrees to pay any increase in rent resulting from the implementation of changes in rent computation or increases due to changes in regulation, policies, or procedures requiring implementation by the United States Department of Housing and Urban Development.

Employment, unemployment, or changes in employment of any nature (i.e., employed but not working due to illness that is not compensated by the employer) of the family head, spouse, or any other wage earner eighteen years of age or older. Temporary employment or employment "for any reason" of less than thirty days will not constitute a rent adjustment.

If it is found that a participant has misrepresented or failed to report facts upon which rent is based so that the participant is paying less than they should be paying, the increase in rent shall be made retroactive to the date the increase would have taken effect. The participant will be required to pay the difference between the rent paid and the amount that should have been paid. In addition, the participant may be subject to civil and criminal penalties. Misrepresentation is a serious program violation which may result in termination.

### **Special Reexaminations**

Special reexaminations are prescheduled extensions of admission or continued occupancy determinations, and will be considered for the following reasons:

- It is impossible to determine annual family income accurately due to instability of family income and/or family composition, a temporary determination of income and rent is to be made and a special reexamination shall be scheduled for thirty, sixty or ninety days, depending on the circumstances. The participant shall be notified, in writing, of the date of the special reexamination;
- If the family income cannot be anticipated at the scheduled time, the reexamination shall be completed and appropriate actions taken. If a reasonable anticipation of income cannot be made, another special reexamination shall be prescribed and the same procedure followed as stipulated in the preceding paragraph until a reasonable estimate can be made.

### **Reduction of Welfare Benefits**

A family's annual income includes imputed welfare income, if a reduction in welfare is a result of fraud or non-compliance with economic self-sufficiency program or work activities requirements, plus the total amount of other annual income. If the family was not an assisted resident at the time of welfare agency sanction, imputed welfare income cannot be included in annual income.

### **Guidance on Verification of Excluded Income**

Fully Excluded Income: Income that is fully excluded means the entire amount qualifies to be excluded from the annual income determination. For fully excluded income, the PHA is not required to:

- A. Verify the income in accordance with the HUD-prescribed verification hierarchy;
- B. Document in the tenant file why third-party verification was not available as required by 24 CFR 960.259(c)(i) and 24 CFR 982.516(a)(2); and
- C. Report the income in Section 7 of the form HUD-50058.

PHAs may accept an applicant or participant's self-certification as verification of fully excluded income. The PHA's application and reexamination documentation, which is signed by all adult family members, may serve as the self-certification of the fully excluded income. PHAs have the option of elevating the verification requirements, if necessary, to determine if a source of income qualifies for a full exclusion.

Examples of common fully excluded income categories that are verifiable through applicant or participant self-certification are:

- A. Supplemental Nutrition Assistance Program (SNAP) benefits, formerly known as food stamps;

- B. Income from a live-in aide.

All income exclusions are located in 24 CFR 5.609(c).

**Partially Excluded Income:** Income that is partially excluded means that only a certain portion of the income reported by the family qualifies to be excluded, while the remainder must be included when determining the family's annual income.

For partially excluded income, PHAs are required to:

- A. Comply with HUD-prescribed verification requirements and all applicable regulations pertaining to the determination of annual income; and
- B. Report the income in Section 7 of the form HUD-50058.

Examples of partially excluded income that are subject to regular verification requirements include:

- A. The Department of Veterans Affairs "Aid and Attendance" benefits – in accordance with 24 CFR 5.609(c)(4), these benefits may be excluded from income if they are used "specifically for, or in reimbursement of, the cost of medical expenses for any family member." Live-in or periodic medical assistance and services of doctors and health care professionals are among the services that may be counted as medical expenses. The PHA must verify the amount provided for aid and attendance medical expenses and the amount actually being used by the veteran for such expenses. Any portion of the benefit not used for such expenses would continue to be counted as income by the PHA when determining the family's annual income.
- B. Earnings in excess of \$480 for full-time students 18 years old or older (24 CFR 5.609(c)(11) – in order to determine the amount of earnings to include in the calculation of the family's annual income, the PHA must verify the amount of employment income for these family members.

### **Disallowance of Earned Income from Rent Determinations for Persons with Disabilities**

This benefit is allowed once per family member in a lifetime. The benefit is for program participants – not new admissions.

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 member qualified for the earned income exclusion is receiving tenant-based rental assistance under the Housing Choice Voucher Program; and one of the three conditions apply:

- Whose annual income increases are 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; or
- Whose annual income increases are 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 are 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 of TANF received in the six-month period includes monthly income and such benefits and services as one-time payments, wage subsidies, and transportation assistance.

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 family member with disabilities' 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. Exempt income may never exceed the amount of employment income.

The disallowance is initially applied as of the first of the month following the income increase. An interim may be necessary to properly apply the initial and phase-in exclusion periods and to remove the exclusion.

### **Initial 12-Month Exclusion**

During the cumulative 12-month period beginning on the date a member who is a person with disabilities of a qualified family is first employed, or the family first experiences an increase in annual income attributable to employment, the HABD will exclude from annual income of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over the prior income of that family member.

### **Second 12-Month Exclusion and Phase-in**

During the second cumulative 12-month period after the expiration of the initial cumulative 12-month period referred to above, the HABD 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 income 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 beyond 48-months following the initial date the exclusion was applied.

### **Applicability to Child Care Expense Deductions**

Child care expenses allowed may not exceed the portion of the person's earned income that is actually included in annual income.

### **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. Interims will be performed if necessary to accurately calculate full, phase-in, and end of exclusion periods.

A form in the tenant file will track:

- The date the increase in earned income was reported by the family

- The effective date the income was first excluded from annual income for the initial cumulative 12-month period of exclusion
- The name of the family member whose earned income increased
- The reason (new employment, participation in job training program, within six months after receiving TANF) for the increase in earned income
- The amount of the increase in total income due to earned income (amount to be excluded)
- The date(s) earned income ended and resumed during the initial cumulative 12-month period of exclusion (if any)
- The date the family member has received a total of 12 months of the initial exclusion
- The date the second 12-month phase-in period began
- The date(s) earned income ended and resumed during the second cumulative 12-month period (phase-in) of exclusion (if any)
- The date the family member has received a total of 12-months of the second phase-in exclusion
- The ending date of the maximum 48-month (four year) disallowance period (48 months from the date of the initial earned income disallowance)

The earned income disallowance is only applied to determine the annual income of family members with disabilities in 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).

## **SECTION XLVI**

### **Adjustment to Utility Allowance and Contract Allowance and Contract Rents, Plus Monthly Housing Assistance Payments**

#### **Utility Allowances**

At least annually, the HABD shall determine whether there has been a substantial change in utility rates or other charge of general applicability, and whether an adjustment is required in the Allowance of Utilities and Other Services by reason of such changes or because of errors in the original determination. If the HABD determines that an adjustment should be made, the HABD shall establish a schedule of adjustments taking into account size and type of structure and other pertinent factors and shall furnish HUD with a copy of the adjusted schedule. HABD must approve a higher utility allowance, if needed, as a reasonable accommodation to make unit accessible to and usable by persons with disabilities.

Section 242 of the 2014 Appropriations Act limits the utility allowance payment for tenant-based vouchers to the family unit size for which the voucher is issued, irrespective of the size of the unit rented by the family, with an exemption for families with a person with disabilities. Under section 242, the utility allowance for a family shall be the lower of: (1) The utility allowance amount for the family unit size; or (2) the utility allowance amount for the unit size of the unit rented by the family. However, upon the request of a family that includes a person with disabilities, the HABD must approve a utility allowance higher than the applicable amount if such a higher utility allowance is needed as a reasonable accommodation in accordance with HUD's regulations in 24 CFR part 8 to make the program accessible to and usable by the family member with a disability. This provision applies only to vouchers issued after the effective date of this notice and to current program participants. For current program participants, the HABD must implement the new allowance at the family's next annual reexamination, provided that the HABD is able to provide a family with at least 60 days' notice prior to the reexamination.

#### **Monthly Housing Assistance Payment (HAP) – Vouchers**

Monthly payment will be made to an owner on behalf of a family participating in the Section 8 Program. Payments will be issued in accordance with the Housing Assistance Payment Contract by check or direct deposit.

HABD will issue monthly HAP during the first week of each month by check or direct deposit. Landlords are required to enroll in our direct deposit program in order to participate in our HCVP. An active email at all times is also required.

## **SECTION XLVII**

### **Fair Market Rent (FMR), Payment Standards, Small Area Fair Market Rent (SAFMR), and Rent Reasonableness Limitation**

#### **Negotiating Rent to Owner**

The owner and the family negotiate the rent to owner. At the family's request, the HA must help the family negotiate the rent to owner.

Rent to Owner: Reasonable Rent.

#### **HA Determination**

The HA may 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;
- If there is a five (5%) 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; or
- If directed by HUD. The HA may also redetermine the reasonable rent 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.

#### **Comparability**

The HA must determine whether the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units. The HA's methodology is to compare the unit to three (3) comparable unassisted units, taking into consideration location, quality, size, unit type, age of the unit, any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

#### **Owner Certification of Rents Charged for Other Units**

By accepting each monthly housing assistance payment from the HA, 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 must give the HA information requested by the HA on rents charged by the owner for other units in the premises or elsewhere.

#### **Maximum Subsidy – FMR Purpose**

Fair market rents (FMRs) are published by HUD. In the voucher program, the FMR/exception rent limit is used to determine payment standards.

The payment standard must be between 90% and 110% of the FMR/exception rent limit and is the maximum subsidy for a family.

### **Voucher Tenancy – How to Calculate Housing Assistance Payment**

A payment standard is used to calculate the monthly housing assistance payment for a family. The payment standard is the maximum monthly subsidy payment for a family.

### **Amount of Assistance – Voucher Payment Standard**

The HA must adopt a payment standard schedule that establishes payment standards for the HA voucher program by unit size.

For a voucher tenancy, the payment standard for each unit size may not be more than 110% of the current FMR; or less than 90% of the current FMR, unless a lower percent is approved by HUD.

### **Formula**

The housing assistance payment for a family equals the lesser of:

- The applicable payment standard minus 30 percent of monthly adjusted income; or
- The monthly gross rent minus the minimum rent.

The minimum rent is the higher of:

- 10 percent of monthly income (gross income); or
- The HA's established minimum rent.

### **Voucher Payment Standard Schedule**

The voucher payment standard schedule establishes a single payment standard for each unit size in an FMR area.

To calculate the housing assistance payment for a family, the HA must use the applicable payment standard from the HA payment standard schedule for the fair market rent area where the unit rented by the family is located.

### **Payment Standard for Family**

The payment standard for a family is the lower of:

- The payment standard for the family unit size; or
- The payment standard for the unit size rented by the family; or
- The gross rent for the unit.

### **Small Area Fair Market Rents (SAFMRs) 24 CFR 982.503**

Small Area Fair Market Rents (SAFMRs) are Fair Market Rents (FMRs) calculated for zip codes within metropolitan areas. The use of SAFMRs is expected to give HCV participants access to areas of high opportunity and lower poverty areas by providing a subsidy that is adequate to cover rents in those areas, thereby reducing the number of voucher families that reside in areas of high poverty concentration.

To enhance the goal of families living in low deconcentrated areas, HABD hereby adopts the Small Area Fair Market Rents effective July 1, 2019. Pursuant to the effective date, a new payment standard will go into effect as of the aforementioned date. The following scenarios apply:

- a. For reexaminations of income with an effective date prior to the effective date of the new payment standard schedule, the old payment standard schedule will be used.
- b. For reexaminations of income that are effective on or after the effective date of the new payment standard schedule, the new payment standard will be used.
- c. The payment standard employed for a newly issued voucher will depend on the effective date of the HAP contract. If the effective date of the HAP contract is before the effective date of the new payment standard schedule, then the old payment standard schedule is used. If the effective date of the HAP contract is on or after the effective date of the new payment standard schedule, then the new payment standard schedule is used.

The following zip codes will be included in the implementation of the SAFMRs:

- 35061
- 35068
- 35071
- 35117
- 35126
- 35127
- 35173
- 35209
- 35213
- 35216
- 35223
- 35226
- 35233
- 35235
- 35242
- 35243
- 35244

The corresponding payment standards for the SAFMR for the respective zip codes are included and updated annually with the payment standard schedule.

Per HUD guidelines, PHAs are to determine if the use of MAFMRs or SAFMRs will be implemented for the Project-Based Voucher Program. HABD elects to implement SAFMRs for the PBV Program for properties located within the zip code areas and jurisdiction as mentioned within this policy.

## **Rent to Owner – In Subsidized Projects**

### **Subsidized Rent**

The rent to owner in an insured or noninsured Section 236 project, a Section 515 project of the Rural Development Administration, a Section 202 project or a Section 221(d)(3) below market interest rate project is the subsidized rent. During the assisted tenancy, the rent to owner must be adjusted to follow the subsidized rent, in accordance with the lease.

### **Other Fees and Charges**

The cost of meals or supportive services may not be included in the rent to owner, and the value of meals or supportive services may not be included in the calculation of reasonable rent.

The lease may not require the tenant or family members to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises.

### **Distribution of Housing Assistance Payment**

The monthly housing assistance payment is distributed as follows:

- The HA pays the owner the lesser of the housing assistance payment or the rent to owner.

If the housing assistance payment exceeds the rent to owner, the HA may pay the balance of the housing assistance payment either to the family or directly to the utility supplier to pay the utility bill on behalf of the family.

### **Family Share – Family Responsibility**

The family share is calculated by subtracting the amount of the housing assistance payment from the gross rent.

The HA may not use housing assistance payments or other program funds (including any administrative fee reserve) to pay any part of the family share. Payment of the family share is the responsibility of the family.

## **Family Income and Composition – Regular and Interim Examinations**



### **HA Responsibility for Reexamination and Verification**

The HA must obtain and document in the tenant file third-party verification of the following factors, or must document in the tenant file why third-party verification was not available:

1. Reported family annual income;
2. The value of assets;
3. Expenses related to deductions from annual income; and
4. Other factors that affect the determination of adjusted income.

### **When HA Conducts Interim Reexamination**

At any time, the HA may conduct an interim reexamination for a reduction in family income and change in composition.

At any time, the family may request an interim determination for a reduction in family income or change in composition because of any changes since the last determination. The HA must make the interim determination within a reasonable time after the family request.

Interim examinations must be conducted in accordance with policies in the HA administrative plan.

### **Family Member Income**

Family income must include income of all family members, including family members not related by blood or marriage. If any new family member is added, family income must include any income of the additional family member. The HA must conduct a reexamination to determine such additional income, and must make appropriate adjustments in the housing assistance payment and family unit size.

## **SECTION XLVIII**

### **Affordability Adjustments and Rent Provisions**

#### **Annual Increases of Payment Standards**

The HA, in its discretion, may adopt annual increases of payment standards amounts on the payment standard schedule so that families can continue to afford to lease units with assistance. In determining when an adjustment to the payment is necessary the HA will consider:

1. Rent burden (number of families paying more than 30% of income for rent, if more than 10%, the HA may adjust the payment standard;
2. Success rate in leasing (if less than 10%, the HA may adjust the payment standard); and
3. Percentage of FMR (if payment standard is not within 10% of the FMR, either higher or lower, the HA must adjust the payment standard). The HA will also consider the financial utilization of funding provided. If the HA determines that vouchers are not being leased to properly utilize funding, the payment standard may need to be adjusted to increase utilization of available funding.

#### **Rent Negotiation**

The rent to the owner is a matter of negotiation between the owner and the family. The rent must be within the guidelines of “rent reasonableness”, and this rental amount must be certified by the HA as falling within the guidelines of “rent reasonableness”. If requested by the family, the HA must also assist the family in negotiating a reasonable rent with the owner.

#### **Rent Increase**

The rent to owner may not be increased during the first year of the lease. The lease may provide that the owner may increase the rent at any time after the first anniversary of the lease, but the owner must give the tenant and the HA 60 days written notice of any increase before it takes effect.

#### **HA Disapproval of Lease**

The HA may disapprove a lease for a rent that is not reasonable, based on rents charged for comparable rental units. HAs may exercise this authority in communities where the market is not functioning normally or where some families are not able to negotiate reasonable rent on their own. For example, where there is a concentration of ownership by a small number of landlords, or where rents charged to voucher holders are greater than rents charged to non-assisted families living in comparable units. A HA must document each case in which it disapproves a lease because the rent is not reasonable.

## SECTION XLIX

### Program Management Plan – Organization Plan

President/CEO: Responsible for all aspects of the administration of HABD.

Senior Vice President/COO: Responsible for all aspects of Public Housing, Section 8, and customer service functions; serves as second-in-command.

Vice President of Assisted Housing: Responsible for all aspects of the Section 8 Program, with direct reporting to the Senior Vice President/COO.

Leased Housing Manager (3): Responsible for the daily operations of the Section 8 Program in providing assistance to over 4,000 Section 8 participants. Plans, coordinates, and supervises the functions of the staff, including Inspectors.

Vice President of Finance and Accounting: Responsible for issuing all Section 8 checks and preparation of all Section 8 financial reports.

Executive Secretary: Under the supervision of the Vice President of Assisted Housing, provides administrative secretarial support relative to implementing and maintaining all functions of the Leased Housing and Section 8 Department.

Housing Quality Standards Inspector (2): Under the direction of the Leased Housing Manager, responsible for performing all inspections required for the Section 8 Program. Inspectors are also responsible for preparing appropriate reports relating to inspections.

Application/Data Entry Clerk: Under the supervision of the Leased Housing Manager responsible for maintaining accurate records and data used to compile and update the waiting list and for providing clerical assistance. Assists the Assistant Leased Housing Manager in all principle responsibilities.

Housing Specialist (14): Under the supervision of the Leased Housing Manager, responsible for performing various duties including determination of eligibility and recommendation for approval for occupancy. Assists in overall Section 8 housing management activities.

File Review Specialist (2): Under the supervision of the Leased Housing Manager, performs various duties related to the annual recertification of participants, interim changes, initial lease-ups, and movers. Reviews completed work for effectiveness, completeness, and accuracy. Confirms end-of-month balancing.

Occupancy Housing Clerk (2): Under the supervision of the Leased Housing Manager, responsible for performing important clerical functions which require judgment based on knowledge of policies and procedures pertaining to the area of assignment. Decisions made

are limited by established precedents and departmental policies.

File Clerk: Under the supervision of the Leased Housing Manager, responsible for performing various clerical, administrative and tenant related activities in conjunction with the operation of the HABD's Section 8 Program; maintains resident office files and provides assistance with office operations.

HQS Leased Housing Clerk (2): Under the supervision of the Leased Housing Manager, sets inspection appointments for clients and landlords, prepares and mails recertification letters, repair lists, termination notices, damage reports, tenant and landlord complaints, inputs and maintains correct data in computer system daily, prepares monthly termination/abatement reports, prepares HQS inspectors' monthly recertification schedule, processes HQS inspection books, and performs a variety of clerical duties of a routine nature.

Receptionist/Switchboard Operator: Under the supervision of the Leased Housing Manager, responsible for operating the department switchboard, greeting visitors, residents and the general public; assisting with typing and other clerical activities as necessary, and serving as back-up to other clerical personnel within the department.

## **SECTION L**

### **Department of Housing and Urban Development Review of Contract Compliance**

HUD will review program operations at such intervals as it deems necessary to insure that the owner and the HA are in full compliance with the terms and conditions of the contract and the ACC. Equal opportunity review may be conducted with the scheduled HUD review or at any time deemed appropriate by HUD.

## SECTION LI

### Administrative Fee Expenditures

#### Administrative Fees

Administrative Fees are paid by HUD to the PHA to administer the Housing Choice Voucher (HCV) Program. Administrative fees may be used for any of the following purposes:

- Ongoing administrative fee
- Costs to help families who experience difficulty finding or renting appropriate housing under the program
- Extraordinary costs approved by HUD, such as
  - Costs to cover necessary additional expenses incurred by the PHA to provide reasonable accommodation for persons with disabilities
  - Costs of audit by an independent public accountant
  - Other extraordinary costs determined necessary by HUD Headquarters
  - Preliminary fee
  - Costs to coordinate supportive service for families participating in the family self-sufficiency (FSS) Program

HABD will afford, with administrative discretion, families of the following programs to request specific services to be paid through the usage of administrative fees:

- Single Room Occupancy (SRO) transfers to the HCV Program
- Foster Youth to Independence (FYI) transfers to the HCV Program
- Mainstream Voucher applicants being newly admitted to the program
- Program participants requiring assistance as a reasonable accommodation that deem them eligible due to a financial hardship, that is of no fault of their own and must be relocated due to a subpar property failing HQS inspections 2 or more times

#### **Eligible Expenses That May be Paid:**

- Security deposit assistance -not to exceed 1 month's rent or what is acceptable by law (whichever is lower)
- Utility deposit assistance/utility arrears
- Application fees/non-refundable administrative or processing fees/ refundable application deposit assistance/broker fees
- Holding fees

*\*Eligible expenses will only be paid once per qualifying applicant/participant, unless approved as a reasonable accommodation in order to afford an equal opportunity to housing*

#### **Administrative Fee Reserves 24 CFR 982.155**

The PHA must maintain an administrative fee reserve for the HCV Program. The following amounts are credited to the single fee reserve accounts:

- Amounts paid by HUD for a fiscal year that exceed the program's administrative expenses for the fiscal year
- Interests earned on the administrative fee reserves

Funds from the reserves account must be used to pay HCV administrative expenses in excess of administrative fees paid by HUD for a fiscal year. If the funds are not needed to cover PHA administrative expenses (through the last expiring funding increment under the consolidated ACC), the PHA may use the funds for other housing purposes permitted by State and local law.

### **Administrative Fee Reserve Expenditures**

Expenditures from the administrative fee reserve of the Section 8 Programs in excess of \$5,000.00 will be approved by the board of commissioners of the HA.

## **SECTION LII**

### **Special Housing Types**

This Housing Authority has elected not to permit use of SRO's, congregate housing, group homes, shared housing and cooperative housing types in its program unless needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities in accordance with 24 CFR part 8. The homeownership option is permitted (See Exhibit C).



## SECTION LIII

### Family Self-Sufficiency Programs

The purpose of the Family Self-Sufficiency (FSS) Program is to promote the development of local strategies to coordinate the use of public housing assistance and assistance under the Section 8 rental program with public and private resources, to enable families eligible to receive assistance under these programs, and to achieve economic independence and self-sufficiency.

This HA has developed an action plan and policy and procedures to implement the requirements of this program. The FSS plan includes the following:

1. Eligible FSS Participants: Description of how current Section 8 participants (families currently receiving Section 8 assistance are the only families eligible to participate in the FSS Program) will be selected to participate in the FSS program; Reference Action Plan and Policy and Procedures to Implement the FSS Program for specific guidelines on selecting participants for the FSS program. The basis selection criteria are listed below:
  - A. Fifty percent (50%) of the HA's slots will be allocated to Section 8 participants with one or more family members currently enrolled in, or on the waiting list for, one or more FSS related service programs such as Job Opportunities and Basic Skills Training (JOBS) and/or Job Training Partnership Act (JTPA).
  - B. The remaining fifty percent (50%) of the HA's slots will be filled based on the date and time a family expresses interest in the FSS program. The HA will notify each Section 8 participant of the availability of the FSS program in writing, and inform the families that eligibility for participation will be based on the date and time the HA is contacted by the family and an interest is expressed in the program.

The HA will keep records for a period of not less than three years, which document how families were selected for participation in the FSS program.
2. Termination of FSS: If the FSS participant under reports income and assets, the Section 8 assistance can be terminated and/or the family can be terminated from the FSS program. In either case the HA will not credit the family's escrow account with any portion of the back rent.
  - A. Description of how Section 8 assistance is terminated and/or how FSS supportive services are withheld for violations of FSS obligations. Section 8 assistance is terminated in accordance with this document. If a family fails to meet its FSS obligations as outlined in the FSS contract of participation, the family can be

terminated from the FSS program. The family may lose Section 8 assistance if they are terminated from the FSS program. The HA is never required to terminate Section 8 assistance as a consequence of termination of the FSS contract.

- B. If a family was selected to participate in the FSS program and was terminated because they did not meet its FSS obligations, the family may be denied the opportunity to participate in the FSS program the second time based on the fact that they violated FSS obligation the first time the family participated in the FSS program. A family may also be denied the opportunity to participate in the FSS program if they owe funds to a HA.
  - C. If a FSS participant moves from another HA's jurisdiction with continued Section 8 assistance this HA is not obligated to enroll the FSS family in its FSS program. The family must qualify under the HA's guidelines for selection and participation in FSS program.
3. Reduction of Required FSS Program: HA's may reduce their FSS obligation by one family for each FSS graduate fulfilling the family's contract of participation obligations on or after 10/21/1998. Also, minimum FSS program size will not increase when a HA receives incremental Section 8 funding and public housing units on or after 10/21/1998.

## SECTION LIV

### Deconcentration Rule

The objective of the Deconcentration Rule for Section 8 tenant-based assistance is to admit no less than 75% of its new admissions to the program to families that have income at or below 30% of the area median income. The HA's Section 8 applicant selection process, which is contained in the Section 8 Administrative Plan provides for the skipping of families on the waiting list to accomplish this goal.

#### **Extremely Low-Income**

Section 238 of the 2014 Appropriations Act amends section 3 of the 1937 Act (42 U.S.C. 1437a) to add a definition of extremely low-income (ELI) families. ELI families are defined as very low-income families whose incomes do not exceed the higher of the Federal poverty level or 30 percent of Area Median Income. This provision affects the ELI targeting requirements in section 16 of the 1937 Act (42 U.S.C. 1437N) for the public housing, housing choice voucher (HCV), project-based voucher (PBV), and multi-family project-based section 8 programs.

Effective July 1, 2014, compliance with the targeting requirements under each of these programs must take into account the new definition of ELI. Beginning with the effective date of this notice, a PHA or HUD, if HUD is the contract administrator, shall meet its targeting requirements through a combination of ELI admissions prior to the effective date (using the old definition) and ELI admissions after the effective date (using the new statutory definition).

Neither a PHA nor HUD may skip over a family on the waiting list if that family meets the new definition of ELI as enacted by this section. For the public housing program, not less than 40 percent of the units that become available per PHA fiscal year must be made available for occupancy by ELI families. For the HCV and PBV programs, compliance with targeting requirements is determined for each of the PHA's fiscal years based on new admissions to both programs (i.e., a single, combined total).

Not less than 75 percent of such admissions shall be ELI families. For the multi-family project-based section 8 programs, the contract administrator (i.e., HUD or a PHA under an Annual Contributions Contract with HUD) must make available for occupancy by ELI families not less than 40 percent of the section 8 assisted swelling units that become available for occupancy in any fiscal year. The following example clarifies how a PHA administering the HCV and PBV programs would comply with this provision: A PHA with a fiscal year end of December 31 shall consider admissions to the HCV and PBV programs from January 1 up until the effective date of this notice using the old definition; from the effective date of this notice through December 31, it shall consider admissions using the new definition.

## **SECTION LV**

### **Closing of Files and Purging Inactive Files**

This HA will purge inactive files, after they have been closed for a period of three years, with the exception of troubled cases, or cases involving a household containing a minor with a reported elevated blood-lead level.

During the term of each assisted lease and for three years thereafter the HA will keep the lease, HAP Contract and the application from the family. In addition, the HA must keep for at least three years the following records:

- Records with racial, ethnic, gender and disability status data for applicants and participants;
- The application from each ineligible family and the notice that the applicant is ineligible;
- HUD required reports and other HUD required files;
- Lead based paint inspection reports as required;
- Unit inspection reports;
- Accounts and other records supporting the HA and financial statements;
- Other records which may be specified by HUD.

The HA shall retain all data for current participants for audit purposes. No information shall be removed which may affect an accurate audit.

## **SECTION LVI**

### **Owner Outreach**

HABD will hold individual and/or group briefings for owners who participate in or who are seeking information about the Section 8 Program. The briefings will be conducted in association with the HABD Landlord Advisory Board. Landlord Handbooks and Brochures are issued to interested owners.

## **SECTION LVII**

### **Quality Control of Section 8 Program**

In order to maintain the appropriate quality standards for the Section 8 Program, HABD will annually review files and records to determine if the work documented in the files and/or records conforms to program requirements. This shall be accomplished by a supervisor or another qualified person other than the one responsible for the work or someone subordinate to that person. The number of files and/or records checked shall be at least equal to the number specified in the Section 8 Management Assessment Program for our size housing authority.

## **SECTION LVIII**

### **Enforcement of HQS**

Part 982 does not create any right of the family, or any other party other than HUD or the HABD to require enforcement of the HQS requirements by HUD or the HA, or to assert any claim against HUD or the HABD for damages, injunction or other relief, for alleged failure to enforce the HQS.

## **SECTION LIX**

### **Greater Choice of Housing Opportunities for Housing Voucher Holders**

The HABD will provide families with the broadest geographical choice of units, both within and outside the HABD's jurisdiction by utilizing the mobility and portability features of the Housing Voucher. The HABD will cooperate with other HAs by participating in inter-jurisdictional mobility arrangements which permit Housing Voucher holders to seek housing in the broadest possible areas. The portability features of the Voucher program provide the Voucher holder with the ability to move outside the HABD's jurisdiction with continued assistance.



# EXHIBIT A

## Local Waiting List Preferences

The Housing Authority of the Birmingham District (HABD) will use the following local preferences and assigned points for all HABD Section 8 waiting lists, including tenant-based and project-based voucher; RAD and non-RAD properties:

***Public Housing Demo/Dispo (5)*** is defined as person(s) legally occupying a unit in a specified public housing community, on the date the community was approved by HUD to be disposed of demolished.

***Public Housing Crime Victims (5)*** is defined as having been a victim of a violent crime or a witness providing testimony to law enforcement of a violent crime which occurred in or around the public housing community.

***Public Housing Uninhabitable (5)*** is defined as a person(s) legally occupying a unit that is deemed unsafe or uninhabitable and there is no other appropriate unit available in the public housing community in which they reside.

***Litigation Action (5)*** is defined as having been a person(s) who has undergone legal actions related to resolving a dispute through the judicial court system, or as part of a settlement agreement, a housing choice voucher was selected.

*\*Please note, each site-based waiting list may include additional waiting list preferences. Please see each site listing for additional details and specific waiting list preferences included.*

## EXHIBIT B

### **Housing Authority of the Birmingham District Leased Housing and Section 8 Deconcentration Policy**

The Housing Authority of the Birmingham District has, since 1976, served very low, low, and moderate-income families in the City of Birmingham and surrounding communities with the Section 8 Housing Assistance Program.

To encourage participation by owners of units outside areas of low income or minority concentration to list their property with HABD, the Leased Housing and Section 8 Department has implemented the following:

- Placed on the internet a brief description of the program, and who landlords and prospective participants may contact for information;
- HABD maintains and provides upon the request of any participant a listing of available units by bedroom size. This list is updated monthly and includes landlords or agents outside the City of Birmingham;
- HABD has a Landlord Advisory Board which meets quarterly;
- HABD conducts a monthly Landlord Orientation to provide information to prospective and new landlords/agents.

Areas with income under \$15,000/year by zip code: 35218, 35207, 35212, 35204, 35234, 35233 and 35203, 35219 and 35221.

Areas of minority concentration by zip code: 35211.

## EXHIBIT C

<p style="text-align: center;"><b>Assisted Housing/HCV Homeownership Option</b> <b>Addendum to Section 8 Administrative Plan</b> <b>24 CFR: 982.625-982.643</b></p>
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The Housing Authority of the Birmingham District (HABD) hereby establishes a Section 8 tenant-based voucher homeownership option in Jefferson County, Alabama pursuant to the U. S. Department of Housing and Urban Development's (HUD) Final Rule dated September 12, 2000. The HABD further allocates 1% of Housing Choice Vouchers (HCV) to the implementation of the Homeownership Program. The establishment of this program is consistent with the Authority's Annual, Five-Year Plan, and Strategic Plan.

**Family Qualifications §24 CFR 982.627**

Any Section 8 program participant who has been issued a Section 8 Housing Choice Voucher may utilize the subsidy to purchase rather than rent a home, subject to the following requirements:

1. The family must meet the general requirements for continued participation in the HABD Section 8 tenant-based programs as outlined in the Section 8 Administrative Plan;
2. Current Section 8 program families must be in full compliance with their lease and the Section 8 Housing Choice Voucher program requirements and must terminate their current lease arrangement in compliance with the lease;
3. The family must not have previously defaulted on a mortgage securing debt to purchase a home under the homeownership option;
4. The family must be a "first time homeowner" (i.e." ... a family member must not have owned title to a principal residence in the last three years before commencement of homeownership assistance for the family under the homeownership program."). "First time homeowner" also 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;
5. The family must enroll and complete HABD designated pre-purchase homeownership counseling programs and be deemed as pre-qualified or pre-approved for financing;
6. The head of household or spouse must be employed full-time (not less than an average of 30 hours per week) and have been continuously so employed during the year before commencement of homeownership assistance. Families in which the head of household or spouse is disabled or elderly are exempt from this requirement. Families with a disabled household member may request an exemption from this requirement as a

reasonable accommodation that will be granted upon determination by HABD of the need to do so;

- Continuous employment may include interruptions of no longer than 30 days due to change in employment and will count as continuity during that year; HABD will evaluate on a case-by-case basis
  - Self-employment income may be included as the family will have to provide documentation of verifiable taxable business
7. The annual gross income of the adult family members who will own the home at the commencement of homeownership assistance must be either of the following:
- In the case of a disabled family, the monthly Federal Supplemental Security Income (SSI) benefit for an individual living alone multiplied by twelve; Or
  - In the case of other families, the Federal minimum wage multiplied by 2,000 hours
- \* *Except in the case of an elderly family or disabled family, the PHA shall not count any welfare assistance received by the family in determining annual income*
- The disregard of welfare assistance income only affects the determination of minimum annual income used to determine if a family initially qualifies for commencement of homeownership assistance but does not affect:
    - *Calculation of the amount of the family's total tenant payment*
    - *Calculation of the amount of homeownership assistance payments on behalf of the family*
8. The program gives priority to Section 8 families who are enrolled in HABD's Family Self Sufficiency Program.
- \* *The family must meet and satisfy all the above listed initial requirements at commencement of homeownership assistance.*

**Time Frame to Purchase a Home §24 CFR 982.629**

The family will have a maximum of 180 days to find a home or to enter into a "Contract for Sale" for the purchase of a home.

If the family is unable to enter into a "Contract for Sale" before the end of the 180 day deadline, the family will be allowed to continue to utilize the voucher for rental assistance in a unit that meets the eligibility requirements for the Section 8 Voucher Program as outlined in the Section 8 Administrative Plan.

Any extension(s) beyond the 180 days to find a home or enter into a “Contract for Sale” must be approved by the HABD.

**Eligible Units §24 CFR 982.628**

The unit selected by the family must satisfy all the requirements outlined below:

1. The unit is eligible
2. The unit is either a one-unit property (including a manufactured home) or a single dwelling unit in a cooperative or condominium
3. The unit has been inspected by a PHA inspector and by an independent inspector designated by the family. The inspector must be certified by the American Society of Home Inspectors
4. The unit satisfies the Housing Quality Standards (HQS) Inspection
5. Homeownership assistance may be provided for the purchase of a home where the family will not own fee title to the real property on which the home is located ONLY if:
  - (a) The home is located on a permanent foundation; AND
  - (b) The family has the right to occupy the home site for at least forty years

**Homeownership Counseling §24 CFR 982.630**

The family must attend and participate in the HABD designated pre-purchase homeownership counseling program which will include:

1. Home maintenance;
2. Budgeting and money management;
3. Credit counseling;
4. How to negotiate the purchase price of a home;
5. How to find a home, including the advantages of finding a home outside an area of concentration of low-income families;
6. How to obtain homeownership financing, including loan preapprovals;
7. Information about the Real Estate Settlement and Procedures Act (RESPA).

**Portability §24 CFR 982.636**

Families that are determined eligible for homeownership assistance may exercise the homeownership option outside of HABD's jurisdiction if the receiving public housing authority is administering a Section 8 home ownership program and is accepting new families into its Section 8 Homeownership Program. The family must attend the briefing and counseling sessions required by the receiving PHA.

**Contract for Sale, Home Inspections, and PHA Disapproval of Seller §24 CFR 982.631**

Participants in the homeownership option program must complete a "Contract for Sale" with the owner of the property to be purchased. HABD must be provided a copy of the contract for sale.

The Contract for Sale must:

1. Include the home's purchase price and terms of sale;
2. Provide that the family will arrange for a pre-purchase inspection by an independent inspector selected by the family;
3. Provide the family is not obligated to buy the unit unless the inspection is satisfactory to the family;
4. Provide that the family is not obligated to pay for any necessary repairs to the unit;
5. Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under part 24 of the federal regulations pertaining to this program.

The family must obtain an independent professional home inspection of the unit's major systems at the family's expense. The 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 family must provide a copy of the inspection report to the HABD for review. The HABD will review the report to determine whether repairs are necessary prior to the family purchasing the home and to determine whether purchasing the home is in the family's best interest. In making this determination, the HABD will take into consideration such factors as defective roof and heating systems that need immediate replacement at substantial cost. The inspector must be certified by the American Society of Home Inspectors.

HABD will conduct a Housing Quality Standards (HQS) inspection and will review the independent professional inspection of the unit's major systems. HABD retains the right to disqualify the unit for inclusion in the home ownership program based on either the HQS inspection or the professional inspection report. Final contract approval will be reviewed by the President/CEO or designee.

The family must determine and document whether or not the unit is in an airport runway clear zone or an airfield clear zone. The family must determine and document whether or not the unit is in a flood hazard area. Units in flood hazard areas must be insured for flood damage. HABD may deny approval of a seller for any reason provided under Section XV ‘HABD Disapproval of Owner’, located in this Administrative Plan.

**Financing Purchase of the Home and Affordability of Purchase §24 CFR 982.632**

The family is responsible for obtaining financing; rate and terms of the first mortgage are subject to review and approval by HABD. The HABD may review lender qualifications and the loan terms before authorizing homeownership assistance under this program. The HABD may disapprove proposed financing, refinancing, or other debt if the HABD determines the debt is unaffordable for the participant. In making this determination the HABD will take into account other family expenses, such as childcare, unreimbursed medical expenses, and other family expenses as determined by HABD. The first mortgage lender shall be a federally-regulated financial institution. Any other lenders (such as owner financed) must be specifically approved by HABD.

If the purchase of the home is financed with FHA mortgage insurance, financing is subject to FHA mortgage insurance requirements.

The family is required to pay a minimum down payment of at least 3% of the purchase price of the home for participation in the Homeownership Program, of which, at least 1% of the purchase price comes from the family’s personal resources. *§24 CFR 982.625 (g)(1)*

**Term of Homeownership Assistance §24 CFR 982.634**

The maximum term of homeownership assistance is as follows:

- (1) Fifteen (15) years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; Or
- (2) Ten (10) years in all other cases

The maximum term applies to any member of the family who has an ownership interest in the unit during the time that homeownership payments are made, or if the spouse of any member of the household who has an ownership interest in the unit during the time Homeownership payments are made.

Exception for elderly and disabled:

- Elderly: The exception only applies if the family qualifies as an elderly family at the start of homeownership assistance
- Disabled: The exception applies if at any time during receipt of homeownership assistance, the family qualifies as a disabled family

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership

assistance commenced. (The family will be provided at least 6 months of homeownership assistance after the maximum term becomes applicable, provided the family is otherwise eligible to receive homeownership assistance.) Section 8 assistance will only be provided for the months the family is in residence in the home.

The total assistance that a family can receive from either different PHAs or for different homes is subject to the limitations stated in the statement of homeowner obligations as outlined under this program.

The family is entitled to one move during any one year period.

**Family Obligations §24 CFR 982.633**

Before commencement of homeownership assistance, the family must execute a “statement of homeowner obligations” in the form prescribed by HUD and HABD.

Occupancy:

- Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the PHA may not continue homeownership assistance after the month when the family moves out.
- The family or lender is not required to refund to the PHA the homeownership assistance received the month the family moves out

To continue to receive homeownership assistance, a family must comply with the following family obligations:

1. The family must comply with the terms of any mortgage securing debt incurred to purchase the home, and any refinancing of such debt;
2. The family may not sell, convey, or transfer any interest in the home to any entity or person other than a member of the assisted family residing in the home subject to the approval of HABD. If the family chooses to sell the home, with the approval of HABD, the family may purchase another home while continuing to receive home ownership assistance toward the purchase of a new home;
3. The family may not place any additional lien or other encumbrance without prior written consent from HABD and the mortgage lender(s);
4. The family must supply required information regarding income and family composition for HABD to correctly calculate the total tenant payment and home ownership assistance;
5. The family must provide information on any mortgage or other debt incurred to purchase the home and any refinancing of such debt and any sale or other transfer of any interest in the home;



6. The family must notify HABD or its designee if the family defaults on a mortgage securing any debt incurred to purchase the home;
7. The family must notify HABD or its designee before the family moves out of the home;
8. The family must provide access to the home for purposes of inspection at reasonable times.
9. Upon death of a family member who holds (in whole or in part) title to the home or ownership of cooperative membership shares for the home, homeownership assistance may continue pending settlement of the decedent's estate, notwithstanding transfer of title by operation of law to the decedent's executor or legal representative; so long as the home is solely occupied by remaining family members

**Amount and Distribution of the Monthly Homeownership Assistance Payment**  
**§24 CFR 982.635**

While the family is living in the home, the HABD will pay a monthly homeownership assistance payment that is equal to the lower of:

- (1) The payment standard minus the total tenant payment; Or
- (2) The family's monthly homeownership expenses minus the total tenant payment.

The payment standard for the family shall be lower of:

- (1) The payment standard for the family unit size; Or
- (2) The payment standard for the size of the home

If the home is located in an exception payment standard area, the payment standard for the family is the greater of

- (1) The payment standards determined in accordance with the previous paragraph at the commencement of homeownership assistance for the occupancy of the home; Or
- (2) The payment standard as determined in accordance with the previous paragraph at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.

The same payment standard schedule, payment standard amounts and subsidy standards will be used for the homeownership option as for the rental voucher program.

**Homeownership Expense**

Homeownership expenses include principal and interest on mortgage debt, refinancing charges of mortgage debt, real estate taxes and other public assessments, insurance, maintenance and major repair expenses, and the HABD utility allowances schedule. The HABD will use its schedule for determining the allowance for maintenance expenses, major repairs, and replacements.

HABD's schedule for maintenance expenses will include the following rates:

- Major repairs and replacements allowance will be equal to 1% of the total loan amount of the home to be purchased, as the time of closing;
- Routine maintenance allowance will be equal to .5% of the total loan amount of the home to be purchased at the time of closing.

Housing assistance payments will be made directly to the mortgage lender on behalf of the family.

The assistance payment will be adjusted to reflect changes in the fair market rent payment standard accordingly.

If a family's income increases to a point that they do not receive a housing assistance payment, eligibility for such payments will continue for 180 calendar days. At the end of a continuous period of 180 days without any assistance payments, eligibility for Section 8 assistance will automatically terminate.

### **Lease to Purchase**

Lease-to-purchase agreements are considered rental property and subject to the normal tenant-based Section 8 rental rules. The family will be subject to the homeownership requirements at the time the family is ready to exercise the homeownership option under the lease-to-purchase agreement. However, the family will be encouraged to participate in the pre and post homeownership counseling to prepare the family for the homeownership program. Homeownership will begin when the family purchases the home and after all of the requirements of the homeownership option are met.

### **Buying Another Home with Section 8 Assistance §24 CFR 982.637**

A homeownership family may purchase another home with Section 8 assistance provided there is no mortgage loan default. The family must sell the current home in order to purchase another home under this program. With the exception of the first-time homebuyer requirement, the family must meet all the other requirements for continued participation in the homeownership program, such as the employment threshold, obtaining an independent inspection of the home to be purchased, etc.

### **Move to a New Unit §24 CFR 982.637**

A family receiving homeownership assistance may move to a new unit with continued tenant-based assistance, in accordance with this section. The family may move either with voucher rental assistance (in accordance with rental assistance program requirements) or with voucher homeownership assistance (in accordance with homeownership option program requirements).

The PHA may not commence continued tenant-based assistance for occupancy of the new unit so long as any family member owns any title or other interest in the prior home. However, when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and the move is needed to protect the health or safety of the family or family member; such family or family member may be assisted with continued tenant-based assistance even if such family or family member owns any title or other interest in the prior home.

**Defaults §24 CFR 982.638**

If a family in the homeownership option defaults on their home mortgage loan, the family will not be able to use their Homeownership Voucher for rental housing but may re-apply for assistance under the HABD regular Section 8 Housing Voucher Program.

**Denial or Termination of Assistance to the Family §24 CFR 982.638**

As provided in the HABD Section 8 Administrative Plan, HABD may deny or terminate homeownership assistance:

- (1) In accordance with Sec. 982.552 (Grounds for denial or termination of assistance)
- (2) Sec. 982.553 (Crime by family members)
- (3) For violation of family obligations outlined in Sec. 982.551
- (4) Mortgage default
  - Family defaulted on a FHA-insured mortgage; and
  - Family fails to demonstrate that
    - Family has conveyed, or will convey, title to the home as required by HUD, to HUD or HUD's designee and
    - The family has moved, or will move, from the home within the period established or approved by HUD

HABD must terminate voucher homeownership assistance for any member of a family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA-insured or non-FHA) securing debt incurred to purchase the home, or any financing of such debt.

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 federal, state, or local housing assistance program.

**Obligations of the Family §24 CFR 982.633**

The family must comply with the obligations of a participant family described in 982.551 as such also listed in Section XL-family Obligations of the Administrative Plan

## EXHIBIT D

<p style="text-align: center;"><b>Housing Authority of the Birmingham District</b> <b>Section 8 Project-Based Voucher Program</b> <b>Addendum to Section 8 Administrative Plan</b> <b>24 CFR 983</b></p>
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The Housing Authority of the Birmingham District (HABD) hereby establishes a Section 8 Project- Based Voucher Program. The establishment of this program is consistent with the Authority's Annual Plan, Five Year Plan, and Strategic Plan.

The HA will provide Section 8 project-based assistance from assistance provided to the HA for the Section 8 Housing Choice Voucher Program consistent with Section 232 of the FY 2001 VNHUD Appropriations Act (PL 106-377), the Federal Register Notice published on January 16, 2001 in 66 FR 3605, "Revisions to PHA Project-Based Assistance Program, Initial Guidance" and HUD Notice PIH 2001-4 dated January 19, 2001.

### **Selection Criteria**

The following selection criteria will be utilized:

- **Developer's Capacity**: Provide information indicating the experience of the team members, including recent experience in planning, implementing, managing physical developments, financing, leveraging, mixed income communities, and partnership activities. If tax credits are proposed for the development, provide documentation that an allocation has been made. (30Points);
- **Management Capacity**: Provide information indicating the experience of the team members, including recent experience in managing similar type properties involving non-subsidized and subsidized housing. (25 points);
- **Supportive Services**: Provide information indicating the proposed supportive services, including specific services to be offered for subsidized families (e.g., job training, credit counseling, mentoring programs, etc. The services may be offered through a third-party or other form of partnerships. (10 points);
- **Site Control and Zoning**: Provide documentation indicating site control and that the site is currently zoned for the type of housing proposed. (10 Points);
- **Structural Design of the Proposed Project**: Provide documentation of the proposed site plan, new unit development, community space, open space, building scale, etc. (25 points).

### **Advertising Requirements**

The HA will advertise in a newspaper of general circulation that the HA will accept applications for assistance for specific projects. The advertisement will be submitted for approval to the HUD field office. The advertisement will be published once a week for three consecutive weeks; will specify an application deadline of at least 30 days after the date the advertisement is last published; will specify the number of units the HA estimates it will be able to assist under the funding the HA is making available for this purpose; and will state that only applications submitted in response to the advertisement will be considered.

### **Selection Policy Requirements**

The HA's written selection policy identifies and specifies the weight to be given to the factors the HA will use to rank and select applications. These factors include consideration of site; design; previous experience of the owner and other participants in development, marketing, and management; and feasibility of the project as a whole.

### **Owner Application**

The owner's application submitted to the HA must contain the following:

1. A description of the housing to be constructed, including the number of units by size (square footage), bedroom count, bathroom count, sketches of the proposed new construction, unit plans, listing of amenities and services, and estimated date of completion;
2. Evidence of site control and identification and description of the proposed site, site plan, and neighborhood;
3. Evidence that the proposed new construction is permitted by current zoning ordinances or regulations or evidence to indicate that the needed rezoning is likely and will not delay the project;
4. The proposed contract rent per unit, including an indication of which utilities, services, and equipment are included in the rent and which are not included. For those utilities that are not included in the rent, an estimate of the average monthly cost for each unit type for the first year of occupancy;
5. A statement identifying the number of persons (families, individuals, businesses and nonprofit organizations) occupying the property on the date of the submission of the application; the number of persons to be displaced, temporarily relocated or moved permanently within the building or complex; the estimated cost of relocation payments and services, and the sources of funding; the organization(s) that will carry out the relocation activities; the identity of the owner and other project principals and the names of officers and principal members, shareholders, investors, and other parties having a substantial interest; certification showing that the above- mentioned parties are not on the U.S. General Services Administration list of parties excluded from Federal procurement and non-procurement programs; a disclosure of any possible conflict of interest by any of these parties that would be a violation of the

Agreement or the HAP contract; information on the qualifications and experience of the principal participants (information concerning any participant who is not known at the time of the owner's submission must be provided to the HA as soon as the participant is known); the owner's plan for managing and maintaining the units; evidence of financing or lender interest and the proposed terms of financing; and the proposed term of the HAP contract.

### **Percent Limit**

A HA may utilize 20 percent of the funding available (up to 20 percent of the baseline number of units in the HA's voucher program) for project-basing. The HAPD will utilize approximately 20% of its baseline.

### **PHA Plan and Deconcentration Goals**

The HA will enter into a Housing Assistance Payments (HAP) contract to provide project-based voucher assistance only if the HAP contract is consistent with the PHA Plan. If the HA wishes to use the project-based voucher program before the anticipated approval date of the HA's next PHA Plan, the HA will add the information as an amendment to the PHA Plan, following the regulations and notices for such PHA Plan amendments. The program will be carried out in conformity with the nondiscrimination requirements specified in the PHA Plan regulations, and will affirmatively further fair housing as required by the PHA Plan regulations.

Project-basing will be consistent with the statutory goals of "deconcentrating poverty and expanding housing and economic opportunities".

### **Partially Assisted Buildings**

The HA will not enter into an agreement or HAP contract or other binding commitment to provide project-based voucher assistance for more than 25 percent of the units in any one building, except for single-family dwellings and projects for elderly families and disabled families. Single family dwellings refer to 1-4 family dwellings.

### **Family Choice to Move with Continued Assistance**

The HAP contract will provide that a family may move out of a project-based unit after 12 months. If a family moves out of its project-based unit at any time after the first year of assisted occupancy, the HA will offer the family available tenant-based rental assistance under the voucher program.

### **Contract Term**

The HAP contract between the HA and the owner may be for a term of up to 10 years, although payments under that contract are subject to the future availability of appropriations and future availability of funding under the ACC.

### **Extension of Contract Term**

The HA may contract with the owner of a project-based unit to extend the term of the HAP contract for such period as the HA determines appropriate to achieve long-term affordability

of the housing or to expand housing opportunities. All HAP contract extensions, however, must be contingent upon the future availability of appropriated funds.

### **Maximum Initial Gross Rent, Rent to Owner and Rent Adjustments**

The HAP contract will establish gross rents that do not exceed 110 percent of the established Fair Market Rent ("FMR"), or any HUD-approved "exception payment standard" (i.e., a payment standard amount [for the PHA's tenant-based voucher program] that exceeds 110 percent of the published FMR) for the area where the project is located. In addition, if a unit has been allocated a low-income housing tax credit under the Internal Revenue Code of 1986 at 26 U.S.C. 42, but is not located in a "qualified census tract" under that law, the rent to owner may be established at any level that does not exceed the rent charged for comparable units in the same building that receive the tax credit but do not have additional rental assistance. A HAP contract between the HA and an owner will provide for adjustments of rent to owner during the contract term, and the adjusted rents must be reasonable in comparison with rents charged for comparable units in the private, unassisted local market. The statutory maximum rent limits apply both to the establishment of the initial rent to owner at the beginning of the HAP contract term, and to adjustments of rent to owner during the HAP contract term.

Within the limitations mentioned above, the initial gross rent to owner may differ from payment standard amounts for the HA's tenant-based voucher program. The initial and adjusted rent to owner must be reasonable in relation to rents charged in the private market for comparable unassisted units and the "reasonable rent" element of SEMAP, 24 CFR 985.3(b).

### **Tenant Selection**

The HA will establish a separate waiting list for project-based voucher assistance for applicants that are applying for a preference for Mentally Ill/Mentally Retarded (MI/MR) project-based voucher assistance. Preference will be given to eligible MI/MR owner-referred applicants with authorized tenant eligibility forms provided by the Alabama State Department of Mental Health and Mental Retardation and their network of agencies.

HABD will maintain a waiting list per each project-based voucher site via current housing software for all PBV waiting lists. Each PBV waiting list will have a separate local preference structure. HUD directs that a family applies to reside at any site must be offered the opportunity to be placed on the waiting list for any tenant-based or project-based voucher or moderate rehabilitation program that HABD operates if: 1) the other programs' waiting lists are open, and 2) the family qualifies for the other programs [24 CFR 983.251]. HUD permits, but does not require, that PHAs maintain a single merged waiting list for their PBVs [24 CFR 983.251]. HABD policy will not merge the project-based waiting list with any other programs HABD operates.



HABD will use the following local preferences for selected PBVs waiting lists managed by HABD:

Working Family Preference

Applies to applicants where:

1. The head, spouse, co-head, or sole member has been employed full-time (at least 30 hours per week) AND;
2. The head, spouse, co-head, or sole member has been employed full-time (at least 30 hours per week) continuously for at least twelve (12) consecutive months prior to submission of their project-based voucher application (verification will be required at the time of application in order to receive the preference points) OR;
3. The head and spouse/co-head, or sole member is a person age 62 or older, or is a person with disabilities [24 CFR 982.207 (b)(2)].

All HA tenant- based assistance waiting list families who want project-based units will be permitted to place their names on the separate list.

The HA will not penalize applicants who reject an offer of a project-based unit or who are rejected by the owner of the housing. The HA will maintain such applicant in the same position on the tenant-based assistance list as if an offer had not been made.

Admission to the project-based voucher program is subject to the same statutory income targeting requirement as the tenant-based program. The income targeting requirement provides that in any HA fiscal year, at least 75% of the families admitted to the HA's voucher program (which includes project-based voucher assistance) must be families whose annual income does not exceed 30 percent of median income for the area, as determined by HUD (see HUD definition of "extremely low income families" at 24 CFR 5.603).

**Unit Inspection and Housing Quality Standards**

Units assisted with tenant-based or project-based voucher assistance must meet or exceed housing quality standards (HQS) established by HUD. The same HUD-prescribed HQS standards apply to project-based voucher assistance as apply to tenant-based voucher assistance.

Before and during the term of assistance, units will be inspected for compliance with the HQS. In general, the same statutory PHA inspection requirements apply to project-based voucher assistance as to the tenant-based voucher program. As in the tenant-based voucher program, the HA will inspect 100 percent of project-based voucher units before entering into the HAP contract, and may only enter into a HAP contract for units that fully comply with the HQS. In the tenant-based program, where each unit is assisted under a separate HAP contract for each individual assisted family, the HA must inspect each assisted unit annually. In the project-based voucher program, the HA is not required to inspect each assisted unit in

a project annually, thus allowing annual inspection of a representative sample of the project-based voucher units in a project.

### **Vacant Units**

The HA will continue providing assistance for a unit that becomes vacant (after commencement of assisted occupancy by a family) for up to a maximum of 60 days. Such payments may only be made if the vacancy is not the fault of the owner, and the owner takes every reasonable action to minimize the likelihood and extent of vacancies. The PHA and owner must take action to minimize the likelihood and length of any vacancy.

### **Reduction of Contract Units After Vacancy**

If no eligible family rents a vacant unit within 120 days (commencing on the first day of the month when the vacancy occurs), the PHA may terminate its commitment to make any additional housing assistance payments for the unit for the balance of the HAP contract term. The PHA may use the amounts so saved to provide other voucher assistance.

### **Site and Neighborhood Standards**

The HA will comply with the requirements of 24 CFR 983.6 (b) with regard to proposed sites.

### **Eligible and Ineligible Properties**

The HA will comply with the requirements of 24 CFR 983.7 in determining the eligibility of properties.

### **Other Federal Requirements**

The HA will comply with the requirements of 24 CFR 983.11 with regard to equal opportunity and related requirements; environmental requirements; and other federal requirements, where applicable.

### **Prohibition of Excess Public Assistance (Subsidy Layering)**

**Subsidy Layering Requirements:** The HABD 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 for the housing 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.

**When Subsidy Layering Review Is Conducted:** The HABD may not enter an Agreement or 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. In order to satisfy applicable requirements, HABD must conduct subsidy layering reviews in compliance with the guidelines set forth in the *Federal Register* notice published July 9, 2010.

**Owner Certification:** 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.

### **New Construction: HA Evaluation and Technical Processing**

Before selecting a unit or executing an agreement, the HA will determine that the application is responsive to and in compliance with the HA's written selection criteria and procedures, and is otherwise in conformity with HUD program regulations and requirements. The HA will comply with the requirements of 24 CFR 983.55, 24 CFR 983.56 and 24 CFR 983.57.

### **Agreement and New Construction**

The HA will enter into an agreement with the owner before the start of any new construction. Under the agreement, the owner agrees to construct the units in accordance with the HA approved working drawings and specifications. The agreement must list the initial contract rents that will apply to the units after they are constructed.

### **Owner Selection of Contractor**

The owner is responsible for selecting a competent contractor to undertake the new construction in accordance with 24 CFR 983.103. The HA must promote opportunities for minority contractors to participate in the program.

### **New Construction Period**

After the agreement has been executed, the owner must promptly proceed with the construction as provided in the agreement. In the event the work is not so commenced or completed, the HA may terminate the agreement or take other appropriate action.

### **Inspections During Construction**

The HA must inspect during construction to ensure that the work is proceeding on schedule, is being accomplished in accordance with the terms of the agreement, that the work meets the types of materials specified in the working drawings and specifications and meets typical levels of workmanship in the area.

### **Changes**

The owner must obtain prior HA approval for any changes from the work specified in the agreement that would alter the design or the quality of the required new construction. The HA may disapprove any changes requested by the owner. HA approval may be conditioned on establishing lower initial contract rents. *24 CFR 983.103 (c)*

### **Notification of Vacancies**

At least 60 days before the scheduled completion of the new construction, the owner must notify the HA of any units expected to be vacant on the anticipated effective date of the HAP Contract. The HA must refer to the owner appropriate-sized families from the HA waiting list. When the HAP contract is executed, the owner must notify the HA which units are vacant.

### **New Construction Completion**

The owner must notify the HA when the work is completed and submit to the HA the evidence of completion as defined in 24 CFR 983.104.

### **Housing Assistance Payments Contract**

The HA must execute the HAP contract if the HA accepts the units. The effective date of the HAP contract may not be earlier than the date of the HA inspection and acceptance of the units.

### **Units Under Lease**

After commencement of the HAP contract term, the HA must make the monthly housing assistance payments in accordance with the HAP contract for each unit occupied under lease by a family.

### **Limitation On Leasing To Ineligible Families**

Owners must lease all assisted units under HAP contract to eligible families. The HA will enforce this requirement in accordance with 24 CFR 983.152.

### **Correction of Rent**

At any time during the life of the HAP contract, the HA may revise the rent to owner to correct errors in establishing or adjusting rent to owner in accordance with HUD requirements. The HA may recover any excess payment from the owner.

### **Housing Assistance Payment, Amount, and Distribution**

The monthly housing assistance payment equals the gross rent minus the higher of the total tenant payment or the minimum rent as required by law. The monthly housing assistance payment is distributed as follows:

- The HA pays the owner the lesser of the housing assistance payment or the rent to owner;
- If the housing assistance payment exceeds the rent to owner, the HA may pay the balance of the housing assistance payment either to the family or directly to the utility supplier to pay the utility bill.

### **Family Share: Family Responsibility To Pay**

The family share is calculated by subtracting the amount of the housing assistance payment from the gross rent. The HA may not use housing assistance payments or other program funds (including any administrative fee reserve) to pay any part of the family share. Payment of the family share is the responsibility of the family.

### **Informal Review or Hearing**

24 CFR 982.554 (Informal review for applicants) and 24 CFR 982.553 (Informal hearing for participants) are applicable.

### **Other Fees and Charges**

The cost of meals or supportive services may not be included in the rent to owner, and the value of meals or supportive services may not be included in the calculation of reasonable rent. The lease may not require the tenant or family members to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality or provided at no additional cost to the unsubsidized tenants in the premises.

### **Program Accounts and Records**

During the term of each assisted lease, and for at least three years thereafter, the HA will keep:

- A copy of the executed lease;
- The application from the family;
- The HAP contract;
- Records to document the basis for determination of the initial rent to owner and for the HA determination that rent to owner is reasonable (initially and during the term of the contract).

### **Special Housing Types**

The HA will not provide assistance for shared housing, manufactured homes or group homes.

## **EXHIBIT E**

### **Department of Housing and Urban Development/Veterans Affairs Supportive Housing Vouchers (HUD-VASH) Program**

#### **Background and Overview:**

The HUD-VASH Program is a collaborative effort between the US Department of Housing and Urban Development (HUD), the Department of Veterans Affairs (VA), and the Housing Authority of the Birmingham District (HABD). It's a national initiative that provides permanent housing and supportive services to homeless veterans. The HABD will administer the HUD Veterans Affairs Supportive Housing Vouchers (HUD-VASH) in accordance with this Administrative Plan, 24 CFR Part 982, and subsequent HUD notices, guidance, or regulations that amends or supersedes Docket No. FR-5213-N-01.

The HABD partners with the Birmingham Veterans Affairs Medical Center (VAMC). The goal of the Program is to combine Section 8 rental assistance vouchers with case management and clinical services provided by the VA at its medical centers to enable homeless veterans to re-integrate in the community to lead healthy, productive lives.

The HUD-VASH program combines the Housing Choice Voucher Program (HCVP) for homeless Veterans with case management and clinical services provided by the VA at its medical centers and in the community.

Ongoing VA case management, health, and other supportive services will be made available to homeless Veterans through the Birmingham VAMC.

#### **Identification of HUD-VASH Vouchers**

To ensure availability of a HUD-VASH voucher upon turnover, the HABD will maintain records that allow for the easy identification of all HUD-VASH vouchers. The HABD will also identify these families in the Public and Indian Housing Information Center (PIC).

#### **Family Eligibility and Selection**

The VAMC will screen all Families in accordance with its screening criteria, except for income eligibility and sex offender status. The VAMC will refer eligible homeless veterans that agree to participate in case management to the HABD for the issuance of vouchers. HABD will determine if the veteran family is income eligible in accordance with 24 CFR 982.201 and may deny the family if they are not income eligible.

Though HABD is not required to include HUD-VASH Vouchers in the income targeting requirements, the HABD may choose to include the admission of extremely low income HUD-VASH families in its income targeting numbers for the fiscal year in which the HUD-VASH families are admitted.

The HABD will not maintain a waiting list for the HUD-VASH program and will not apply eligibility priorities or preferences to HUD-VASH Applicants.

The HABD will screen for sex offender status and will deny admission if the homeless veteran is a sex-offender with a lifetime registration requirement. If another family member in the household is the lifetime registrant – family may be eligible for voucher if the family member subject to the registration requirement is removed from the household. No other eligibility priorities or preferences are applicable and the HABD shall not deny HUD-VASH applicants admission for any other grounds.

### **Civil Rights and Reasonable Accommodation**

Fair Housing requirements prohibit the discrimination on the basis of race, color, religion, sex, familial status, national origin, or disability. When Disabled Veterans are HUD-VASH recipients, reasonable accommodation standards apply.

### **Income Eligibility**

The HABD must determine the income eligibility for HUD-VASH Applicants in accordance with 24 C.F.R. § 982.201 and this Administrative Plan. The HABD is not required to include HUD-VASH vouchers in the income targeting requirements set forth at 24 C.F.R. 982.201(b)(2) and this Administrative Plan.

### **Initial Term of the Voucher**

The HUD-VASH voucher must have an initial search term of 120 days, whereas, the regular tenant based HCVP are given 90 days of initial search time required by this Administrative Plan. See voucher issuance section in the administrative plan for the policies regarding initial voucher term length and term extensions and suspensions.

### **Initial Lease Term**

Initial lease terms may be less than one-year for HUD-VASH Participants.

### **Ineligible Housing**

HUD-VASH families will be permitted to live on the grounds of a VAMC. This effectively waives the regulation set forth at 24 C.F.R. 982.352(a)(5) which prohibits HCVP units on the grounds of a medical, mental, or similar public or private institution.

### **Portability of HUD-VASH Vouchers**

If the Family initially leases up, or moves under portability provisions, but the initial PHA's partnering VAMC will still be able to provide the necessary case management services due to the proximity to the partnering VAMC, the receiving PHA must process the move in accordance with the Portability procedures of 24 C.F.R. § 982.355 and those in the portability section of this Administrative Plan. However, the receiving PHA must bill the initial PHA to comply with the record keeping requirements established above. The receiving PHA does not have the option to absorb the HUD-VASH Family.

When the receiving PHA completes the HUD 50058 under the scenarios above, the action type that must be recorded on line 2a is "1" for a new admission (a family that is new to the HCVP)

or “4” for a portability move-in (a family that was previously leased up in the jurisdiction of the initial PHA). Whether the family is a new admission or a portability move-in, in section 12 of the HUD-50058, line 12d is marked “Y,” 12e must have an amount recorded, and 12f must include the initial PHA’s code.

If a family moves where it will not be possible for the initial PHA’s partnering VAMC to provide case management services, the VAMC must first determine whether the HUD-VASH family could be served by another VAMC that is participating in the program, and the receiving PHA must have a HUD-VASH voucher available for this Family. If the above conditions are met, the families must be absorbed by the receiving PHA either as a new admission (upon initial participation in the HUD-VASH program) or as a portability move-in (after an initial leasing in the initial PHA’s jurisdiction). Upon absorption, the initial PHA’s HUD-VASH voucher will be available to lease to a new HUD-VASH eligible family as determined by the partnering VAMC and the absorbed family will count towards the number of HUD-VASH slots awarded to the receiving PHA.

When the receiving PHA completes the HUD 50058 under the scenarios above, the action type that must be recorded on line 2a is “1” for a new admission (a family that is new to the HCVP) or “4” for a portability move-in (a family that was previously leased up in the jurisdiction of the initial PHA). Whether the family is a new admission or a portability move-in, in section 12 of the HUD 50058, line 12d is marked “Y”, 12e must be 0 since the family must be absorbed, and 12f must be left blank.

### **Case Management Requirements**

(a) The VAMC responsibilities include:

- (i) Screening of homeless Veterans to determine eligibility for the HUD-VASH program as established by VA national office;
- (ii) Providing appropriate treatment and supportive services to potential HUD-VASH program participants, if needed, prior to PHA issuance of rental vouchers;
- (iii) Providing housing search assistance to HUD-VASH voucher holders;
- (iv) Identifying the social service and medical needs of HUD-VASH participants and providing, or ensuring the provision of regular ongoing case management, outpatient health services, hospitalization, and other supportive services as needed throughout this initiative; AND
- (v) Maintaining records and providing information for evaluation purposes, as required by HUD and VA.

(b) Participation contingent on case management as a condition of assistance, a HUD-VASH participant must receive case management services as described above and the failure to participate in case services without good cause, is grounds for termination. HUD-VASH



participants will be required to acknowledge on an annual basis that housing assistance is conditioned on participation in case services. The case management requirement will be an addition to the Family Obligations described in section 13.5. It is not grounds for termination if the VAMC determines that the family no longer requires case management.

**Transfer from HUD-VASH to Tenant-Based Assistance**

If the VAMC determines that the family no longer requires case management or the Veteran will no longer reside with the family, the HABD may offer the family a regular tenant-based voucher in the tenant-based program to free up the HUD-VASH voucher for another family. The offer of tenant-based assistance is pending funding availability. Receipt of a regular tenant-based voucher is subject to the eligibility requirements set forth in this Administrative Plan.

**Project Based-Assistance of HUD-VASH Vouchers**

Upon request from the HABD, HUD (with the support of the VAMC) will consider on a case-by-case basis to project base a HUD-VASH voucher in accordance with 24 C.F.R Part 983.

**Section Eight Management Assessment Program**

Unit months and budget authority associated with HUD-VASH vouchers will not be included in the SEMAP leasing indicator denominator because they are dependent on referrals from VAMC. Utilization of these vouchers will be monitored separately.

**Reporting Requirements**

The code “VASH” must be used in section 2n of the HUD 50058 form to indicate that the Family is a HUD-VASH Participant. The “VASH” code must remain on the HUD 50058 for the duration of the family’s participation in the HUD-VASH program.

## **Exhibit F**

### **Mainstream Voucher Program**

*Effective November 1, 2018*

#### **BACKGROUND AND OVERVIEW:**

The Omnibus Appropriations Act made funding available for Section 811: Housing Choice Vouchers (Mainstream Vouchers) for the Department of Housing and Urban Development to assist non-elderly persons with disabilities. Mainstream Vouchers help further the goals of the Americans with Disabilities Act (ADA) by helping persons with disabilities live in integrated settings.

The Housing Authority of the Birmingham District (HABD) hereby establishes a waiting list preference for non-elderly persons with disabilities transitioning out of institutional and other segregated settings, at risk of institutionalization, homeless, or at risk of becoming homeless.

At the time of application, initial determination of an applicant's entitlement to the HABD local preference for non-elderly disabled families as described above, may be made on the basis of the applicant's certification and must be verified upon selection from the waiting list. The preference points available for the non-elderly disabled families (NED) will be seven (7) points.

HABD has partnered with health and human service agencies One Roof, Disabilities Rights and Resources, and Self Sufficiency Through Employment organizations. The partner organizations will assist in coordinating voluntary services and support to enable the specified families to live individually in the community. The partner organizations will also provide referrals to HABD, assist with timely selection of units, and an opportunity to access supportive services and overall support. Additional partner organizations responsibilities may include:

- Coordinate outreach and referral of persons with disabilities in institutional and other segregated setting who want to move to community settings;
- Coordinate outreach and referral of persons who are homeless or at risk of becoming homeless;
- Assist persons with disabilities with applying to and finding various housing programs;
- Assist persons with disabilities moving into units on the private rental market;
- Make referrals, coordinate, and monitor home and community-based services;
- Provide tenancy support for persons with disabilities.

#### **PROGRAM DEFINITIONS:**

***Eligible Household:*** A household composed of one or more non-elderly persons with disabilities, which may include additional household members who are not non-elderly persons

with disabilities. A household where the sole member is an emancipated minor is not an eligible household.

Non-elderly person with disabilities (for purposes of determining eligibility): A person 18 years of age or older and less than 62 years of age, and who:

- i. Has a disability, as defined in 42 U.S.C. 423
- ii. Is determined, in pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
  - a. Is expected to be of long-continued and indefinite duration;
  - b. Substantially impedes his or her ability to live independently could be improved by more suitable housing conditions; or
- iii. Has a developmental disability as defined in 42 U.S.C. 6001

\*A person who turns 62 after receiving their voucher will not lose assistance.

\*Please note the definition for persons with disabilities has two definitions -one for the purpose of program eligibility (above) and one respective to and purposes of civil rights, which can be found at 24 CFR § 8.3; 24 CFR § 100.201; 28 CFR §§ 35.104, 108).

***Institutional or other segregated settings:*** Include but are not limited to (1) congregate settings populated exclusively or primarily with individuals with disabilities; (2) congregate settings characterized by regimentation in daily activities, lack of privacy or autonomy, policies limiting visitors, or limits on individuals' ability to engage freely in community activities and to manage their own activities of daily living; or (3) settings that provide for daytime activities primarily with other individuals with disabilities.

***At serious risk of institutionalization:*** Includes an individual with a disability who as a result of a public entity's failure to provide community services or its cut to such services will likely cause a decline in health, safety, or welfare that would lead to the individual's eventual placement in an institution. This includes individuals experiencing lack of access to supportive services for independent living, long waiting lists for or lack of access to housing combined with community-based services, individuals currently living under poor housing conditions or homeless with barriers to geographic mobility, and/or currently living alone but requiring supportive services for independent living. A person cannot be considered at serious risk of institutionalization unless the person has a disability. An individual may be designated as at serious risk of institutionalization either by a health and human services agency, by a community-based organization, or by self-identification.

***Homeless:***

- 1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
  - i. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
  - ii. An individual or family living in a supervised publicly or privately-operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals); or
  - iii. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.
- 2) An individual or family who will imminently lose their primary nighttime residence provided that:
  - i. The primary nighttime residence will be lost within 14 days of the application for homeless assistance;
  - ii. NO subsequent residence has been identified; and
  - iii. The individual or family lacks the resources or support network, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing;
- 3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
  - i. Are defined as homeless under Section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 4 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786 (b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
  - ii. Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;

- iii. Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
  - iv. Can be expected to continue in such status for an extended period of time because of chronic disabilities; chronic physical health or mental health conditions; substance addiction; histories of domestic violence or childhood abuse (including neglect); the presence of a child or youth with a disability; or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or
- 4) Any individual or family who:
- i. Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;
  - ii. Has no other residence; and
  - iii. Lacks the resources or support networks, e.g., family, friends, and faith-based or other social networks, to obtain other permanent housing.

***At risk of becoming homeless: An individual or family who:***

- i. Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the "Homeless" definition in this section; and
- ii. Meets one of the following conditions:
  - a. Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
  - b. Is living in the home or another because of economic hardship;
  - c. Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days of the date of application for assistance;

- d. Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals;
- e. Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons, or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;
- f. Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
- g. Otherwise lives in housing that has characteristics associated with instability and an increased risk or homelessness.

### **TARGETED POPULATION**

The Mainstream Voucher Program is for families that include a qualifying household member, who must be non-elderly, disabled. The head of household (head, co-head, or spouse) does not have to be the qualifying member for eligibility consideration.

### **APPLICATION PROCESS**

As per 24 CFR 982.206(b)(1), The PHA may and will reopen its waiting list in order to be able to accept referrals from partnering agencies and also to allow those that qualify specifically for the NED Mainstream Vouchers. Public notice will be given at least 2 weeks prior to the opening of the waiting list, including in the local newspaper, on the HABD website, and any other suitable means. The notice will state limitations on who may apply and the available slots for the special program.

### **REGULATORY CONSTRAINTS**

The same regulations that cover the regular Housing Choice Voucher Program also cover NED Vouchers, which is 24 CFR Part 982. The Mainstream Voucher Program is only for a specified population, as stated above.

### **PORTABILITY**

Families participating in the Mainstream Voucher NED Program, will be afforded the opportunity to take advantage of portability with their Housing Choice Voucher. An exception to the Portability residency policy may be granted, if doing so will provide a reasonable accommodation for a person with disabilities. This exception applies only to the NED Mainstream Voucher Program.

### **TURNOVER**

When NED families exit the program and their NED vouchers turnover, the PHA will reissue those vouchers to other eligible non-elderly disabled families on the PHA's.

## Exhibit G

### Project-Based Waiting List: The Villas at Titusville

The Housing Authority of the Birmingham District (HABD) hereby establishes the Project-Based Voucher Program and waiting list for The Villas at Titusville. The establishment of this program is consistent with the Authority's Plan, Five-year Plan, and Strategic Plan.

The Villas at Titusville will have 5 local preferences:

- Working Family 7 points
- Elderly/Disabled 7 points
- Veterans 8 points
- Public Housing Demo/Dispo 5 points
- Public Housing Crime Victims 5 points
- Public Housing Uninhabitable 5 points
- Litigation Action 5 points

The maximum preference points an applicant may apply for is ten (10). In the event an applicant selects two (2) preferences, and the total exceeds 10 points, HABD will assign the highest preference points and make notations in the current computer software and to the applicant's file.

At the time of application, initial determination of an applicant's entitlement to any of HABD's local preference, including for the working family preference, may be made on the basis of the applicant's certification of their qualification for the preference. Before selection is made, the qualification must be verified based on the preference chosen and the requirements listed in this Administrative Plan, respectively.

#### **Opening and Closing of Applications**

The opening and closing of the waiting list criteria are consistent with Section V: Applying of Assistance, of the Administrative Plan.

#### **Selection Criteria**

The waiting list selection criteria is consistent with Exhibit D: Section 8 Project-Based Voucher Program, of this Administrative Plan.

#### **Informal Review or Hearing**

The informal review process is consistent with Section X: Grounds for Denial or Termination of Assistance, of the Administrative Plan, and with Federal Regulations: 24 CDR 982.554.

The owners of the Villas at Titusville have identified specific income criteria, in which each family that is eligible for the property, must have income. No family will be referred to the owner unless they can meet this criterion. Any additional suitability criterion must be determined by the owner of the property.

# **Exhibit H**

## **Foster Youth to Independence (FYI) Initiative**

Vouchers provided by HUD for youth eligible under the Family Unification Program (FUP) is subject to availability.

### **Special Preference**

The Housing Authority of the Birmingham District (HABD) hereby establishes a waiting list preference for the Foster Youth to Independence (FYI) Initiative, whereas youth referred by the Alabama Department of Human Resources must be certified by said agency, has attained at least 18 years and not more than 24 years of age, left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act at age 16 or older, and is homeless or at risk of becoming homeless at age 16 or older.

At the time of application, initial determination of an applicant's entitlement to the HABD local preference for FYI as described above, may be made on the basis of the applicant receiving certification from the Alabama Department of Human Resources and must be verified upon selection from the waiting list. The preference points available for the Foster Youth to Independence Initiative (FYI) will be ten (10) points.

### **Funding**

- a. HABD may request a minimum of one (1) voucher and a maximum of twenty-five (25) vouchers per federal fiscal year. Additional vouchers may be requested with 90 percent or greater utilization.
- b. Voucher(s) will be requested for a specific person(s) qualifying for a FYI voucher.

### **Youth Eligibility**

- a. The population eligible to be assisted are youth certified by Alabama Department of Human Resources as meeting the following conditions:
  1. Has attained at least 18 years and not more than 24 years of age;
  2. Left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act, at age 16 or older; and
  3. Is homeless or is at risk of becoming homeless at age 16 or older.



\*\* Homeless refers to the population included in the definition of this term at 24 CFR 578.3. At Risk or Becoming Homeless means the population defined as "At Risk of Homeless" at 24 CFR 576.2.\*\*

NOTE: Eligibility is not limited to single persons. For example, pregnant and/or parenting youth are eligible to receive assistance.

### **Youth Referral:**

- a. Youth must be certified by the Alabama Department of Human Resources as eligible for assistance under this notice and referred to the Housing Authority for assistance;
- b. The Housing Authority must determine eligibility for the Housing Choice Voucher Program.

### **Additional Program Requirements**

- a. **Turnover:** Vouchers awarded under this notice for eligible youth will continue to be used for other eligible youth upon turnover. If another eligible youth is not available, the PHA must notify HUD, and HUD will reduce the PHA's HCV assistance to account for the removal of the FYI assistance from the PHA's HCV baseline. HUD will monitor the utilization of vouchers awarded through this notice on an annual basis and any unutilized voucher assistance that is no longer needed will be recaptured and reallocated as authorized under the 2020 Act.
- b. **Youth Failure to Use Voucher:** Should a youth fail to use the voucher, the PHA may issue the voucher to another eligible youth if one has been identified. IF another eligible youth is not available, the PHA must notify HUD, and HUD will reduce the PHA's HCV assistance to account for the removal of the FYI assistance from the PHA's HCV baseline.
- c. **Waiting List Administration:** Upon receipt of a referral(s) from the Alabama Department of Human Resources of an eligible youth, compare the name(s) with youth already on the PHA's HCV waiting list. Any youth on the PHA's HCV waiting list that matches with the Alabama Department of Human Resources' referral must be assisted in order of their position on the waiting list in accordance with PHA admission policies. Any youth certified by the Alabama Department of Human Resources as eligible and not on the HCV waiting list must be placed on the waiting list (pending HCV eligibility determination). Due to the nature of FYI vouchers, the waiting list will always remain open for FYI referrals.
- d. **Length of Assistance:** As required by statute, the FYO voucher may only be used to provide housing assistance for youth for a maximum of 36 months.

## **Program Transfer**

Participants that have reached the time limit allotted for the FYI Program (3 years or 5 years max) who are currently housed under the program when their time expires, shall be transferred to the regular tenant-based voucher program as a special admissions family. This will afford participants of the FYI Program to be continuously assisted with housing subsidy. The special admissions afford the families to not apply for or have a preference on the tenant-based HCV waiting list.

# Exhibit I

## Emergency Housing Vouchers (EHV)

Emergency Housing Vouchers (EHV) are tenant-based rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)). Emergency Housing Vouchers are to assist individuals and families who are experiencing homelessness, at risk of experiencing homelessness, fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking, or were recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability.

The operating requirements of the EHV Program have been provided in PIH Notice 2021-15, which this plan incorporates by reference, including any subsequent requirements promulgated by HUD. The Assisted Housing Department will develop procedures in compliance with PIH Notice 2021-15 and any subsequent notices.

The following definitions apply to the EHV Program:

### I. Homelessness

1. An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
  - a) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
  - b) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals); or
  - c) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.
2. An individual or family who will imminently lose their primary nighttime residence, provided that:
  - a) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
  - b) No subsequent residence has been identified; and

- c) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing.
3. Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
- a) Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
  - b) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
  - c) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
  - d) Can be expected to continue in such status for an extended period of time because of chronic disabilities; chronic physical health or mental health conditions; substance addiction; histories of domestic violence or childhood abuse (including neglect); the presence of a child or youth with a disability; or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment.

## II. At Risk of Homelessness

1. An individual or family who:
- a) Has an annual income below 30 percent of median family income for the area, as determined by HUD;
  - b) Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the “Homeless” definition above; and
  - c) Meets one of the following conditions:
    - i. Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;

- ii. Is living in the home of another because of economic hardship;
  - iii. Has been notified in writing that their right to occupy their 19 current housing or living situation will be terminated within 21 days of the date of application for assistance;
  - iv. Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals;
  - v. Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons, or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;
  - vi. Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
  - vii. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan.
2. A child or youth who does not qualify as “homeless” under this section, but qualifies as “homeless” under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(m) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(m)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or
3. A child or youth who does not qualify as “homeless” under this section, but qualifies as “homeless” under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a (2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.
- III. Individuals or families who are fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking or human trafficking:

Any individual or family who is fleeing, or is attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking. This includes cases where a HUD-assisted tenant reasonably believes that there is a threat of imminent harm from further violence if they remain within the same dwelling unit, or in the case of sexual assault, the HUD-assisted tenant reasonably believes there is a threat of imminent harm from further violence if they remain within the same dwelling unit that they are currently occupying, or

the sexual assault occurred on the premise during the 90-day period preceding the date of the request for transfer.

1. **Domestic violence** includes felony or misdemeanor crimes of violence committed by:
  - a) A current or former spouse or intimate partner of the victim (the term “spouse or intimate partner of the victim” includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship),
  - b) A person with whom the victim shares a child in common,
  - c) A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
  - d) A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or
  - e) 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.
2. **Dating violence** means violence committed by a person:
  - a. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - b. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - i. The length of the relationship;
    - ii. The type of relationship; and
    - iii. The frequency of interaction between the persons involved in the relationship.
3. **Sexual assault** means any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the victim lacks capacity to consent.
4. **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - a. Fear for the person’s individual safety or the safety of others; or
  - b. Suffer substantial emotional distress.
5. **Human trafficking** (includes both sex and labor trafficking).

a. **Sex Trafficking**

The recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age;

b. **Labor Trafficking**

The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

IV. Individuals or families who are recently homeless; this category is composed of individuals and families determined by the Continuum of Care (COC) or its designee to meet the following definition:

1. **Recently Homeless**

Individuals and families who have previously been classified by a member agency of the COC as homeless but are not currently homeless as a result of homeless assistance (financial assistance or services), temporary rental assistance or some type of other assistance, and where the COC or its designee determines that the loss of such assistance would result in a return to homelessness or the family having a high risk of housing instability. Examples of households that may be defined as recently homeless by the COC include, but are not limited to, participants in rapid rehousing, and permanent supportive housing. Individuals and families classified as recently homeless must be referred by the COC or its designee.

**Funding**

The American Rescue Plan Act of 2021 (ARP) provides funding for fees for the costs of administering the EHV's and other eligible expenses defined by notice to prevent, prepare for and respond to coronavirus to facilitate the leasing of the emergency housing vouchers.

PHAs will be allocated a one-time service fee to support its efforts in implementing and operation of an effective EHV Program that will address the needs of EHV eligible individuals and families. The following are eligible activities in which the service fees may be used for:

- Housing Search Assistance
- Security Deposit/Utility Deposit/Rental Application/Holding Fee Usage
  - Application fees/nonrefundable administrative or processing fees/refundable application deposit assistance
  - Holding fees
  - Security Deposit Assistance
  - Utility Deposit assistance/Utility Arrears

- Owner-related Uses
  - Owner recruitment and outreach
  - Owner incentive and/or retention payments
  
- Other Eligible Uses
  - Moving expenses (including move-in fees and deposits)
  - Tenant-readiness services
  - Essential household items
  - Renter’s insurance if required by lease

HABD reserves the right to allocate usage of said fees for eligible activities, described above and in PIH Notice 2021-15 (HA) based on the individual client’s needs.

**Waiting List**

The HABD will create a separate waiting list for the EHV Program, in which will serve as the sole waiting list for the program’s referrals from the COC, victims’ services providers, or other approved agencies in which the PHA may receive referrals from, as stated in PIH Notice 2021-15 (HA).

**Additional Program Requirements**

Unlike regular HCV admissions, PHAs may not deny an EHV applicant admission regardless of whether:

- Any member of the family has been evicted from federally assisted housing in the past five years; if a PHA has ever terminated assistance under the program for any member of the family;
- The family currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act;
- The family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease;
- The family breached an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA;
- The family would otherwise be prohibited admission under alcohol abuse standards established by the PHA in accordance with §982.553(a)(3);
- The PHA determines that any household member is currently engaged in or has engaged in, during a reasonable time before the admission, drug-related criminal activity.

Additionally, prohibitions based on criminal activity for the eligible EHV populations regarding drug possession should be considered apart from criminal activity against persons (i.e., violent criminal activity).



The PHA must still deny admission to the program if any member of the family fails to sign and submit consent forms for obtaining information in accordance with 24 CFR part 5 as required by § 982.552(b)(3).

**Voucher Search Time**

The initial voucher search term for an EHV family must be at least 120 days. Any extensions, suspensions, and progress reports will remain under the current policies of the PHA and this Administrative Plan, but will apply after the minimum 120-day initial search term.

## EXHIBIT J

### **Housing Authority of the Birmingham District Section 8 Project-Based Rental Assistance (PBRA) Program Addendum to Section 8 Administrative Plan**

The Section 8 Project Based Rental Assistance Program (PBRA) was authorized by Congress in 1974 to provide rental subsidies for eligible families residing in newly constructed, substantially rehabilitated, and existing rental and cooperative apartment projects.

#### **Family Choice to Move with Continued Assistance/Choice Mobility**

Under RAD PBRA, residents have the right to move with tenant-based assistance after the latter of 24 months from the date of execution of the HAP contract or 24 months after the move-in date.

#### **Program CAP**

HUD affords PHAs the opportunity to limit (cap) the number of Choice Mobility moves under the PBRA Program. As such, HABD will limit its number of Choice Mobility moves to no more than one-third of its turnover vouchers to residents of RAD properties requesting an HCV in any one year. Once the maximum number of HCVs have been issued within any given year, additional requests will be placed on a waiting list, with priority. As such, HABD will create and maintain a waiting list in the order in which the requests from eligible households were received.

HABD may negotiate and/or determine to limit the number of Choice-Mobility moves exercised by eligible households to 15 percent of the assisted units in the project. (For example, if the project has 100 assisted units, the Project Owner (if not owned by HABD) and HABD could limit the number of families exercising Choice Mobility to 15 in any year, but not less than 15.) While a Project Owner (if not owned by HABD) and HABD are not required to establish a project turnover cap, we must, however, create and maintain a waiting list in the order in which the requests from eligible households were received.

#### **Additional Program Requirements**

Residents wanting to transfer assistance from PBRA to HCV must comply with requested documentation requested by the Department. This includes verification of 24-month residency in a PBRA unit (in connection with the HABD), and any applicable ho