LOUISIANA HOUSING AUTHORITY

SECTION 8 HOUSING CHOICE VOUCHER ADMINISTRATIVE PLAN:

PROJECT-BASED VOUCHERS FOR PERMANENT SUPPORTIVE HOUSING

Louisiana Housing Authority
Section 8 Housing Choice Voucher Administrative Plan

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Louisiana Housing Authority
Section 8 Housing Choice Voucher Administrative Plan

Project-Based Vouchers for Permanent Supportive Housing

INTRODUCTION

This administrative plan has been prepared by the Louisiana Housing Authority (LHA) in conformance with the requirements of **24 CFR 982.54**. The Plan sets forth LHA's policies for the administration of the program in accordance with the requirements of the U. S. Department of Housing and Urban Development (HUD), hereafter referenced as HUD Requirements. Those requirements are incorporated by reference, and include applicable law (notably 42 USC 1437f(o)) and HUD regulations, notices and directives. The following regulations are particularly critical:

24 CFR 5 Definition of Income, Income Limits, Rent, and Reexamination of Family Income for the Section 8 Housing Assistance Payments Program and other Related Programs

24 CFR 982 Section 8 Tenant-Based Assistance: Housing Choice Voucher Program

24 CFR 983 Section 8 Project-Based Voucher Program

24 CFR 985 Section 8 Management Assessment Program (SEMAP)

In the event of a conflict or inconsistency between HUD Requirements and this Plan, HUD Requirements govern.

SECTION I UNIQUE ASPECTS OF LHA PROGRAM

LHA is part of the Division of Administration of the State of Louisiana. The State of Louisiana has been provided $20 million under the federal project-based voucher program and $50 million under the federal Shelter Plus Care program for the provision of 3,000 units of permanent supportive housing, under the Supplemental Appropriations Act of 2008, P.L. 110-252 (the Act). The Act provides that the State or its designee or designees may act at all respects as a public housing agency. LHA will act as a public housing agency, and is issuing the RFP in that capacity. The legislation, contained in Chapter Six of the Act, provides as follows:

Permanent Supportive Housing

For the provision of 3,000 units of permanent supportive housing as referenced in the Road Home Program of the Louisiana Recovery Authority approved by the Secretary of Housing and Urban Development, $73,000,000, to remain available until expended, of which $20,000,000 shall be for project-based vouchers under section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)), including administrative expenses not to exceed $3,000,000, and $50,000,000 shall be for grants under the Shelter Plus Care program as authorized under subtitle F of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11403 et seq.):

Provided, That the Secretary of Housing and Urban Development shall, upon request, make funds available under this paragraph to the State of Louisiana or its designee or designees, upon request: Provided further, That notwithstanding any other provision of law, for the purpose of administering the amounts provided under this paragraph, the State of Louisiana or its designee or designees may act in all respects as a public housing agency as defined in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)): Provided further, That subparagraphs (B) and (D) of section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)) shall not apply with respect to vouchers made available under this paragraph.

Accordingly, LHA's Section 8 program will consist entirely of project-based vouchers (PBV), to be used for permanent supportive housing (PSH). This administrative plan thus will first cover PBV provisions, followed by the tenant selection provisions including unique aspects targeting the anticipated PSH population, then finally other necessary Section 8 administrative provisions.

This appropriation and the Louisiana Road Home Permanent Supportive Housing Program are part of the State's recovery program in response to hurricanes Katrina and Rita. Consequently, the program outlined in this Administrative Plan is designed to aid in the recovery and return of hurricane evacuees and areas severely impacted by hurricanes Katrina and Rita. It is hoped that this program eventually will be expanded with other resources and become a statewide PSH program.

The Road Home Program approved by the United States Department of Housing and Urban Development (HUD) describes the PSH initiative; a description is attached as Exhibit A. The Road Home Program commits $72.9 million in community development block grant (CDBG) funds for supportive services in connection with the 3,000 PSH units, or approximately $5,000 per unit per year for 5 years.

Of the 3,000 units, approximately 800 units are already committed to be set aside in projects receiving low-income housing tax credits (Tax Credits). Approximately 400 will be made available for families now housed with temporary housing subsidies. The PBV units will include Tax Credit set-aside units and units now receiving temporary housing subsidies, as well as units provided in response to solicitations issued by the Subsidy Administrator. The Road Home's "Piggyback" and "Small Rental" programs are anticipated to be sources for PBV units.

LHA expects to hire a Subsidy Administrator (SA) to carry out many of its PBV functions. In addition, as explained further below, aspects of the tenant selection process will be implemented by Local Lead Agencies (LLAs) under agreements with the Louisiana Department of Health and Hospitals, which in turn has a Cooperative Endeavor Agreement with LHA to perform these services. The list of LLAs is attached as Exhibit B.

LHA or the SA may perform any function described in this administrative plan as to be performed by the LLAs, and LHA may perform any function described in this administrative plan. References to LHA in this administrative plan shall apply to the SA or the LLA, if that entity is undertaking the activity or function in question.

SECTION II EQUAL OPPORTUNITY

2.1 Fair Housing

It is the policy of the LHA to comply fully with all Federal, State, and local nondiscrimination laws; the Americans With Disabilities Act; and the U. S. Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity.

No person shall, on the ground of race, color, sex, religion, national or ethnic origin, familial status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the LHA housing programs.

To further its commitment to full compliance with applicable civil rights laws, LHA will provide Federal/State/local information to applicants for and participants in the PBV program regarding discrimination and any recourse available to them if they believe they may be victims of discrimination. Such information will be made available with the application, and all applicable fair housing Information and Discrimination Complaint Forms will be made available at the LHA office. In addition, all written information and advertisements will contain the appropriate Equal Opportunity language and logo.

The LHA will assist any family that believes they have suffered illegal discrimination by providing them copies of the housing discrimination form. The LHA will also assist them in completing the form, if requested, and will provide them with the address of the nearest HUD Office of Fair Housing and Equal Opportunity.

2.2 Providing Information in Languages other than English

1. All forms, written materials and recorded voice-mail messages used to communicate with prospective applicants, applicants and participants shall be available in Spanish. This includes documents related to registration, intake, marketing, outreach, certification, reexamination and inspections.

2. Whenever possible and whenever dictated by marketing and outreach efforts, the above materials and messages will be made available in other languages.

3. The LHA will make every effort to make information related to verification of citizenship or eligible immigration status available in the language of the applicant.

4. At all offices dealing with PBV applicants or participants, a notice will be available that states in multiple languages (and alphabets), "Please make a new appointment and bring someone with you who can interpret for you."

5. Applicants and participants with low English comprehension may furnish an interpreter to assist in communication with LHA. Other than for applicants and participants who speak Spanish, LHA is not required to pay for the costs of foreign language interpretation.

6. Periodically, LHA will review the necessity to address other languages. The following factors will be taken into account:

- The number or proportion of Limited English Proficiency (LEP) persons eligible to be served or likely to be encountered by the program;
- The frequency with which LEP persons come into contact with the program;
- The nature and importance of the activity or service provided;
- The resources available to LHA and the costs.

2.3 Reasonable Accommodation

Sometimes people with disabilities may need a reasonable accommodation in order to take full advantage of the LHA housing programs and related services. When such accommodations are granted they do not confer special treatment or advantage for the person with a disability; rather, they make the program fully accessible to them in a way that would otherwise not be possible due to their disability. Because disabilities are not always apparent, the LHA will ensure that all applicants/participants are aware of the opportunity to request reasonable accommodations, and may assist applicants/participants where appropriate and practicable.

SECTION III PBV-SPECIFIC REQUIREMENTS (24 CFR 983)

3.1 General Requirements

Overview

The project-based voucher (PBV) program allows PHAs to attach funding to specific units rather than using it for tenant-based assistance. Program requirements for attaching PBV assistance to units are found at 24 C.F.R. 983, as amended November 19, 2007 (regarding rents for low-income housing tax credit units) and otherwise (the Regulations; attached as Exhibit C). Repetition of or citation to any provision of the Regulations, or omission of any such repetition or citation, in this administrative plan is for convenience only; the Regulations fully apply, except as explained in the next paragraph. With that exception, in the event of any inconsistency between the Regulations and this administrative plan, the Regulations govern.

The Act provides that paragraphs (B) and (D) of the PBV statute, Section 8 (o)(13) of the United States Housing Act of 1937, shall not apply. Accordingly, provisions of the Regulations relating to those sections of the PBV statute also shall not apply. The statutory provisions that are inapplicable are as follows:

"(B) PERCENTAGE LIMITATION – Not more than 20 percent of the funding available for tenant-based assistance under this section that is administered by the agency may be attached to structures pursuant to this paragraph."

"(D) INCOME MIXING REQUIREMENT –

(i) IN GENERAL – Not more than 25% of the dwelling units in any building may be assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph.

(ii) EXCEPTIONS – The limitations under clause (i) shall not apply in the case of assistance under a contract for housing consisting of single family properties or for dwelling units that are specifically made available for households comprised of elderly families, disabled families, and families receiving supportive services."

In addition, some requirements cannot apply because LHA has no tenant-based vouchers.

Unless made inapplicable by the PBV program regulations in accordance with 24 C.F.R. 983.2, regulations for the tenant-based voucher program also apply to the PBV program and its participants.

Relocation Requirements

See the Regulations, section 983.7.

Equal Opportunity Requirements

See the Regulations, section 983.8, and Section II of this Administrative Plan.

3.2 Owner Proposal Selection Procedures

LHA will select PBV proposals in accordance with the selection procedures in this administrative plan. Proposals will be selected in accordance with the Regulations, 983.51. Before selecting a PBV proposal, LHA will ensure that the PBV proposal complies with HUD Requirements, including a determination that the property qualifies as eligible housing, and meets the site selection standards in accordance with the Regulations, 983.57.

LHA anticipates that a substantial number of units will be selected in accordance with the Regulations, 983.51(b)(2), which provides for selection without a request for proposals where the project has been selected within three years of the PBV proposal selection date under a federal, state or local program that requires competitive selection of proposals (notably, low-income housing tax credits).

LHA-Owned Units

An LHA-owned unit may be assisted under the PBV program only if the HUD field office or HUD approved independent entity reviews the selection process and determines that LHA-owned units were appropriately selected based on the selection procedures specified in this Administrative Plan. If a property is LHA-owned or controlled by LHA, LHA must identify the independent entity that will review LHA's proposal selection process (unless LHA will ask HUD to do this) and perform specific functions with respect to rent determinations and inspections.

Prohibition of Assistance for Certain Units

See Sections 983.53 and 983.54 of the Regulations.

Subsidy Layering

LHA will provide PBV assistance in accordance with the HUD subsidy layering regulation, 24 C.F.R. 4.13. The Housing and Economic Recovery Act of 2008 exempts contracts for existing structures from subsidy layering, or transactions where a subsidy layering review has been conducted by the applicable State or local agency.

LHA will decide what housing type, new construction, rehabilitation or existing housing, will be used to develop PBV housing. The housing type must be reflected in the solicitation of proposals.

Site Selection Standards

LHA's goal is to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal, LHA will seek sites for PBV housing in census tracts that have poverty concentrations of 20% or less. LHA may provide for location of PBV housing in other locations when it is determined that the PBV assistance will complement other local redevelopment activities designed to deconcentrate

poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20%, or otherwise support the goals of the PSH initiative, such as:

- A census tract in which the proposed PBV development will be located in a HUD designated Enterprise Zone, Economic Community, or Renewal Community;
- A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition;
- A census tract in which the proposed PBV development will be located is undergoing significant revitalization;
- A census tract where state, local, or federal dollars have been invested in the area that has assisted in the achievement of the statutory requirement;
- A census tract where new market rate units are being developed where such market rates units will positively impact the poverty rate in the area;
- If the poverty rate in the area where the proposed PBV development will be located is greater than 20%, the PHA will consider whether in the past 5 years there has been an overall decline in the poverty rate;
- A census tract where there are meaningful opportunities for educational and economic advancement.

For further requirements, see section 983.57 of the Regulations.

The HUD-approved Road Home Program requires a specific geographic distribution of PSH supportive services funded by CDBG. PBV project locations will be chosen to be consistent with Road Home requirements.

Environmental Review

See Section 983.58 of the Regulations. The Housing and Economic Recovery Act of 2008 provides that environmental review requirements do not apply to PBV for existing housing, except to the extent otherwise required by law or regulations.

Request for Proposal Process

(a) For PBV to be awarded via request for proposals, LHA will advertise the availability of project-based vouchers in general circulation local newspapers and in other publications targeted to minority communities.

The advertisement will contain summary information about the number of vouchers available; minimum requirements for proposed units; the types of housing to be used; the services to be provided by project sponsors or others; timeframes for the completion of any necessary construction or repairs and for the availability of proposed units for occupancy by program

families; the criteria that will be used to select proposals; and the deadline for proposals, if any. Any such deadline will be no sooner than thirty days after the date of the initial advertisement.

Prospective offerors will be directed to request a complete Request for Proposals (RFP) packet from LHA. The packet will include the public notice, detailed information about the PBV program and the selection process, and any forms to be used or included with the proposal.

Proposals must be received by LHA by the date and time specified in the RFP, if LHA chooses to provide a discreet submission period. Proposals may be mailed, sent by private delivery service, or hand-delivered to LHA's administrative offices. Proposals submitted by fax or e-mail will not be accepted.

Alternatively, LHA may choose to issue a request for proposals without an expiration date, under which proposals will be reviewed in the order they are received and LHA may award PBV to projects that meet LHA standards for award.

(b) Proposal Review and Selection

(1) Selection based on submissions received prior to a deadline

If LHA uses this selection method, within fifteen (15) working days of the proposal deadline, LHA will review all proposals to determine whether proposed units meet LHA's minimum requirements as stated in the RFP. Proposals that do not meet these minimum requirements will be deemed non-responsive. Proposals determined to be non-responsive will be rejected. Offerors will be notified in writing of the reason(s) that the units have been rejected. LHA will not rate these proposals.

All units remaining in the selection pool will be inspected for compliance with HUD's Housing Quality Standards (HQS), and with the Residential Lead-Based Paint Hazard Reduction Act of 1992 as implemented at 24 C.F.R. 35, subpart H.

For existing units, LHA will conduct an inspection and complete an inspection report identifying HQS deficiencies to be corrected prior to the execution of the HAP contract.

For units requiring rehabilitation in excess of $1,000 per unit, LHA will conduct an HQS inspection and complete an inspection report listing deficiencies. If the offeror has submitted drawings and/or specifications, LHA will review the offeror's plan to determine whether additional work items are necessary to bring the units into compliance with HQS.

LHA will use information submitted by the offerors and the results of the unit and/or site inspections and other reviews to rate all proposals in the selection pool. Proposals will be rated in accordance with the selection criteria and weighting to include site and unit characteristics, ownership and management experience both with rental housing and with PSH, feasibility, and likelihood that PSH goals can be accomplished. LHA may add criteria that are relevant to the success of the PSH initiative.

Offerors of units will be promptly notified in writing that their proposals have been selected to receive project-based voucher assistance, subject to compliance with all LHA and HUD

requirements. The notifications will include the work items required to bring the units into compliance with HQS, and the unit rents proposed by LHA. Offerors will be given ten (10) working days to advise LHA whether they are in agreement with the terms and conditions proposed.

A notice will be published in a general circulation local newspaper that a proposal has been selected.

Documentation will be available for public inspection regarding the basis for LHA's selection.

(2) Selection based on review of proposals in the order submitted, with no response deadline date

LHA will follow the same process, except that LHA will accept proposals that meet its standard for acceptance as LHA reviews of such proposals are concluded. LHA will notify all offerors of the reasons for its decision.

3.3 Dwelling Units

Housing Quality Standards

See section 983.101 of the Regulations.

Housing Accessibility for Persons with Disabilities

See section 983.102 of the Regulations and Section III of this administrative plan.

Inspecting Units

See section 983.103 of the Regulations.

3.4 Annual and Interim Inspection of Units

Swap Out" Inspections. Efforts shall be made to ensure that all units that qualify as "swap out" units (i.e., are Tax Credit or other units designated for PSH under the Road Home Program, or units housing PSH-eligible households receiving temporary housing assistance under the Transitional Assistance Program, the Rental Housing Assistance Support Service, and the Rapid Rehousing Program, unless such households will be assisted otherwise) are retained and placed under the PBV Program. To ensure that the number of swap out units qualifying for the PBV Program are maximized, additional time for correction of deficiencies may be allowed, the number of attempts to inspect may be increased, and other considerations may be granted at LHA's/SA's discretion.

Should these "swap out" units fail the initial HQS inspection, the owner and/or tenant will be notified orally and in writing of the deficiencies. Due to the need to expedite the "swap out" process, owners with deficiencies will be asked to correct deficiencies within 10 days but no

longer than 30 days. Re-inspections will be scheduled as quickly as possible but no more than 15 days from the date of notification of the correction of the deficiency.

A copy of any emergency violations will be left with the owner and/or tenant and forwarded to the LLA. Subsequent inspections may be conducted at the discretion of the LHA/SA. Saturday inspections and/or re-inspections may also be conducted.

Other Inspections

With respect to inspections during the term of the HAP contract, LHA will conduct an inspection of each assisted unit on the schedule required by the Regulation. If LHA determines that the unit is not in compliance with inspection standards, notice will be sent to the owner advising him/her of the repairs needed. Thirty days generally will be allowed for the owner to make the repairs, except for repairs needed to correct a condition determined by LHA to be life-threatening, which must be made within 24 hours. LHA will reinspect the unit after the time allowed, or at such earlier time as the owner notifies LHA that the repairs have been made. If the repairs have not been made after 30 days (or any LHA-approved extension), the HAP payment will be abated until the repairs are made or until the anniversary date of the contract. If repairs are not made by the anniversary date of the HAP contract, LHA may terminate the HAP contract and relocate the family.

No retroactive payment will be made for the period after the first 30 days (or any LHA-approved extension) during which the unit was not in compliance with HQS.

LHA will bar owners from future participation in the Section 8 program who have three units abated or terminated for non-compliance with HQS.

If the unit fails HQS for reasons attributable to the family's care or use of the unit, the family will receive written notification of the actions to be taken and a copy of the notice will be sent to the owner. Such failure may occur when the family fails to pay for utilities that are to be paid by the family, the family fails to provide or to maintain in working order any appliances that are provided by the family, or a member or guest of the family causes damages to the unit beyond normal wear and tear. The family will be given 30 days (or any LHA-approved extension) to correct the defect or 24 hours if the resulting condition is determined by LHA to be life threatening. If the defect is not corrected by the family during the time allowed, the family's participation in the program will be terminated.

The LHA/SA considers emergency fail items to include but not be limited to:

- No running water
- No electricity
- Inability to maintain adequate heat between the months of October and March 31
- Major plumbing leak
- Natural gas leak
- Broken lock(s) on first floor doors or windows
- Broken windows or other structural problems that unduly allow weather elements into the unit
- Electrical outlet smoking or sparking

- Exposed electrical wires which could result in shock or fire
- Unusable toilet when only one toilet is present in the unit
- Security risks such as broken doors or windows that would allow intrusion

The family or the owner may request an inspection at any time during the year if a deficiency exists and if efforts to have the deficiency corrected by the responsible party -- owner or family -- have failed. The inspection and LHA's follow -up will be handled as described above.

LHA will conduct quality control inspections in accordance with applicable HUD SEMAP rules. Each quality control inspection shall be a completely new reinspection of the unit. An inspection of a failed unit that is serving to determine if the deficiencies have been corrected will not serve as a quality control inspection.

3.5 Rehabilitated Housing and New Construction

There are specific requirements that apply to PBV assistance for rehabilitated housing and new construction that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not, at a later date, be selected for PBV assistance as existing housing.

In order to offer PBV assistance in rehabilitated units or new construction, the PHA must enter into an Agreement to Enter Into HAP Contract (AHAP) with the owner of the property. The AHAP must be in the form required by HUD [Regulations 983. 152(a)].

In the AHAP the owner agrees to develop the PBV contract units to comply with HQS, and the PHA agrees that upon timely completion of such development in accordance with the terms of the AHAP, the PHA will enter into a Housing Assistance Payments (HAP) Contract with the owner for the contract units [Regulation 983.152(b)].

3.6 Housing Assistance Payments ("HAP") Contract

(a) LHA must enter into a HAP contract with an owner for units that are receiving PBV assistance in a form required by HUD. The purpose of the HAP contract is to provide housing assistance payment for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. The HAP contract must be in the form required by HUD.

(b) Execution of the HAP Contract

The PHA may not enter into a HAP contract until each contract unit has been inspected and the PHA has determined that the unit complies with the Housing Quality Standards (HQS). For existing housing, the HAP contract must be executed promptly after the PHA selects the owner's proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the PHA has inspected the completed units and has determined that the units have been completed in accordance with the Agreements to enter into HAP, and the

owner furnishes all required evidence of completion. In the HAP contract, the owner certifies that the units have been completed in accordance with the Agreement.

For existing housing, the HAP contract will be executed within 60 days of determining that all units pass HQS.

For rehabilitated housing, the HAP contract will be executed within 10 business days of determining that the units have been completed in accordance with the AHAP to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

(c) Term of HAP Contract

LHA will enter into a HAP contract with an owner for an initial term of no less than one year and no more than thirty years. The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis. The length of the term of the HAP Contract can go up to fifteen (15) years, plus a fifteen (15) year extension subject only to the PHA's determination that the owner is in compliance with the HAP contract and other applicable HUD requirements, for a total of thirty (30) years. LHA will enter into thirty (30) year contracts if it determines that the extension is appropriate to achieve long-term affordability of housing and to expand housing opportunities. LHA may request, as part of the selection process or otherwise as allowable by HUD Requirements, that owners agree to accept any extensions of the contract term that LHA may offer or propose to agree to accept specific numbers of extensions. Except in unusual circumstances where LHA determines that a shorter contract would further the purposes of the PSH initiative, LHA will require contracts of at least three (3) years.

Within one year before expiration of the HAP contract or otherwise as allowable by HUD Requirements, LHA may extend the term of the contract for an additional term or terms of up to five years if the LHA determines an extension is appropriate to continue providing affordable housing for low-income families. When determining whether or not to extend an expiring PBV contract, LHA will consider several factors including: 1) the cost of extending the contract and the amount of available budget authority; 2) the condition of the contract units; 3) the owner's record of compliance with obligations under the HAP contract and lease(s); 4) whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and 5) whether units are contributing to the success of the PSH initiative.

(d) Vacancy payment

LHA may at its discretion agree to provide vacancy payments in the PBV Program for not to exceed two full months following the move-out month, subject to conditions enumerated in the Regulations.

See Subpart E of the Regulations for further details regarding the HAP Contract.

3.7 Determining Rent to Owner; Payments to Owner

See Subparts G and H of the Regulations.

Generally, the LHA will set its PBV Payment Standard between 90 percent and 110 percent of the HUD-published fair market rent (FMR) for applicable geographic areas. Within those limits, LHA may set higher or lower payment standards for certain areas within the jurisdiction as appropriate. The payment standard(s) will be based on information collected by LHA regarding rents in each area, the need to increase options for PBV housing production and the need to successfully attract and lease up PBV units at reasonable costs.

A family renting a unit at or below the payment standard pays as gross rent the highest of 30 percent of the monthly adjusted income (see 24 CFR Part 5, Subpart F), 10 percent of the monthly gross income, or the established minimum rent, as further defined by HUD Requirements. The SA will calculate initial tenant rents. No minimum rent will be required.

The utility allowance schedule will be provided by the SA. The LHA/SA will use the local PHA established utility allowance for each Parish under its jurisdiction. If the local PHA established utility allowance is insufficient and/or does not meet HUD standards or is unobtainable, the LHA/SA will use the established LHA statewide utility allowance schedule. Revised schedules will be implemented at the time of family re-examination.

Prior to executing the HAP Contract, the LHA/SA will determine that the initial rent to the owner is reasonable compared to other units in the area. Rent reasonableness is conducted to ensure that a fair rent is paid for units selected for program participation and that the voucher program does not inflate local rents in the community.

Rent reasonableness will be also be re-determined:

- Before any increase in rent to the owner
- If there is a five percent decrease in the published FMR (for the unit size rented by the family) in effect 60 days before the contract anniversary as compared with the FMR in effect one year before the contract anniversary
- Whenever the PHA approves a change in the allocation responsibility for utilities between the owner and the tenant
- Whenever the HAP contract is amended to substitute a different contract unit in the same building
- Whenever there is any other change that may substantially affect the reasonable rent.
- If directed by HUD.

The LHA will conduct an annual survey of private market rents in its jurisdiction to be used in its determination of rent reasonableness. The survey will include typical contract and gross rents (contract rents plus the SA's allowance for tenant-paid utilities, if any) for a representative sample of unassisted units of each housing type and size, in each of the areas within its jurisdiction that LHA has determined constitutes a distinct market area. In addition to factors listed in section 983.303(c) of the Regulations, the survey will consider accessibility of units to persons with mobility impairments.

In establishing the reasonable rent for a unit proposed for inclusion in the program, the SA will also consider the quality and age of the unit to be leased, and the amenities, housing services, and maintenance provided by the owner.

The process used to determine rent reasonableness will be documented for each HAP Contract Executed in the file.

SECTION IV APPLICATIONS AND TENANT SELECTION

The following provisions are from the Louisiana Department of Health and Hospitals and Department of Social Services Permanent Supportive Housing Program Tenant Selection Manual (Manual), as required to be modified by HUD Requirements and other policy requirements.

The text refers to various functions or activities to be undertaken by the LLAs. Any such function or activity may be undertaken instead by the SA, the LHA, or jointly among any of these entities, as determined by LHA.

Louisiana Department of Health and Hospitals (DHH) and
Department of Social Services (DSS)
Permanent Supportive Housing Program
Tenant Selection Manual (modified to incorporate HUD Requirements)

4.1 General

4.1.1 Overview and Program Goals

This Tenant Selection Manual puts forth policies and procedures for the Louisiana Permanent Supportive Housing (PSH) Program. The Manual implements the PSH Program contemplated in the Road Home Plan and the Louisiana Housing Finance Agency's (LHFA) Qualified Allocation Plan (QAP). The PSH Program has two overarching goals: (1) the reduction and prevention of homelessness of people with disabilities, and (2) the reduction and prevention of inappropriate institutionalization of low-income people with disabilities.

The policies and procedures in this manual are designed to further these goals by:

- promoting fairness and uniformity in tenant selection while meeting the policy priorities of the program.
- overcoming barriers to accessing housing typically faced by persons prioritized for this program.
- promoting efficiencies in the application and referral process.

DHH and DSS have determined to target one-third of all PSH units exclusively to homeless households. In addition, 50% of this one-third will be targeted to chronically homeless households. It is anticipated that: (1) the PSH units targeted to serving homeless households will be assisted with U.S. Department of Housing and Urban Development (HUD) Shelter Plus Care (S+C) rental assistance; and (2) all other PSH units will be assisted with Section 8 Project-Based Vouchers(PBV). **The policies herein apply to the units that are expected to receive PBV.** It should be noted that eligible homeless households are eligible for all units in the PSH program including those PSH units that will be supported with PBV.

4.1.2 Approach

One of the challenges in developing the PSH tenant selection procedures is to ensure a "dynamic" list of applicants seeking units through a system that is fair and reasonable but not overly bureaucratic. After significant consultation with key stakeholders in the program including homeless and disability advocates, human services representatives, and disability and legal services attorneys, DHH and DSS developed the tenant selection approach described in this Manual.

4.1.3 Waiting Lists

Each LLA generally shall maintain area-based waiting lists for all projects within its geographic area, except that LLAs may maintain project-based waiting lists in some circumstances if approved by LHA. Applicants may sign up for any waiting lists they choose. Applicants who reject three offers of housing shall be removed from all waiting lists. LLAs will ensure that applicants understand this system and will encourage them to sign up for only those locations at which they believe they are willing to reside. Rejections for good cause or as reasonable accommodation, as determined by LHA, shall not count toward the three rejections.

4.1.4 PSH Tenant Selection Approach

LLAs shall form initial waiting lists as required below.

From time to time as needed, LLAs shall initiate a "PSH open application period" during which they will accept applications for PSH units. Opening of the waiting lists will be advertised as required by HUD Requirements; see 24 CFR 982.206. During each application period, LLAs shall conduct targeted outreach to PSH eligible populations for available PSH units. The LLA will review all applications received for preliminary eligibility for PSH. The SA will conduct final determination of eligibility for Section 8 PBV when the applicant household nears the top of the waiting list or sooner if needed to facilitate filling of vacant units.

The LLA shall create each PSH waiting list through a DHH-authorized lottery system that includes all eligible applicants. LLAs shall implement a lottery at the conclusion of each application period. Applicants from previous waiting lists who have not yet been assisted will retain priority over applicants with equal preference points from a more recent application period.

DHH and DSS working with PSH stakeholders have adopted certain tenant selection preferences for applicants who are in need of PSH including those who are displacees from Hurricanes Rita and Katrina. In addition to displacees, the DHH preferences include people who are homeless including those who are chronically homeless, people at risk of homelessness, people inappropriately institutionalized and people at risk of institutionalization. Generally, households that meet the program preferences will be served before other households

4.1.5 Overview of process

The following provides an overview of the tenant selection process for the PSH Program.

Application Period: LLA shall establish a set period (e.g. one month) during which applications will be accepted for the program. This can be done for the entire program or for specific projects or groups of projects.

Outreach: LLA shall complete required advertising and conduct targeted outreach to all PSH eligible populations.

Review for completeness – LLA shall first review applications for completeness. Incomplete applications will be rejected, returned to the applicant and will not be evaluated until all of the required information has been provided.

Preliminary determination of program eligibility – LLA will work with the applicants to gather the information necessary to verify all PSH eligibility and preference requirements and shall review and determine PSH eligibility (i.e., that the household is in need of permanent supportive housing, which is a threshold requirement for assistance). Once PSH eligibility is approved, the LLAs shall forward completed applications to the SA. The SA shall review and approve completed applications for income and overall Section 8 PBV eligibility. Applications determined ineligible for the Section 8 PBV program, will be rejected by the SA. The applicant will receive written notification from the SA of the reasons for rejection as well as their right to an informal review of the decision.

Preferences and Assignment of Points –The LLA application review also will include determining the applicant's eligibility for any of the PSH Program preferences. Applicants will be notified in writing by the LLA in their letter of eligibility for PSH, regarding their preference status, the specific number of points granted for each preference and of their right to appeal the LLA's preference decision(s). The Tenant Selection database will automatically assign the appropriate preference points for each applicant qualifying for such preferences.

Waiting List Lottery– All eligible applicants applying during any application period will be included in the LLA PSH tenant selection lottery. Applicants already on the PSH waiting list from a previous lottery will retain their waiting list positions among applications with equal preference points. The order of new applicants on the PSH waiting lists will be created by the results of the lottery as well as the application of any PSH preference points as described above.

Verification – When the applicant approaches the top of the waiting list, the SA shall verify applicant income and any other Section 8 PBV eligibility/preference criteria prior to the LLA making a referral for a unit. Applicants will be notified of the information necessary to verify all relevant application information.

Referral – When a PSH unit becomes available, the LLA's first referral will be the applicant with the highest number of preference points (discussed below) who is nearest the top of the waiting list based on the lottery and who qualifies for the unit (e.g. correct household size, elder for elderly-only unit, accessible units, etc.) The LLA will assist any applicant who is rejected by the Owner/Property Manager to appeal that determination.

Each of these procedures is reviewed in detail in later sections of this Manual.

4.1.6 Nondiscrimination

In implementing application, tenant selection and referral policies and procedures, LLAs will promote equal opportunity and nondiscrimination in compliance with all state and federal laws and regulations including but not limited to The Fair Housing amendments Act of 1988, Section 504 of the Rehabilitation Act of 1973, The Americans with Disabilities Act of 1990, Title VI of the Civil Rights Act and the Age Discrimination Act of 1975.

The LLA will not discriminate on the basis of race, color, creed, religion, national or ethnic origin or citizenship, ancestry, sex, familial status, disability, sexual orientation, military/veteran status, source of income, age or other basis prohibited by local, state or federal law in any aspect of tenant selection.

4.1.7 Reasonable Accommodation

The LLA will make reasonable accommodations in policies and procedures for all applicants with disabilities who require such changes to have equal access to any aspect of the application process. Examples of reasonable accommodations may include but are not limited to:

- Meeting with an applicant in their home, living situation or where otherwise necessary to assist in completing the application
- Providing the application in alternative formats such as Braille
- Providing a sign language interpreter during an interview
- Provide an extra bedroom for a personal care attendant

The LLA will also assist the applicant in obtaining reasonable accommodations from the Owner or Property Manager of the development to which the applicant has been referred or occupies. Examples may include but are not limited to:

- Accommodations to the application process, such as having the Property Manager conduct an interview in the applicant's current housing situation (house, shelter, institution)
- Accommodations to Owner's tenant selection policies regarding landlord references, criminal records, source of income, credit history
- Modifications to the premises to accommodate a physical or sensory disability
- Provide sign language interpreter for key meetings such as initial interview
- Additional time to secure necessary verification documents
- Attempting reasonable accommodations before seeking to evict a tenant whose lease violations may be disability related

LLA or Owner has the right to request information to verify that request for accommodations is reasonable.

4.1.8 Confidentiality

It is the policy of the LLA to guard the privacy of applicants and participants. The LLA shall not disclose any personal information contained in its records to any persons or agencies other than the DHH, DSS, LHA, or other authorized government agency unless the individual about whom information is requested has given written consent to such disclosure. Individuals may be offered the opportunity to provide permission to share income information with an Owner/Property Manager to expedite approval of their application.

This privacy policy in no way limits the LLA's ability to collect such information as it may need to determine eligibility for PSH or to process reasonable accommodations requests, nor does it limit the LLA's ability to participate in program audits as required under the federal Community Development Block Grant (CDBG) program and under the LLA's Cooperative Endeavor Agreement with DHH, or to provide information required by the PBV program.

4.1.9 Communication

DHH PSH Program Manager and LHA/SA will regularly communicate policy guidance to LLAs, applicants, program participants and others as such becomes available.

4.1.10 Plan Review

DHH and DSS and LHA have committed to a review of the implementation of the PSH Tenant Selection Policies and Procedures twice annually to ensure the goals of the plan are being achieved and to make adjustments to the plan as needed to meet these goals.

4.2 Definitions

These are key technical definitions used in the Manual provided in alphabetical order.

4.2.1 At Risk of Homelessness or Living in Transitional Housing for the Homeless

A PSH applicant Household is considered at risk of homelessness under the following circumstances verified by the LLA:

- Household is being evicted or foreclosed within 30 days from a private dwelling unit and no subsequent residence has been identified and the Household lacks the resources and support networks needed to obtain housing or their housing has been condemned by housing officials and is no longer considered meant for human habitation;
- Household is fleeing a domestic violence housing situation and no subsequent residence has been identified and the Household lacks the resources and support networks needed to obtain housing.
- Household is in an untenable doubled up arrangements as verified by the LLA. A doubled up household is one which is residing temporarily with friends or extended family and who would otherwise be without a permanent residence of their own or would otherwise be in a publicly- or privately- funded family emergency shelter. Doubled up households do not have leases and are not tenants-at-will. Also if household is living in temporary housing

situations such as in motels, hotels, and FEMA trailers and no subsequent residence has been identified and the Household lacks the resources and support networks needed to obtain housing.

Household includes persons exiting mental health facilities, developmental disability facilities, nursing homes, residential addiction treatment programs, or hospitals and no subsequent residence has been identified and the Household lacks the resources and support networks needed to obtain housing

Household includes youth aging out of foster care who qualify for PSH and no subsequent residence has been identified and the Household lacks the resources and support networks needed to obtain housing;

Household is living in McKinney-Vento transitional housing but did not originally come from emergency shelter or a place not meant for human habitation, and no subsequent residence has been identified and the Household lacks the resources and support networks needed to obtain housing.

4.2.2 At Risk of Institutionalization

A PSH applicant Household shall be considered at risk of institutionalization when faced with placement in a nursing home, Intermediate Care Facility/Developmental Disabilities (ICF/DD) or long- term (more than 14 days) psychiatric hospital due to the following circumstances verified by the LLA:

Caregiver to member of Household with a disability becomes unable or unwilling to continue providing care;

Caregiver to member of Household with a disability dies and no other caregiver is available;

Caregiver to member of Household with a disability become incapacitated due to physical or psychological reasons;

Household's temporary housing arrangement becomes untenable;

Household faces other family crisis with insufficient caregiver support available;

Household's housing arrangement becomes untenable because of deterioration in a member's health or disability status impacts the member's ability to live independently;

4.2.3 Chronically Homeless:

An unaccompanied homeless individual with a disabling condition who has been homeless for a period of at least one year, OR an unaccompanied homeless individual with a disabling condition who has had at least four episodes of unaccompanied homelessness in the last three years. See "Defining Chronic Homelessness: A Technical Guide for HUD Programs," September 2007, available at http://www.hudhre.info/documents/DefiningChronicHomeless.pdf

4.2.4 Disability

The definition of "in need of permanent supportive housing" (see below) includes verification that the applicant has a substantial disability. As such, verification of "in need of permanent supportive housing" will suffice as verification of disability.

4.2.5 Extremely low income

Households with incomes that do not exceed 30% of Area median Income (AMI) are extremely low-income households. Updated income information is available from the U.S. Department of Housing and Urban Development at www.hud.gov or at http://www.novoco.com/products/rentincome.php. For purposes of applying tenant selection preferences, the LHA/SA will apply the higher of:

- The HUD published Parish Income Limit in which the family currently resides, or:
- The HUD published Statewide income limits for the State of Louisiana

4.2.6 Homeless

A PSH applicant Household is considered homeless only when he/she resides in one of the places described below:

In places not meant for human habitation, such as cars, parks, sidewalks, abandoned buildings (on the street);

In an emergency shelter;

In transitional housing for homeless households who originally came from the streets or emergency shelters;

In any of the above places but is spending a short time (up to 30 consecutive days) in a hospital or other institution

4.2.7 Household

A household consists of:

1. two or more persons who live or will live regularly in a unit as their primary residence:

   whose income and resources are available to meet the household's needs; and

   who are either related by blood, marriage, or operation of law, or who have otherwise evidenced a stable inter-dependent relationship;

2. one person; or

3. two or more persons who live or will live regularly in a unit as their primary residence, who do not have shared income and resources but reside together to jointly secure supports or services. This might include an individual with an attendant or two or more single individuals living together with or without live-in supports.

A household member shall be considered to be living regularly with a household if temporarily absent for reasons such as hospitalization, duty assignment, employment, or school attendance in another location. Upon receipt of notice that one or more children will be reunified with a household member, such child or children, if eligible and qualified, shall be considered

household members for purposes of securing a unit of appropriate unit size for the reunified family.

4.2.8 Hurricane Displacee

Household living in the GO Zone, as defined at the time of the 2005 hurricanes whose housing situation was disrupted either directly by the physical effects of the disaster or by resulting socioeconomic impacts (e.g., rent increases). Households who were homeless and living in the GO Zone at the time of the 2005 hurricanes and whose living situation was disrupted by the effects of the disaster will also be regarded as displacees.

4.2.9 Inappropriately Institutionalized

A person who is residing in segregated setting, including but not limited to a nursing home, ICF-DD, psychiatric facility, or other residential treatment facility, because they have a disability; who can be appropriately served in a more integrated setting; and who does not oppose being transferred to a less restrictive setting.

4.2.10 In need of permanent supportive housing

A household shall be considered to be in need of permanent supportive housing if a member has a physical, sensory, mental, emotional or cognitive impairment which is expected to be of long-continued or indefinite duration; substantially impedes ability to live independently without supports. The household's ability to live independently, with or without supports, can be improved by more suitable housing conditions. The household must be considered in need of services offered by the program to live in the community and not become evicted, homeless, or institutionalized.

4.2.11 PCAs

Personal care attendants are defined as a person who resides with a household member with a disability and who (a) provides necessary assistance in activities of daily living to such household member insofar as he or she requires such assistance on account of his or her disability. Note that the definition of PCA for the PSH program may not correspond with the definition used by the housing developments.

4.2.12 Youth Aging Out of Care

Youth aging out of care are youth who are between 18-21 years old who have an emotional, cognitive, medical, developmental or physical disability and are aging out of the foster care program; those who are 17 ½ years of age can apply to the program. Youth 18-21, aging out of foster care that have disabilities, face many social, support, financial, educational, workforce challenges, are at risk of homelessness and thus are eligible for permanent supported housing.

4.3 Application Taking

4.3.1 Goal

The goal of the PSH application taking procedure is to ensure a "dynamic" list of applicants seeking units through a system that is not overly bureaucratic and is fair and reasonable. The system needs to ensure that:

Households on lists should be actively needing and eligible for PSH.

Households should be able to indicate housing preferences and exercise choice.

Households should not face lengthy (multiple year) waits for housing with unrealistic expectations.

Households seeking housing should have fair opportunity to apply.

Respects the rights of households who apply for but are not selected for units, and who remain interested in and eligible for PSH.

LLAs should adhere to the principles of affirmative outreach and reasonable accommodation to ensure the participation of those whose disabilities and/or housing instability create barriers to the application process.

4.3.2 Application Taking and Opening/Closing of Waiting List

To achieve these goals, the LLA will manage the application taking through opening and closing of the waiting list as follows. An initial waiting list will consist of PSH-eligible applicants on current LLA waiting lists or receiving temporary housing assistance in the Transitional Housing Assistance Program, the Rental Housing Assistance Support Service, and the Rapid Rehousing Program, unless such applicants will be assisted otherwise; or in Tax Credit or other units designated for PSH as part of the Road Home program. Households on the initial waiting list will be placed on all project-based waiting lists for which they express an interest, or all projects within an LLA's jurisdiction if it is impracticable for the LLA to obtain this information.

Initial establishment of additional waiting lists.

1. The LLA shall open the lists after required public advertising. The LLA shall accept initial applications for set period of time, for waiting lists for PBV projects within its area of operations.

2. At end of this set period the LLA shall no longer accept applications (i.e. closes the list).

3. LLA shall review applications for preliminary PSH eligibility.

4. LLA shall use a lottery system to order eligible new applicants.

5. LLA shall assign preferences to applications; the Tenant Selection Database "re-orders" waiting list based on points assigned.

6. LLA shall refer based on lottery results and preferences as units become available as well as necessary matching characteristics such as correct household size, elder for elderly-only unit, accessible units, etc.

Waiting list is reopened; e.g., six months later.

7. When additional applicants are needed for the program or for specific waiting lists, the LLA shall open the applicable lists again after required public advertising. The LLA shall follow procedures above for accepting applications.

8. Through frequent contacts the LLA shall determine which unserved applicants from the existing waiting lists are still actively interested and available to move into PSH units. Those who are interested and still eligible shall remain on the lists.

9. Once lists are closed again, the LLA shall conduct a new lottery for new applicants; unhoused applicants already on waiting lists shall retain their places among applicants with same number of preference points. The LLA lottery shall order new applicants taking into consideration any PSH preferences.

From time to time during each year, LLA may accept PSH applications after required advertising. During these application periods, LLAs shall conduct targeted outreach to PSH eligible populations for available units as well as other outreach in compliance with HUD's regulations. While unit turnover and availability of units will vary at each LLA, LLAs should keep a "dynamic" PSH waiting list by regularly reviewing the status of applicants.

LLAs shall provide notice to DHH PSH Program Manager as well as local stakeholders as per the LLA's DHH approved Services Plan when the PSH waiting lists will be opened and closed. This notice and required advertising will be provided at least two weeks prior to LLA acceptance of applications.

LLAs shall provide public notice (advertising) by publication in a general circulation local newspaper, minority media, and other available means which states the criteria for successful applicants and where and when to apply.

Sometimes, LLAs may choose to maintain an open waiting list. In this instance, applicants will be added in date and time order after the last lottery has been conducted.

4.3.3 Applications

A completed application is one that is signed and includes sufficient information for the LLA to determine whether or not – pending verification of the information – the applicant is eligible for PSH. For example, veteran's status and gender are not required to make this determination but income information is necessary.

Applications that are not complete cannot be reviewed for eligibility. Applicants with incomplete applications will be contacted via mail and/or phone and efforts will be made to assist these applicants in submitting a complete application. LLA will consider all factors such

as applicant's medical problems or other extreme conditions. Applicants will be giving notice indicating when their incomplete applications will no longer be processed.

The LLAs or the SA will provide written notification to all applicants as to their preliminary eligibility. A notice of ineligibility will include reasons for ineligibility and notification of the right to informal review. Such correspondence should be provided in a timely manner but no later than 30 days after the closing of the period for taking applications.

Applicants will have the opportunity to indicate on the application whether they would like a copy of correspondence to also be sent to another party such as a case manager, family member or friend. Such communications are encouraged but not required. Making such a request or not will have no bearing on the applicant's status in the program.

Applications may be submitted via mail, fax, electronically or in-person as determined by the LLA. Applications via mail must be received on the day that the application taking period ends. Applications via fax must be received by the time of the day (e.g. 5:00 p.m.) on the day that application taking ends. Reasonable accommodations such as assisting an applicant in completing an application will be made to ensure applicants have an opportunity to apply regardless of disability

All LLAs will use the same application materials including the application, consent for release of information and verification forms.

4.4 Outreach

Outreach in addition to required public advertising will occur in advance of application taking. Outreach will be targeted to the specific units becoming available. LLAs will outreach to all PSH-eligible populations that are likely to be interested in and appropriate for the units. For example, if units becoming available are in an elderly-only development, outreach will target elder organizations such as the Council on Aging in the community and surrounding communities as well as to agencies that have indicated that they are working with elders who have disabilities including the regional Continuum of Care, health care providers, the local providers of services to persons with mental retardation and developmental disabilities, persons with mental illness, independent living centers, legal services and other local human services agencies.

To achieve this targeted outreach, the LLA will work closely with stakeholders. The LLA may:

- Develop a list of target agencies and outreach locations if such is not already available in LLA's Service Plan or if such requires updating
- Conduct in-services at key agencies
- Conduct outreach through mailings and batch e-mails

The LLA's DHH approved Service Plan includes an Outreach Plan. At minimum, the LLA should conduct the activities in their approved Plan.

4.5 Determination of Eligibility for PSH

Only eligible applicants shall be placed on the PSH waiting list or offered PSH units.

Applicants are eligible if they are (1) very low-income or extremely low-income, with the exceptions indicated in Section 4.1.12.3, and (2) meet one of the PSH population definitions in need of permanent supportive housing, as these terms are defined above. These definitions insure that the eligibility for the program conforms to the target population for PSH as set forth in the Road Home Plan and relevant Low-Income Housing Tax Credit Qualified Allocation Plans (QAP). See below for more information on the history of these definitions.

ROAD HOME DEFINITION

One of the goals of the Road Home Plan is the development of PSH. Incentives for the development of PSH targeted to the following population were included in the Road Home Plan:

1. "Hurricane displacees in need of Permanent Supportive Housing (as determined by the Local Lead Agency) living in the homeless shelter system or otherwise in temporary housing
2. The individual/household member has a substantial, long-term disability as determined by the Local Lead Agency including any of the following:
    - Serious Mental Illness;
    - Addictive Disorder, i.e., individuals in treatment/recovery from substance abuse disorder;
    - Developmental Disability, i.e., mental retardation, autism, or other disability acquired before the age of 22;
    - Physical, sensory, or cognitive disability occurring after the age of 22;
    - Disability caused by chronic illness (e.g., people with HIV/AIDS who are no longer able to work); and
    - Age-related disability (i.e., "frail elderly).
3. The household is homeless, or is determined by the Local Lead Agency to be (1) most-at risk of homelessness, and (2) in need of Permanent Supportive Housing. This will include family services clients with a goal of family reunification who are at risk for homelessness.
4. The individual/household member is aging out of the state Foster Care system and is determined by the Local Lead Agency to be in need of Permanent Supportive Housing."

The definitions in this tenant selection plan are inclusive of all of these populations but are easier to implement and verify.

LLAs will determine whether the household is in need of PSH based on the information provided in the application. Final determination using third party or source documents to verify this information generally does not need to happen until the LLA anticipates making a referral for the applicant. Applicants and persons referring the applicants should be advised at the time of the application of the documents or other information that will be needed to verify eligibility.

4.5.1 Income Eligibility

Eligible applicants generally may have a maximum gross income of 50% of AMI based on relevant household size. The LLA should add up the income sources listed on the application and compare to the maximum allowed for the appropriate household size. At least 75% of annual PBV new admissions must have incomes not exceeding 30% of AMI.

The Part 5 definition of annual income is the gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period. The name "Part 5 definition" is derived from the relevant regulation titled 24 CFR Part 5. A list of income and exclusions and more information about the Part 5 definition will be provided to the LLAs.

As described above, updated information is available from the U.S. Department of Housing and Urban Development at www.hud.gov or at http://www.novoco.com/products/rentincome.php as described in the information provided in the Exhibits.

4.5.2 Other Eligibility Requirements

The PBV program requires that applicants be denied eligibility under the circumstances stated in this administrative plan. As discussed further below, LLAs must conduct the necessary steps to determine whether any of those circumstances apply.

4.5.3 Applicant Letters

Applicants who are determined to be **preliminarily eligible** will be sent a letter of eligibility. All notices to applicants should be in simple, clear, non-bureaucratic language and aimed at most at a high-school reading level. Such letter should state:

- Applicant has been found preliminarily eligible for PSH, subject to final determination of PBV eligibility by the SA; clarify that (1) final eligibility will depend on verification of information provided in the application and (2) this is eligibility for PSH only and that Owner/manager will also make a determination when applicant is referred to development
- Number of bedrooms for which the applicant has been determined eligible
- Any preferences for which the applicant has been determined eligible, of this determination has occurred
- The right of the applicant to have an informal review regarding determination of bedroom size or preferences
- The right to reasonable accommodations
- Notice that the applicant is responsible for reporting changes in contact information such as address and phone number.

Applicants who are not found to be preliminarily eligible will be sent a letter indicating they have been found ineligible for the PSH program. This letter should state:

That the applicant has been found ineligible for PSH program and specify which requirement they do not meet.

Notice that applicant has the right to an informal review of this determination and must notify the LLA of their intent to do so in writing, by phone, fax or in-person within 14 days of receiving the notice.

The right to reasonable accommodations.

Reminder: This determination is for eligibility of PSH only. The SA will determine eligibility for PBV and The Owner/Property Manager has the right to screen applicants to the PSH units. Such screening may include ability to care for the unit, not interfering with the rights and enjoyment of others, and/or not to engage in any activity that threatens the health, safety or right to peaceful enjoyment of other residents or staff, and not to engage in illegal conduct. See LLA Screening below.

4.5.4 Database

Eligible applicants will be entered into the Tenant Selection Database, as further directed by LHA.

4.6 Preferences

Applicants with preferences are selected from the waiting list and receive an opportunity for an available unit earlier than those who do not have a preference. Preferences affect only the order of applicants on the waiting list. They do not make anyone eligible who was not otherwise eligible. The LLA must inform all applicants about available preferences and give all applicants an opportunity to show that they qualify for available preferences.

LLAs may choose whether to verify preferences at initial application or only in preparation for selecting households to refer to an available unit.

DHH and DSS in consultation with stakeholders have determined certain priority populations for the PSH Program. These populations and their prioritization are discussed below.

4.6.1 Specific Preferences

Applicants who meet one of the preference criteria will be assigned the number of points associated with that preference as illustrated in the chart below. Persons displaced by Hurricanes Katrina or Rita will receive the points corresponding to that preference, in addition to points for one of the other preference categories. Persons may not receive points for more than one of the other categories. The maximum number of points that an applicant may be assigned is fifteen(15) points. Notwithstanding the preference points, LHA may transfer households among PBV units authorized by this Administrative Plan.

The Tenant Selection database will assign applicants the appropriate points. This assignment will impact the application position on the waiting list.

Preference	Points

1. Applicants in Tax Credit or other units designated for PSH under the Road Home Program, or receiving temporary housing assistance under the Transitional Assistance Program, the Rental Housing Assistance Support Service, and the Rapid Rehousing Program, unless such households will be assisted otherwise (absolute preference)	8
2. Applicants with incomes not exceeding 30% of AMI, or exceeding 30% of AMI only because two persons in the household receive Supplemental Security Income (absolute preference)	
3. Applicants displaced by Hurricanes Katrina or Rita	5
4. Applicants at risk of homelessness or living in transitional housing for persons who are homeless	2
5. Applicants inappropriately institutionalized	2
6. Applicants at risk of institutionalization	2
7. Homeless applicants	1
8. Non-preference or standard applicant (none of the above)	0

The definition of each of these preference categories is provided in the Definitions Section above Means of verification is discussed in the next section.

4.7 Verification

4.7.1 Procedures

To determine preliminary eligibility, the application will be accepted as self-certification of the information contained in the application. No third party or source documentation will be required until the LLA is planning to refer the applicant to a development, unless this is needed to facilitate filling of vacant units. Ideally such source or third party information would be no dated no earlier than 90 days prior to referral.

If, subsequent to the preliminary determination of eligibility, the LLA determines that the verification of income, assets, or claimed preference status differs from the applicant's self certification, the applicant may be:

reassigned to a smaller or larger bedroom size;

reassigned to a different preference status; or

determined ineligible.

If such a change occurs, the applicant will be given written notice and provided with an opportunity for an informal review.

As described previously, LLAs may choose whether to verify preference at initial application or wait until households will be referred to available units.

4.7.2 Verification Documents

To be eligible for PSH, applicants must be low-income (50% of AMI except as indicated herein) and be in need of permanent supportive housing. The LLA must verify both of these. In order to receive preference points, applicants must verify they meet the applicable preference category or categories.

4.7.3 Income

Income can be verified using information provided by third parties with source documentation.

4.7.4 In Need of PSH

Verification of "in need of PSH" can be obtained by having the checklist that will be provided to the LLAs.

4.7.5 Verification of Preferences

As described previously, the PSH Program provides preferences for hurricane displacees, homeless households including chronically homeless households, households at risk of homelessness or living in transitional housing for the homeless, persons inappropriately institutionalized and persons at risk of institutionalization. The following provides guidance on verification of these preferences.

4.7.6 Displacees

The majority of those displaced by Hurricanes Rita and Katrina have identification numbers from FEMA. This number serves as documentation that an applicant is a Hurricane Displacee. The applicant should provide a copy of a letter from FEMA which includes this number and certifies their status.

4.7.7 Homeless

Documentation of homelessness will depend on which of the four categories the applicant falls under. For example, if the applicant is coming from the street, possible documentation includes:

- Written verification from an outreach worker, food pantry/soup kitchen staff, Health Care for the Homeless team member, religious representatives, or other people that may have had contact with the person and could provide information about his/her living situation. The verification should be a signed, dated general certification (on letterhead if possible) verifying that services are going to homeless persons and indicating where the persons reside; and

- Information to demonstrate that the participant has no adequate resources to find other housing.

An information sheet to be provided to the LLAs provides similar guidance for the three other categories of homelessness.

4.7.8 Chronically Homeless

Documentation of chronic homelessness can be particularly challenging. Examples of third party documentation include letters written and signed by either homeless shelter providers, homeless outreach workers, or other homeless service providers such as Health Care for the Homeless. Alternatively, a local Homeless Management Information System (HMIS) can be called upon to supply a printout of an individual's history in a local homeless service continuum. This printout may be substituted for a letter from a homeless provider.

A sample letter will be provided to the LLAs requesting third party verification of chronic homelessness as well as a checklist the LLA can use to confirm the applicant meets this definition.

4.7.9 At Risk of Homelessness or Living in Transitional Housing for the Homeless

Documentation of at risk of homelessness will depend on which of the six categories the applicant falls under. For example if the applicant is exiting a hospital or treatment facility, possible documentation would include:

1. Written evidence from the institution staff that the applicant is exiting, mental health and developmental disability facilities, nursing homes, residential addiction treatment programs, and hospitals. The staff person should be qualified and aware of the specific situation to provide written evidence; and

2. Information to demonstrate that the applicant has no adequate resources to find other housing; and

3. Information on what efforts were made to locate housing for the applicant and why, without the PSH, the applicant would be living on the street or in an emergency shelter.

LLAs will be provided similar guidance for the five other categories of at risk of homelessness.

4.7.10 Inappropriately Institutionalized

LLAs will be provided a form that can be provided to a third party to verify that the applicant is inappropriately institutionalized, which might be provided by a physician, service coordinator, or agency providing home and community-land services. The person must verify that he/she does not oppose being transferred to a less restrictive setting. If necessary, the institution can verify the person's current residency there.

4.7.11 At Risk of Institutionalization

LLAs will be provided a form that can be provided to a third party to verify that the applicant is at risk of institutionalization. This information could come from the applicant's family or caregiver.

4.7.12 Applicant Choices and Information Needs

To maximize the likelihood that tenancies will be successful, and to expedite the referral process, it is important to determine the applicant's needs and desires for particular locations, bedroom sizes, and other matters related to tenancy. Applicants and persons working with applicants should also be provided with clear information, in formats that they can understand, as to how the program operates and the documentation they will need to provide, at an early stage in the application process and periodically throughout the process. This is important because some documentation (e.g., evidence of efforts to collect child support) may take time to develop.

LLAs may be faced with very short timeframes for making referrals of eligible households to developments. Sometimes the LLA will not have early notice of a units becoming available. The LLA wants to do their best not to miss an opportunity to claim a PSH unit that is offered. As such, it is important that the LLAs anticipate referrals and have applicants at or near the top of the waiting lists ready to be referred. In order to help LLAs ensure timely referrals and not lose access to these units, applicants must be responsive to requests for information. Failure of applicants to respond in a timely manner (within 14 days) for documentation may result in LLA working with another applicant until such documentation is forthcoming.

4.8 LLA Review of Applicant Tenancy History

While the formal screening will be done by the Owner/Property Manager, in order to best position an applicant to have their referral accepted by the Owner/Property Manager, LLAs are strongly urged to do pre-screening (in addition to the steps needed to determine eligibility). With information about an applicant's past history when such history may lead to screening out by the Owner, the LLA can work with the applicant to fashion requests for reasonable accommodations and identify other factors which might help mitigate past issues and otherwise help "market" the applicant to the Property Manager or Owner of the development.

Problematic past history can be appealed on the basis of reasonable accommodation or the applicant can argue mitigating factors. It is important that the LLA review a copy of the development's tenant selection plan to determine how they screen applicants and what types of appeals are offered.

4.8.1 Example of reasonable accommodation

Applicant has a criminal record for possession of an illegal substance. Applicant with help of LLA argues that that at that time, applicant was a substance abuser. Since that time the applicant has become clean and sober. Applicant can provide evidence of this (AA medallions, letter from social worker or program), and length of sobriety. If supportive, applicant can show limited time of abuse, limited number of criminal records, no record for possession for sale, just use, etc.

Examples of mitigating circumstances:

For problematic past history that is not disability related, the LLA can assist the applicant in arguing that there are mitigating circumstances. For example:

The severity of the negative behavior or conduct

Amount of time that elapsed since the negative behavior or conduct

Likelihood the behavior will be repeated

Degree of danger the reoccurrence of such behavior poses for the any tenant or employee of the development

Many applicants may have problematic past history related to their poverty such as poor credit histories and nonpayment of rent. Rent subsidies should mitigate many of these types of issues.

Applicants who are homeless may have criminal records related only to their homelessness. For example, they may have been arrested for obstructing the sidewalk or trespassing on property. The LLA should work with the applicant and/or their case manager to make the case that these arrests are related specifically to the individual or household's homelessness.

LLAs are encouraged to assist applicants in proactively assisting applicants in making a positive case for their tenancy and in identifying supportive documentation.

4.9 Referral to PSH Units

4.9.1 Set Aside Agreement with Tax Credit- Financed Developments

The current Set Aside Agreement between the LLA and the Owner/Property Manager requires the LLA to make a referral of at least one PSH applicant within seven days after receipt of written notice from the Owner or Manager of the unit availability.

It is important for the LLA to obtain a copy of development's application and Tenant Selection Plan prior to making any referral to the development. Understanding the development's policies will ensure the LLA can anticipate the response to applications. The LLA may want to encourage the Owner/Property Manager to attend any reasonable accommodation trainings available through this program.

Applicant households should have been verified to be in need of PSH and eligible for Section 8 PBV and any preferences prior to referral to the development.

The LLA will want to carefully consider the number of referrals it makes to an Owner/property Manager when a unit becomes available. Arguments for limiting the number of referrals include the monetary and time costs related to making referrals as well as the concern that an Owner/Property Manager would reject an applicant because they see another "more desirable" one in the pile of referrals. The primary argument for making more than one referral at a time is to better ensure one of the households will be selected by the developer. The LLA must inform the developer that the developer must consider applicants in the order designated by the LLA to fulfill waiting list requirements, even if more than one applicant is referred at the same time.

4.9.2 Selection of Tenant for Referral

When making a referral for an available unit, the LLA's first referral will be the applicant with the highest number of **preference points** who is nearest the top of the waiting list based on the lottery and who qualifies for the unit.

The second referral will be the applicant next in line with the same number or fewer preference points who qualifies for the unit. And so on.

Important: The Tenant Selection database is programmed to provide LLA with the names of applicants in order at the top of the list.

Preference points have been discussed above. The following reviews the concept of matching applicants to a unit.

4.9.3 Matching

Each PSH unit will have unique characteristics including:

Number of bedrooms

Special design features such as wheelchair accessibility or access for persons with hearing disabilities

Development is elderly-only

Particular services offered

In making referrals, LLAs should refer the applicant(s) with the highest number of preference points who is nearest the top of the waiting list based on the lottery and who qualifies in view of these characteristics.

For certain units, the LLA will be limited as to whom it may refers. Specifically:

If the unit is an elderly-only development, the LLAs may only refer applicants whose head of household is 62 years of age and older

If the unit has accessibility features for persons with mobility impairments, the unit must first be offered to a person on the waiting list who needs such accessibility features.

If the unit offers particular services, households who can benefit from such services should be on the waiting list for that project and be referred to that unit.

LLAs should match applicants with unit characteristics. For example:

LLAs should refer applicants who need any special design features, i.e. refer a household which includes a person who uses a wheelchair for a physically accessible unit.

LLAs should refer applicants whose household size indicates they require the number of bedrooms offered by the unit.

For units with special design features, the household with the next best match can be referred. For example, if after targeted outreach, no household with a member who uses a wheelchair can be identified, the next household on the waiting list without such a member but who prefers the location and requires the number of bedrooms provided can be referred.

Note: Households occupying a unit with such design features shall be asked to sign a lease addendum if they do not require the features. With the addendum, the household agrees to move to a comparable non-accessible unit if a household requiring the design features applies.

4.9.4 Occupancy Standards

The chart below provides occupancy standards that each LLA will implement unless they conflict with an applicable local code.

Number of bedrooms	Minimum Number Unit Occupants	Maximum Number Unit Occupants
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8
5	5	10
6	6	12

If a household, based on the number of members, would qualify for more than one unit size, the owner must allow the household to choose which unit size they prefer. Subject to capacity of database, applicants will be allowed to choose to be on the waiting list for units with two different bedroom sizes.

Applicants who require special design features such as applicants with sensory disabilities or applicants who use wheelchairs, walkers or other assistive devices, may request to be placed on the list seeking both accessible and non-accessible units. Non-accessible units may be functional for the applicant (with or without modifications) and in some cases may become available more quickly than units with the desired access features built in.

Note that these are the occupancy standards for the PSH program and that each development will have its own occupancy code which may or may not be similar. The development may have a more stringent occupancy standard (fewer household members) than the LLA. When a referral is made, the referral must be compliant with the development's standard unless that standard violates a law or regulation. In addition, the development, the SA, and/or the LLA should make reasonable accommodations to the occupancy standards if requested by a disabled household and the request is disability related. If such a request is rejected, the LLA will assist the applicant in appealing (if applicant chooses to appeal) and will refer applicants to a fair housing or legal services agency if appropriate and desired.

Counting household members: In order to determine the size of unit that would be appropriate for a particular household, the LLA needs to determine the number of household members. The following policies will apply.

Count all full-time members of the household

Count all anticipated children. Anticipated children include the following:

- Children expected to be born to a pregnant woman;

- Children in the process of being adopted by an adult household member;
- Children whose custody is being obtained by an adult household member;
- Foster children who will reside in the unit;
- Children who are temporarily in a foster home who will return to the household; and
- Children in joint custody arrangements who are present in the household 50% or more of the time.

The LLA may count children who are away at school and who live at home during recesses.

The LLA must count live-in personal care attendants for purposes of determining appropriate unit size.

The LLA must count foster adults living in the unit.

Adults, except a husband and wife or those in a similar living arrangements, shall not have to share a bedroom, unless they choose to do so

Children of the opposite sex under the age of six may share a bedroom.

A household member shall not have to share a bedroom if a consequence of sharing is or would be a severe adverse impact on his or her mental or physical health.

Only bedrooms may be used for sleeping purposes by household members; the living room, kitchen, bathroom and hallways shall not be used for sleeping purposes by any household member

In determining household unit size for a particular household, the LLA and the SA may grant an exception to established subsidy standards if the LLA and the SA determines that the exception is justified by the age, sex, health, disability, or relationship of household members or other personal circumstances.

4.9.5 Letter of Referral

The Set Aside Agreement references a letter of referral that the LLA will provide for each applicant referred. A sample letter is included in the Exhibits.

4.9.6 Acceptance

PSH applicants who are referred to and accepted at a development, are removed from the waiting list. The Housing Support Team formed by the LLA should assist the applicant as needed with move-in and assist them in achieving and maintaining a stable tenancy.

4.9.7 Denial

Applicants who are rejected by the development, should be offered an opportunity by the Owner/Property Manager to appeal this determination. The LLA or the Housing Support Team should work with the applicant in making the appeal, including reviewing the reasons for the denial and fashioning the appeal accordingly. This may include a request for reasonable accommodation.

Denial by a developer (s) is not a reason to remove an applicant from the PSH waiting list for other projects. The LLA is urged to be creative, engaging and working with the applicant household to identify housing for which they can be found eligible. Once an applicant household has been rejected three times by different developments, the applicant household will be removed from all waiting lists unless they can show good cause to remain on the lists. This household can reapply at any time.

4.9.8 Other Referrals

While the applicant is on a waiting list, the LLA and/or the Housing Support Team can assist the applicant in identifying and applying to other housing opportunities. This might include but is not limited to applying to local housing authorities with an open Section 8 and public housing waiting lists, other private assisted developments and opportunities available through local nonprofit organizations and Continuums of Care.

4.10 Miscellaneous Supplemental Provisions

With respect to initial occupancy of a PBV project, eligible in-place families must be placed on the project's waiting list, referred to the owner, and given an absolute selection preference for PBV. If the in-place family is participating in a tenant-based program and that family is otherwise eligible for the PBV unit, the family can be admitted into the PBV program provided that it is willing to give up its tenant-based voucher to enter into a new one-year PBV lease for the unit.

The owner must lease PBV units only to eligible families referred by the LLA/SA from the proper waiting list.

Referrals to Accessible PBV Units:

If a PBV-eligible applicant has need for an accessible unit because it contains a member with mobility impairment, the SA/LLA may refer the family to any PBV owner with a vacant accessible unit or an accessible unit that is not occupied by a person with disabilities that requires such a unit.

Filling Vacancies in Conjunction with Site-Based Waiting Lists:

Normally the owner will notify the SA of any vacancy and the SA/LLA will refer to the owner families from the waiting list. If there are no families on the waiting list, the owner may refer a client to the LLA or SA for placement on the waiting list and determination of eligibility.

Establishing the Waiting List

If, as a result of an informal review of a decision to deny eligibility, the applicant is determined eligible by the LLA, his/her name will be added to the waiting list in as close to the status the original application would have had as possible.

The LLA may from time to time, contact applicants to determine whether they are still interested in receiving Section 8 assistance and/or to update information on their application. Applicants who fail to respond to such inquiries as required will be withdrawn from the waiting list.

Applicants who are withdrawn from the waiting list for failing to respond to any inquiry from LLA will not be reinstated, unless the reason for their failure to respond is verified to be related to their disability.

4.11 Informal Reviews for Applicants

Applicants have the right to an informal review of LLA or SSA decisions denying assistance to the applicant, to the extent provided by section 982.554 of the Regulations. Applicants must be notified of this fact at the time of application. In addition, applicants must be notified in writing of the following determinations, of their right to appeal these determinations as related to denial of assistance, and of the procedure for appealing (including the possible availability of local Legal Services offices and the Advocacy Center to help with appeals).

Ineligibility (income or in need of PSH)

Household size or bedroom number

Preference status

Denial of reasonable accommodations

Removal from the waiting list

The following conference procedure is to be made available to applicants who seek to make such an appeal.

1. THE TIME FOR REQUESTING A CONFERENCE:

An applicant who wishes an informal review must request a conference within ten (10) business days from the applicant's receipt of the notice of rejection or other determination.

2. THE APPLICANT'S REQUEST:

The request for a conference must be made in writing, in person or on the phone. Within three (3) business days of receipt of applicant's request, the LLA will appoint an impartial conference officer. An impartial conference officer is someone who has no prior knowledge of the application and who is not supervised by a person who was involved in the decision being challenged. This individual may be an employee of the LLA, a professional at another agency, a lay leader such as a minister or priest or other such individual.

3. SETTING UP THE CONFERENCE:

The LLA will set up a conference time and place convenient to the LLA, conference officer and applicant. Conferences may be held over the telephone or in alternate locations at the request of the applicant. Conference generally should not be held later than twenty (20) days from the date of the written rejection notice of the decision at issue unless otherwise agreed to by the applicant,

LLA and conference officer. Failure of an applicant to appear on the scheduled conference date will result in a decision upholding LLA's position unless the applicant demonstrates good cause.

If requested, the LLA will provide the applicant, and the applicant will provide the LLA, the opportunity to examine and copy any documents that will be used to support their positions prior to the conference. Copying of LLA documents shall be at the family's expense, unless the LLA waives this requirement.

The LLA must provide reasonable accommodations (including interpreters, if necessary) in the appeals process.

4. THE CONFERENCE:

The conference is an informal proceeding intended to determine whether the LLA's rejection or other related determination is reasonable in light of the information presented and in accordance with the LLA's selection criteria, this administrative plan and other program requirements or policies. At the conference, it is the LLA's burden to present information in support of its decision, but the rules of evidence applicable in a court of law will not apply. Applicants may present information in addition to that previously provided to the LLA. Both the LLA and the applicant are permitted, but not required, to have a representative or advocate present during the conference proceedings. Generally, conference proceedings shall be limited to one hour in length and each party should be prepared to present its case within the time allotted.

5. THE DECISION OF THE CONFERENCE OFFICER

The conference officer must determine whether management's rejection or other determination is reasonable and in accordance with LLA's selection practices, this administrative plan and other program requirements or policies. The conference officer's decision must be in writing, and, if necessary, in an alternate format, must be dated, and must briefly state his or her findings of fact and the basis for his or her decision. Unless the parties mutually agree otherwise, the conference officer will only consider evidence presented at the conference. To the extent practicable a copy of the conference officer's decision shall be forwarded within five (5) business days of the conference to the LLA and the applicant, in an alternate format, if necessary.

The conference officer's determination shall be final unless the applicant believes a local, state or federal law has been violated in which case the applicant has the right to pursue the matter in other venues.

Notwithstanding the above, LHA may limit informal reviews to denial of participation in the PBV program, and may exclude from review issues regarding household size or bedroom number, or issues regarding the suitability of a particular unit. Discretionary administrative determination or general policy issues or class grievances are not subject to informal review. LHA may limit applicant presentations to written materials. LHA may exclude from informal reviews any subject matters listed 24 CFR 982.554(c).

In all respects the informal review process shall conform with Section 982.554 of the Regulations.

The following material regarding applications and tenant selection is supplemental to the Manual as modified in the preceding provisions.

4.12 Supplemental Provisions Regarding Eligibility and Verification of Family Circumstances

4.12.1 Scheduling the Section 8 PBV Eligibility Interview

If necessary, Section 8 PBV eligibility interviews will be scheduled for the applicants at the top of the waiting list.

Applicants may request that the interview be conducted in their homes or at some other convenient location if the nature of their disability is such that they cannot reasonably be expected to come to the LLA or SA's office or another location.

The appointment letter will advise the applicant to bring all documents necessary to document their eligibility, family composition, income, and deductions. The LLA will provide to the SA all eligibility documents that the LLA possesses in order to streamline the review and approval process for Section 8 PBV.

4.12.2 Conducting the Section 8 PBV Eligibility Interview

1. Applicants will complete an application form, providing all information required on the HUD-50058 and 50059. The application will be signed by all adult members of the household. In addition, each adult household member must sign a Form HUD-9886, Authorization for Release of Information/Privacy Act Notice.

2. Applicants will be required to provide all information requested by the SA including information on their income and on deductions claimed in the form of paystubs, computerized award letters for income received from government sources such as Temporary Assistance to Needy Families (TANF), court-ordered child support, Social Security, Supplemental Security Income, Unemployment Compensation and all other forms of income. Applicants will sign the appropriate releases for third party verification of income. The LLA will attempt to obtain third party verification of income through the Enterprise Income Verification system or from the source of the income.

3. Applicants who wish to receive deductions for dependents, elderly/disabled status, unreimbursed medical expenses, reasonable childcare and/or disability assistance expenses, will be required to provide information on the status and/or the unreimbursed expenses. The LLA will attempt to obtain third-party verifications of deductions.

4. Dependents include persons with disabilities and full-time students other than family head or spouse. Full time students include those verified as attending traditional educational institutions as well as those pursuing full-time vocational training.

4.12.3 Determining Eligibility

1. Generally, the LLA will verify that the income of eligible applicants is at or below the Extremely Low-Income limit or the Very Low-Income limit, and the SA will verify that that the family does not include an adult who has been evicted from federally assisted housing for drug-related criminal activity during the past three years. Any applicant who is subject to a lifetime registration requirement under a State sex offender registration program will be found ineligible for the Section 8 PBV program. In addition, the applicant family will be denied admission if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing for the Section 8 PBV program.

2. As a part of the eligibility determination, the SA shall run a criminal record check on all adult family members. When the applicant has lived in the locality for the past three years, the record check shall involve the local Police Department. If any adult member of the applicant family has not lived in the locality for the previous three years, records to be checked may include the police department of the localities where the applicant lived as well as the records of the National Crime Information Center. Applicants are required to sign releases for such criminal record checks. In addition, SA will check the sex offenders web site for the appropriate jurisdiction, for individuals that have lived outside of for the previous three years.

3. Eligibility and income:

   No more than 25% of the families admitted in any fiscal year may have incomes that exceed 30% of the median income for the area (Extremely Low Income). Generally, these families may have incomes between 31% and 50% of the area median (Very Low Income). Certain families may, at the time of admission, have incomes between 51% and 80% of the area median (Low Income). These include:

   A. Families continuously assisted in Public Housing or Section 8.

   B. Families physically displaced by rental rehabilitation.

   C. Non-purchasing tenants of certain homeownership programs.

   D. Tenants displaced from certain Section 221 and 236 projects.

   E. Low-income families residing in certain HUD-owned projects.

   F. Families in occupancy prior to the commitment of PBV to their units and provided "Preference 1" on the preference chart in paragraph 4.6 above.

4. At least one member of an eligible family must have either citizenship or eligible immigration status. Applicants will be required to complete a Section 214

Declaration of Citizenship status for each member of the family. The SA will require third-party verification of the applicant's certification documentation (U.S. Passport, resident alien card, social security card or other appropriate documentation; if 62 years of age or old, signed declaration of eligible immigration status and proof of age document), in accordance with Section 592 of the Quality Housing and Work Responsibility Act of 1998 (QHWRA).

The SA will not require an applicant to establish and verify eligibility in relation to citizenship before providing financial assistance to an individual or family. However, SA must verify eligibility status no later than the date of the family's annual reexamination.

A pro-rata reduction in housing assistance will be made for all persons in the participant family who do not have either citizenship or eligible immigration status.

5. If, within 30 days of the eligibility interview, the applicant has failed to submit the required documentation or to complete the required forms and certifications, the family will be determined to be ineligible for the Section 8 PBV program. The applicant will be notified in writing, and will be given the opportunity to request an informal hearing.

4.12.4 Grounds for denial of eligibility

The SA will not deny assistance to a current or former victim of domestic violence, dating violence or stalking, if otherwise qualified. The SA will deny assistance to applicants who:

A. Do not meet any one or more of the eligibility criteria;

B. Fail to complete any aspect of the application or lease-up process;

C. Have committed fraud, bribery, or any other corruption in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived therefrom;

D. Have a family or household member who was evicted from public housing or federally assisted housing or was terminated from the voucher program within the last three years unless the family has successfully completed a supervised rehabilitation program approved by LHA;

E. Have a family or household member who is illegally using a controlled substance or abuses alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. The SA may waive this requirement if:

1. The person demonstrates to the SA/LLA's satisfaction that the person is no longer engaging in drug-related criminal activity or abuse of alcohol;

2. The person has successfully completed a supervised drug or alcohol rehabilitation program;

3. The person has otherwise been rehabilitated successfully; or

4. The person is participating in a supervised drug or alcohol rehabilitation program.

F. Have a family or household member who has been convicted of manufacturing or producing methamphetamine (denied for life);

G. Have a family member with a subject to a lifetime registration under a State sex offender registration program (denied for life).

4.13 Owner Selection of Tenants

The landlord/owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low income families and reasonably related to program eligibility and an applicants' ability to fulfill the obligations under the lease. The landlord/owner must promptly notify the SA, in writing, on any rejected applicant and the grounds for the denial.

1) Tenant Screening

a) SA Responsibility

Neither LHA nor the LLAs nor the SA are responsible or liable to the landlord/owner or any other person for the family's behavior or suitability for tenancy. SA is responsible for determining eligibility based on applicant's income and criminal record.

The SA must provide the landlord/owner with the family's current and prior address (as shown in LHA's records) and the name(s) and addressees) (if known by the SA) of the family's current and previous landlords. The SA shall provide no other applicant information to owners.

The SA must provide the applicant a description of the SA policy on providing information to owners. The SA must also provide the same type of information to all owners.

b) The owner is responsible for screening and selection of the family to occupy the landlord/owner's unit, provided that the owner may not deny assistance to a current or former victim of domestic violence, dating violence or stalking, if otherwise qualified. When screening families the landlord/owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills;

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

2) Family briefing on acceptance of offer

When a family accepts an offer for PBV assistance, the SA will give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the SA will provide a briefing packet that explains how the SA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

3) Leasing

During the term of the HAP contract, the owner must lease contract units to eligible families that have been approved by the SA. The contract unit leased to the family must be leased in the appropriate size unit of the family, based on LHA's subsidy standards.

The tenant must have a legal capacity to enter a lease under state and local law. The tenant and the landlord/owner must enter into a written lease agreement that is signed by both parties. If a landlord/owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenancy, except that the lease must include a HUD-required tenancy addendum. If the landlord/owner does not use a standard lease for rental to unassisted tenants, the owner may use another form of lease, such as an LHA model lease. The SA will review the landlord/owner's lease to determine if the lease complies with state and local law. If LHA determines that the lease does not comply with state or local law, the SA will deny the approval of tenancy.

The term of the lease must be for at least one year. Upon the expiration of the lease, the landlord/owner may renew, refuse to renew the lease for "good cause", or refuse to renew the lease without good cause. If the landlord/owner refuses to renew the lease without good cause, the SA must remove the unit from the PBV HAP contract unless the unit is designated for PSH under the Road Home program.

If the tenant and landlord/owner agree to any change in the lease, the change must be writing, and the owner must immediately give the SA a copy of all changes. The landlord/owner must notify the SA in advance of any proposed change(s) in the lease regarding allocation of utility responsibility. This change must be approved by SA. The SA must redetermine reasonable rent, in accordance to program requirements.

4) Filling Vacancies

The landlord/owner must promptly notify the LLA of any vacancy or expected vacancy in a contract unit. The LLA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

5) Reduction in HAP Contract Units Due to Vacancies

If any contract units have been vacant for 120 or more days since the landlord/owner have given notice to the SA, the SA may give notice to the landlord/owner amending the HAP contract to reduce the number of contract units by subtracting the number of units, based on bedroom size.

SECTION V ANNUAL AND INTERIM FUNCTIONS

5.1 Recertification of Family Eligibility

1. At least annually, prior to the anniversary date of the HAP contract, participating families will be required to attend a recertification interview in person or by mail, to advise the SA of any changes in the family's size or circumstances, and to resubmit documentation to the SA regarding the family's income and allowable deductions. At least annually, each adult household member will sign a Form HUD-9886, Authorization for the Release of Information/Privacy Act Notice. Any change in the family's payment that results from this reexamination will become effective on the anniversary date of the HAP contract.

5.2 Adjusting Rent between Regular Reexaminations

1. Participants are required to report all changes in family composition or status to the SA within 10 calendar days of the occurrence. Failure to report within the 10 calendar days may result in a retroactive rent increase, but not a retroactive credit or rent reduction. In order to qualify for rent reductions, participants must report income decreases promptly. Participants are also required to report interim increases in income.

2. LHA wishes to encourage families to improve their economic circumstances, so most changes in family income between reexaminations will not result in a rent change. The SA will process interim changes in rent in accordance with the chart below:

INCOME CHANGE	SA ACTION
(a) Decrease in income for any reason, except for decrease that is subject to Imputed Welfare Income rules[1].	• SA will process an interim reduction in rent if the income decrease will last more than 30 days. 24 CFR § 5.609
(b) Increase in income following SA granting of interim rent decrease.	• SA will process an interim increase for income increases that follow interim rent reductions.
(c) Increase in earned income from the employment of a current household member.	• SA will either defer the increase to the next regular reexamination or, if the individual is eligible for an earned income disallowance, grant the disallowance. 24 CFR § 960.255
(d) Increase in unearned income (e.g. COLA	• SA will defer the increase to the next regular

[1] Decreases in welfare income resulting from welfare fraud or from cuts for failure to comply with economic self-sufficiency requirements are not eligible for rent reductions (24 CFR § 5.615)

adjustment for social security).	reexamination.
(e) Increase in income because a person with income (from any source) joins the household.	• SA will defer the increase to the next regular reexamination.
(f) Increase in monetary or non-monetary income after Participant claimed zero income.	• SA will process an interim rent increase.

3. The SA will process an interim increase in rent only if

   a. the participant's income increases after the participant was granted an interim decrease in rent; or

   b. the participant reported zero income and has a verified increase in income (which may be a non-monetary contribution); or

   c. the participant has misrepresented or failed to report facts upon which rent is based, so the rent the participant is paying is less than it should have been.

   d. The SA will apply any increase in rent retroactive to the month following the month in which the misrepresentation occurred.

4. Complete verification of the circumstances applicable to rent adjustments must be documented and approved by according to the LHA procedure on verification.

5. The SA will process interim decreases in rent as follows:

   a. When a decrease in income is reported, and the SA verifies that the decrease will last less than 30 days, an interim adjustment will not be processed.

   b. Participants reporting decreases in income that are expected to last more than 30 days will have an interim adjustment processed.

6. Participants granted a reduction in rent are required to report for special reexaminations at intervals determined by the SA. Reporting is required until income increases or it is time for the next regularly scheduled reexamination, whichever occurs first.

7. If a participant experiences a decrease in income from public assistance because their grant is cut for one of the two following reasons, their rent will not be reduced:

   a. Welfare department has reduced the grant because of welfare fraud; or

   b. Welfare department has reduced the grant because the family failed to comply with economic self-sufficiency requirements.

8. If a participant challenges the welfare department's reduction of their grant, an interim reduction in rent will be processed until the matter is settled by the welfare department.

9. If the welfare department upholds the grant reduction, the participant shall owe a retroactive rent on the interim rent reduction granted.

10. If the welfare department overturns the grant reduction, no retroactive balance is owed.

5.3 Interim Changes in Family Composition

1. All changes in family composition must be reported within ten days of occurrence. These changes would include:

    a. Someone listed on the lease leaving the unit;

    b. Birth, adoption or court-awarded custody of a child;

2. Additions of the following persons must be requested in writing and require written permission from the SA and the owner before the persons may move into the apartment:

    a. Adult family member (including a new spouse);

    b. Foster child or children;

    c. Foster adult;

    d. Live-in Aide;

    e. Child in kinship care.

3. All adults who are proposed for addition to a family or household must be screened and, with the exception of Live-in Aides, must not overcrowd the unit.

5.4 Effective Date of Rent Adjustments

Participants will be notified in writing of any rent adjustment including the effective date of the adjustment.

1. Rent decreases go into effect the first of the month following the report of a change. Income decreases reported or verified after the tenant accounting cut-off date will be effective the first of the second month with a credit retroactive to the first month.

2. Rent increases (except those due to misrepresentation) require 30 days notice and become effective the first of the second month.

5.5 Earned Income Disallowances

1. If a disabled participant goes to work or has new or additional earned income and qualifies under one of the following three criteria, that individual will receive an Earned Income Disallowance (EID) as described below:

a. Goes to work after having been unemployed for at least twelve months, or goes to work after having earned less than would be earned working ten hours per week for a fifty week year earning minimum wage; or

b. Receives new or increased earned income during participation in an education, job training, or other economic self sufficiency activity; or

c. Receives new or increased earned income within six months of having received a cash benefit or in-kind services funded through the program of Temporary Assistance to Needy Families. If an in-kind benefit (child care, clothing or transportation subsidies for example) was received it must be worth at least $500 in the past six months.

2. During the first 12 months after the date when the participant qualified for the EID, the participant's rent will not be increased because of the new earned income. Rent during this period will be based on the participant's income before qualifying for the EID plus any increases in unearned income that may occur after qualifying for the EID.

3. During the second 12 months after the date the participant qualified for the EID, the participant's rent will be increased by an amount equal to fifty percent of what the increase would be if not for the EID.

4. The disallowance periods described in number 3 and 4 above only occur while the participant is employed. If the participant stops working for any reason the disallowance stops and resumes again when the participant goes back to work.

5. Even if the full 24 months of disallowance (12 months of full disallowance plus 12 months of 50% disallowance) have not been used, the EID will terminate 48 months from the date when the participant first qualified for the EID.

6. An EID is awarded to a person, not an entire family. More than one adult family member can receive an EID at the same time if they are disabled and qualify as described under number 1 above.

7. No one receives more than one EID in a lifetime.

SECTION VI VERIFICATIONS PRIOR TO ADMISSION AND DURING OCCUPANCY

The SA will verify information related to waiting list preferences, eligibility, admission and level of benefits prior to admission in accordance with the Verification Procedure and current HUD guidelines. Periodically during occupancy, items related to eligibility and rent determination shall also be reviewed and verified. Income, assets, and expenses will be verified, as well as disability status, need for a live-in aide and other reasonable accommodations, full-time student status of family members 18 years of age and older, Social Security Numbers, citizenship/eligible noncitizen status. Age and relationship will only be verified in those instances where needed to make a determination of level of assistance.

6.1 Acceptable Methods of Verification

Age, relationship, U.S. citizenship, and Social Security numbers will generally be verified with documentation provided by the family. For citizenship, the family's Section 214 Declaration of Citizenship certification for each family member will be accepted. Verification of these items will include photocopies of the Social Security cards and other documents presented by the family, the INS SAVE approval code, and forms signed by the family.

Other information will be verified by the following five verification methods acceptable to HUD, in the order of preference indicated:

6.2 Enterprise Income Verifications (EIV)

EIV is the verification of income through an independent source that systematically maintains income information in computerized form for a large number of individuals. The SA will use the information in EIV to verify income sources provided by the family as well as income that may not have been reported by the family. This will be done before, during and/or after examinations or re-examinations of household income as appropriate.

The LHA/SA will use current tenant-provided documents and EIV to calculate anticipated annual income. If there is no substantial difference ($200 or more per month or $2,400 per year) between the tenant reported information and EIV, the LHA/SA will use the tenant provided documents to determine income. If the tenant disputes the income determination, additional information is required and/or there is a substantial difference between the tenant provided data and EIV, the LHA/SA will request a third-party verification. Tenant provided documents should be dated within the last 120 days of the recertification effective date or within 60 days of the date the PHA requested the information.

It is important to note that EIV data will only be used to verify a participant's eligibility for participation in a rental assistance program and to determine the level of assistance the participant is entitled to receive and only by properly trained persons whose duties require access to this information. Any other use, unless approved by the HUD Headquarters EIV Security System Administrator, is specifically prohibited and will not occur.

No adverse action can be taken against a participant until LHA has independently verified the EIV information and the participant has been granted an opportunity to contest any adverse findings through the established grievance procedure. The consequences of adverse findings may include LHA or the SA requiring the immediate payment of any over-subsidy, the entering into a repayment agreement, eviction, criminal prosecution, or any other appropriate remedy.

Furthermore, the information LHA or the SA derives from the EIV system will be protected to ensure that it is utilized solely for official purposes and not disclosed in any way that would violate the privacy of the affected individuals. To ensure that EIV data is protected, it will be stored in the file in a separate envelope that is marked "Confidential". EIV data will be shredded in accordance with the schedule in Section XV.

6.3 Third –Party Written Verifications

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

Third-party written verifications may also be used to supplement EIV verifications. They will be utilized when there is a discrepancy of $200 a month or more, the participant disputes the EIV results or additional information is needed by the LHA/SA.

Third party verification of SS and SSI benefits shall be obtained by getting a copy of an official Social Security Administration letter of benefits from the person receiving the benefits and verification from HUD's on-line systems. If either of these forms of verification is not obtainable, then the file shall be documented as to why third party verification was not used.

The SA will allow fourteen (14) calendar days for the return of third party written verifications prior to continuing on to the next type of verification.

6.4 Third-Party Oral Verifications

This type of verification includes direct contact with the source, in person or by telephone. When this method is used, staff members will be required to document in writing with whom they spoke, the date of the conversation and the facts obtained.

The SA will allow three (3) calendar days for the return of third party oral verifications prior to continuing on to the next type of verification.

6.5 Review of Documents

When EIV, written and oral third party verifications are not available within the seventeen (17) calendar days period allowed in paragraphs 6.3 and 6.4 above, the SA on behalf of LHA must use the information received by the family, provided that the documents provide complete information. Photocopies of the documents, excluding government checks, provided by the family will be maintained in the file. In cases in which documents are viewed and cannot be

photocopied, staff reviewing the documents will complete a written statement as to the contents of the document(s).

6.6 Self-Certification and Self-Declaration

When EIV, written and oral third party verifications are not available within the seventeen (17) calendar days period allowed in paragraphs 6.3 and 6.4 above, and hand-carried verification cannot be obtained, the SA will accept a statement detailing information needed, signed by the head, spouse, co-head, or other adult family member.

6.7 Types of verification

The chart below outlines the factors that may be verified and gives common examples of the verification that will be sought. To obtain written third party verification, the SA will send a request form to the source along with a release form signed by the applicant/participant via first class mail.

In the event conflicting information is received regarding one of the items to be verified, SA staff will attempt to resolve the conflict and will document why one piece of information was used versus another.

Verification Requirements for Individual Items		
Item to Be Verified	**3rd party verification**	**Hand-carried verification**
General Eligibility Items		
Social Security Number	Letter from Social Security, electronic reports	Social Security card or a third party document stating the Social Security Number
Adult Status of the Head of Household		Valid drivers license, identification card issued by a government agency, or a birth certificate
Citizenship	N/A	Signed Section 214 Declaration, and voter's registration card, birth certificate, etc
Eligible immigration status	INS SAVE confirmation #	INS card
Disability	EIV receipt of SSI, Verification Form from medical professional	Proof of SSI or Social Security disability payments
Full time student status (if >18)	Verification Form or letter from school	For high school and/or college students, any document evidencing FT enrollment
Need for a live-in aide	Verification form or letter from medical professional or other professional knowledgeable of	N/A

Verification Requirements for Individual Items		
Item to Be Verified	**3rd party verification**	**Hand-carried verification**
	condition	
Child care costs	Verification form or letter from care provider	Bills and receipts
Disability assistance expenses	Verification forms or letter from suppliers, care givers, etc.	Bills and records of payment
Medical expenses	Verification forms or letters from providers, prescription record from pharmacy, medical professional's letter stating assistance or a companion animal is needed	Bills, receipts, records of payment, dates of trips, mileage log, receipts for fares and tolls
Medicare Discount Card		A card with the words "Medicare Approved" on it
Medicare Discount Benefit		Individual receipts if the pre-discount cost is included; a comparison of receipts before and after the application of the discount; other information provided by the pharmacy supplying the prescription; or if nothing else is available, an imputed value of $48.17 per prescription.
Value of and Income from Assets		
Savings, checking accounts	Verification form or letter from institution (unless the balance is less than $5,000 , in which case LHA or the LLA will use at least the last three months of bank statements, since LHA has determined that it is more cost effective to use bank statements)	Passbook, last three months of bank statements
CDs, bonds, etc.	Verification form or letter from institution	Tax return, information brochure from institution, the CD, the bond
Stocks	Verification form or letter from broker or holding company	Stock or most current statement, price in newspaper or through Internet
Real property	Verification form or letter from tax office, assessment, etc.	Property tax statement (for current value), assessment, records or income and expenses, tax return
Personal property held as an investment	Assessment, bluebook, etc	Receipt for purchase, other evidence of worth
Cash value of whole life insurance policies	Verification form or letter from insurance company	Current statement

Verification Requirements for Individual Items		
Item to Be Verified	**3rd party verification**	**Hand-carried verification**
Assets disposed of for less than fair market value	N/A	Original receipt and receipt at disposition, other evidence of worth
Income		
Earned income	Verification form or letter from employer	Three to six consecutive pay stubs
Self-employed	N/A	Tax return from prior year, books of accounts
Regular gifts and contributions	Verification form or letter from source, letter from organization receiving gift (i.e., if grandmother pays day care provider, the day care provider could so state)	Bank deposits, other similar evidence
Alimony/child support	Verification form, letter or printout from agency through whom payments are made, letter from source, letter from Human Services	Record of deposits, divorce decree
Social Security (all types)	EIV or Verification form from SSA	Letter from Social Security
Periodic payments (i.e., welfare, pensions, workers' comp, unemployment)	Verification form or electronic reports from the source	Award letter, letter announcing change in amount of future payments
Training program participation	Letter from program provider indicating - whether enrolled - whether training is HUD-funded - whether State or local program - whether it is employment training - whether payments are for out- of-pocket expenses incurred in order to participate in a program	N/A

SECTION VII CHANGES IN FAMILY SIZE, FAMILY SEPARATIONS, ABSENCES, AND MOVES

7.1 Changes in Family Size

1. If the family size increases while the family is receiving assistance under the voucher program, and the family becomes eligible for a larger voucher, the SA will work with owners to provide a PBV unit of suitable size of if one is available. Situations will take priority where the increase in family size results in the assisted unit failing HQS space standards.

2. If the family size decreases while the family is receiving assistance under the PBV program, and the family becomes ineligible for the unit size it currently occupies, the SA will work with owners to provide a PBV unit of suitable size if one is available. The SA may require the family to move to a PBV unit of suitable size.

3. If the SA determines that a family is occupying a wrong size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the SA must promptly notify the family and the landlord/owner of this determination and offer the family the opportunity to receive continued housing assistance in another PBV unit, if available.

4. If the SA offers the family another unit and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by SA, or both, the SA must terminate the housing assistance payments for the unit at the expiration of a reasonable period determined by the SA and LHA.

7.2 Family Separations

If a family separates during the time it is receiving Section 8 assistance, the SA will determine who retains the assistance as follows:

1. First consideration will be given to a family member forced to leave the household as a result of actual or threatened violence by a spouse or other family member.

2. Second consideration will be given to an adult family member with custody of minor children.

3. Third consideration will be given to an adult family member with custody of ill, elderly, or disabled family members.

4. If none of the above applies, the adult member initially designated as head of household will retain the Section 8 assistance.

7.3 Family Absences from the Assisted Unit

1. An assisted family that finds it necessary to be absent from the unit for a more than 30 consecutive days is required to notify the owner and the SA of their absence, and the date by which they expect to return. If the unit will be occupied during the family's absence by a caretaker not ordinarily a part of the household, the tenant must secure the owner's permission for the arrangement, and must notify the SA. If the SA finds the assisted unit unoccupied, or occupied by someone other than the designated head of household or other adult member of the family, it will assume that the family has vacated the unit and will terminate assistance for the family.

2. Under no circumstances may the family be absent from the assisted unit for more than 180 consecutive days. If the family's absence exceeds 180 days, the SA will terminate assistance for the family.

3. If the family has given the notice required in 1, above, the family will be eligible to receive a new PBV within 180 days of the termination of the HAP contract if assistance is available under the PBV program.

4. If the required notice has not been given, or if more than 180 days have elapsed since the termination of the HAP contract, the family will not be eligible to resume assistance, and must reapply when applications are being accepted.

7.4 Family Moves with Continued Assistance

1. An assisted family in good standing may be transferred to a new PBV unit, if available, at any time with continued assistance if the HAP for the old unit has been or will be terminated for reasons not caused by the family, or for the following reasons:

Relocation directed by the SA;

Owner caused failed HQS, provided the tenant is in compliance with program regulations;

Family need for an accessible unit to accommodate a member's disability or other medical condition;

Verified catastrophic disaster, e.g., floods;

Change in family's voucher size;

Other good cause as determined by the SA and approved by LHA.

Assisted families who require a transfer for the reasons listed in this section will be given absolute preference for the next available vacant unit on the waiting list to be re-housed/transferred. Unless otherwise approved by the SA, mutual rescissions of a lease between tenant and landlord are not allowed. A participant who chooses to rescind a current lease with a landlord without SA approval may be subject to termination of assistance.

SECTION VIII EVICTIONS AND OWNER CLAIMS

8.1 Evictions and Terminations of Tenancy

1. An owner may evict a Section 8 PBV tenant at any time for serious or repeated violations of the lease; violation of local, State, or federal laws applicable to the tenant's occupancy of the unit; violent criminal behavior by the tenant, a household member, or guest that threatens other residents or persons residing near the unit; or drug-related criminal.

2. After the first year, an owner may give notice of lease termination to a Section 8 tenant for good cause, except that good cause does not include the owner's desire to use the unit for personal or family use, or for a purpose other than as a residential unit; or for business or economic reason for termination of the tenancy. Regulations 983.257.

3. The owner must give the tenant a written notice of intention to terminate the lease, and the grounds for the termination, and must give a copy to the SA. If the lease is not being renewed, the owner is required to give the tenant 90 days' notice.

4. A Section 8 PBV tenant who is evicted for serious or repeated violations of the lease; violation of local, State, or federal laws applicable to the tenant's occupancy of the unit; violent criminal behavior by the tenant, a household member, or guest that threatens other residents or persons residing near the unit; or drug-related criminal activity will have his/her assistance terminated and will not be eligible to move to a new unit with Section 8 assistance.

5. If the owner refuses to renew the lease without good cause, the SSA will transfer the tenant to another PBV unit when available, and may remove the PBV unit from the HAP contract.

6. Eviction actions must be in compliance with the Violence Against Women and Department of Justice Reauthorization Act of 2005, P.L. 109-162.

SECTION IX TERMINATIONS AND INFORMAL HEARINGS

This section applies only to Section 8 PBV participants. Applicants to the PBV program are not eligible for Informal Hearings. Applicants are eligible for Informal Reviews, per Section III of this Policy.

9.1 Terminations

1. The SA may terminate assistance to Section 8 participants who fail to meet their family obligations under the program. These obligations include supplying required information, maintaining the unit and supplying tenant-paid utilities and

appliances as required under HQS, allowing the SA to inspect the unit, complying with the provisions of the lease, notifying the SA and LHA and the owner before moving, giving the SA and LHA a copy of any eviction notice, and using the assisted unit as the family's only residence.

2. The SA may terminate assistance to participating families if any member of the family commits violent or drug-related criminal activity.

   Drug-related criminal activity includes the use, possession, transport, purchase or sale of any controlled substance, whether or not the activity occurs in or near the assisted unit. The LHA will make its decision regarding the termination of assistance based on the preponderance of evidence indicating that a family member has engaged in such activity, regardless of whether the family member has been arrested or convicted.

3. Criminal activity directly relating to domestic violence, dating violence, or stalking shall not be considered cause for termination of assistance for any participant or immediate member of a participant's family who is a victim of the domestic violence, dating violence, or stalking. If an incident or incidents of actual or threatened domestic violence, dating violence or stalking occur that may affect a tenant's participation in the housing program, the LHA/SA will request in writing that the individual complete, sign and submit, within 14 business days of the request, a HUD-approved certification form. On the form, the individual certifies that he/she is a victim of domestic violence, dating violence, or stalking, and that the incident or incidences in question are bona fide incidences of such actual or threatened abuse. On the certification form, the individual shall provide the name of the perpetrator. Nothing limits LHA from terminating assistance for other good cause unrelated to the incident or incidents of domestic violence, provided that the victim is not subject to a more demanding standard than non-victims.

4. The SA will terminate assistance to tenants who commit fraud in connection with the Section 8 program. Intentional misrepresentation of the family's income, preferences, or allowable deductions at the initial eligibility interview or annual reexamination will be considered fraud, and will be grounds for the immediate termination of the family's assistance.

5. The SA will terminate assistance to tenants who refuse to enter into repayment agreements for amounts owed the SA.

6. The SA will terminate assistance to tenants who fail to make three consecutive payments under an existing repayment agreement.

7. Prior to any termination the SA may consult with the LLA to the extent the SA deems appropriate, in the SA's sole discretion.

8. Termination actions must be in compliance with the Violence Against Women and Department of Justice Reauthorization Act of 2005, P.L. 109-162.

9.2 Informal Hearings for Participants

1. The SA will provide the opportunity for an informal hearing to program participants who are being terminated from the program for cause as stated above, for absenting themselves from the assisted unit per Section VII B, because of a determination of ineligible immigration status, or for continued occupancy of an oversized unit. The SA will send written notice of the reason(s) for the proposed action, and advise the participant that if he/she does not agree with the decision, he/she may request an informal hearing, in writing, within 10 working days of the notice. If the participant requests a hearing, the assistance will not be terminated until the final decision is made.

   The SA will also provide the opportunity for an informal hearing as a result of the adverse affect (no reduction in rent) due to reductions in welfare benefits for welfare fraud or failure to comply with welfare department economic self-sufficiency program requirements. However, SA will not provide an informal hearing on the welfare department's decision to reduce benefits; the informal hearing will be held on LHA's decision to not reduce the rent.

2. When a participant requests a hearing, the SA will schedule the hearing promptly and notify the participant of the date and time of the hearing. Prior to the hearing, the participant will be given an opportunity to examine and copy any documents pertinent to the family's termination.

3. At the hearing, the family may be represented by a lawyer or other representative, at its own expense. The hearing officer may regulate the conduct of the hearing to assure that it is fair and expeditious. The family will be given the opportunity to present evidence, and to question any witness. The hearing officer will issue a written decision within 10 working days, stating the reasons for the decision. The decision of the hearing officer must be in compliance with the Regulations.

4. An informal hearing also will be provided for participants who believe that their annual or adjusted income, utility allowance, or allowable unit size has not been determined in accordance with the law, HUD regulations, or the LHA's policies. These participants will first be given an explanation of the basis for the SA's determination. If the family still does not agree with the determination, an informal hearing will be scheduled as above.

5. The same subject matters excluded from informal reviews for denial of eligibility shall be excluded from informal hearings for denial of assistance. In addition, the SA may exclude any subject matters listed in 24 CFR 982.555(b).

6. In all respects the informal hearing process shall conform with Section 982.555 of the Regulations.

SECTION X PROGRAM MANAGEMENT

10.1 Leasing Units

1. The SA will take all actions necessary to reach and maintain a utilization rate of at least 95 percent, provided that such utilization rate can be supported by the budget provided by HUD.

2. The SA will prepare a monthly report showing the number of voucher units under lease.

10.2 Revising Utility Allowance Schedules

1. At least annually, the SA will obtain and analyze utility rate data for all utility providers in the local jurisdiction, and will determine whether there has been a change of 10% or more in the rate for any utility since the last revision of the Utility Allowance Schedule.

2. If there has been a change of 10% or more, an appropriate adjustment to the schedule will be made. No adjustment will be made for any increase calculated to be less than $1 per unit month.

10.3 Revising Voucher Payment Standards

1. At least annually, the LHA working with the SA will determine whether the payment standard is both adequate to facilitate the availability of PBV units and cost effective.

2. The payment standard for each unit size will be set at a level both adequate to facilitate the availability of PBV units and cost effective. However, under no circumstances will the voucher payment standard be set at less than 90% or more than 110% of the published Fair Market Rent without HUD approval.

10.4 Administrative Fee Reserve

1. The LHA will maintain an administrative fee reserve for the Section 8 program. The LHA will credit to the administrative fee reserve the total of:

   A The amount by which program administrative fees paid by HUD for a fiscal year exceed LHA's program expenses for the fiscal year, plus

   B Interest earned on the administrative fee reserve.

2. If funds in the administrative fee reserve are not needed to cover the LHA's Section 8 administrative expenses, LHA may use these funds for PBV or for other purposes allowable by HUD Requirements.

SECTION XI QUALITY ASSURANCE PROGRAM

11.1 Quality Assurance Practices

To maintain the appropriate quality standards for the Housing Choice Voucher program, LHA will regularly (at least annually) review files and records to determine if the work documented in the files or records conforms to program requirements. This shall be accomplished by a supervisor or another qualified person other than the one originally 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 Housing Choice Voucher Management Assessment Program (SEMAP) for the LHA size HCV program. Documentation of all quality control reviews will be maintained by LHA and will be made available for review by HUD and auditors. Documentation will include data on how the sample was selected, information on the individual cases reviewed and the results of each review and information on follow-up activities that occurred to address deficiencies.

Among the areas that shall have quality control reviews are the following:

A. That projects were appropriately selected.

B. That applicants were placed on the waiting list appropriately, that applicants were selected from the waiting list in accordance with HUD and LHA policies and their selection criteria were documented.

C. That determination of rent reasonableness was appropriate.

D. That participants are paying the appropriate rent (including utility allowances) and their income and expenses were properly documented and verified both upon admission and re-certification.

E. That HQS inspections were properly and timely made.

F. That HQS deficiencies were properly followed up on and appropriate repairs were made in a timely manner.

If significant errors are found during a quality control review, then appropriate training shall be immediately conducted for the person or persons who made the errors and that person shall correct all of his or her errors to the maximum extent feasible.

SECTION XII PARTICIPANT FILES

12.1 Practices Regarding Participant Files

Participant files will be maintained in a secure and locked environment. The file should include (but is not limited to): housing application and supporting documents, income executed lease(s), unit inspection reports, verifications, leases, supplements to lease, notices and letters, income and rent determinations and a summary of the SA's interactions with the participant. During the term of each assisted lease and for at least three years thereafter, the SA will retain the following in the current participant file:

A copy of the executed lease

The HAP contract

HUD required reports

"Permanent" information, such as copies of social security cards, birth certificates, citizenship status

Original application

The SA will keep the following records for at least three years or any longer period specified by HUD Requirements:

Records that provide income, racial, ethnic, gender and disability status data on program applicants and participants

HUD required reports

Unit inspection reports

Documentation of rent reasonableness

Lead-based paint records as required by 24 CFR 35, Subpart B

Records to document the basis for rent determinations and that the rent to owner is a reasonable rent (initially and during the term of the HAP contract)

Accounts and other records supporting LHA's budget and finance statements for the program

Other records as specified by HUD.

The SA may use a two-step destruction process.

1. When a participant file become large, but contains documents that must be retained, LHA may remove the documents to a temporary storage location. The current participant file will be documented with information on the documents that have been removed and where the documents are located. At no time will LHA remove "permanent" information described above from the current folder.

2. LHA may destroy documents that are no longer required AND meet the timeframes above. Documents will be burned and/or shredded.

Exhibit A

Permanent Supportive Housing (PSH) Initiative

Louisiana's *Road Home Plan* defined Permanent Supportive Housing (PSH) as housing that is: safe and secure; affordable to the eligible target population (monthly rent and utilities do not exceed 30% of monthly income); and permanent, with continued occupancy as long as the household pays the rent and complies with the lease or applicable landlord/tenant laws. The housing is linked with supportive services that are: flexible and responsive to the needs of the individual; available when needed by tenants; and accessible where the tenant lives, if necessary.

Louisiana's PSH Initiative is designed to serve a cross-disability population. To be eligible for PSH, a household must meet the following two criteria:

1. Generally extremely low-income (at or below 30% of Area Median Income); and
2. In need of Permanent Supportive Housing. A household is considered to be in need of PSH if a member of the household has a physical, mental, or emotional impairment which is expected to be of long-continued or indefinite duration; substantially impedes ability to live independently without supports; and is of a nature that such ability could be improved by more suitable housing conditions. The household must be considered in need of services offered by the program to live in the community and not become evicted, homeless or institutionalized.

Program preferences established by the Louisiana Department of Health and Hospitals (DHH), the agency charged with administering the supportive services component of the program, generally target households displaced by the 2005 hurricanes, homeless households, households at risk of homelessness, and households/individuals who are unnecessarily institutionalized or at risk of unnecessary institutionalization.

PSH Unit Production & Affordability

Approximately 1,000 PSH units are in the "pipeline" as a result of state officials prioritizing the creation of PSH units within broader policy objectives. The Louisiana Housing Finance Agency (LHFA), through its 2007-2008 GO-Zone Qualified Allocation Plan (QAP), required that all properties receiving GO-Zone credits set aside at least 5% of the total units for PSH eligible households. This requirement applies equally to elderly only housing developments which must set-aside 5% of units for PSH eligible elders. Developments setting aside higher percentages of units received additional points in the competition. Developments choosing to set aside 15% or more of the units – up to a maximum of 50% - are considered "PSH Projects" and are eligible for additional development assistance.

PSH units have been awarded through a combination of the GO-Zone LIHTCs, a CDBG-funded "deficit loan" program that required developers of previously funded tax credit projects to create PSH units for receiving additional funds to offset high property insurance costs, and a Small Rental Repair Program (SRRP) for owners rehabilitating properties of 1-4 units. Additional units are also being secured in either tax-credit projects or private rental market units through the Department of Social Services' (DSS') Transitional Assistance Program (TAP). TAP provides

short-term (up to 24 months) rental assistance for a specifically targeted group of homeless and at-risk households in immediate need of PSH. TAP assistance serves as a "bridge" to long term rent subsidies and services available through the PSH program.

To ensure that the remaining 2,000 units are created and to ensure affordability for people with the lowest incomes, state officials and PSH advocates waged a successful two-year campaign to obtain $73 million in funding for 3,000 (2,000 Section 8 and 1,000 Shelter Plus Care) new project-based rental subsidies from Congress. Strategies for securing additional units beyond the current pipeline include non-development and development strategies, including funding rounds using 4% LIHTCs and tax-exempt bonds, as well as a newly created Louisiana Housing Trust Fund, both of which provide incentives to encourage additional PSH unit production.

Regardless of the PSH model or funding cycle, PSH units must be affordable to households at or below 30% of Area Median Income and must be linked to PSH Supportive Services. Project Sponsors (housing developers or their property managers) are required to work with state designated Local Lead Agencies (LLAs) who refer PSH eligible households and ensure supportive services are available as needed.

Support Services and the Local Lead Agency (LLA) Role

The LA Departments of Health and Hospitals (DHH) designated six Local Lead Agencies (LLAs) within the GO-Zone responsible for local implementation of PSH. Through an agreement with the OCD, DHH is responsible for administering and monitoring CDBG-funded Supportive Service Grants to the LLAs in the amount of $5,000 per PSH unit per year for up to five years.

The LLAs generally have been responsible for: conducting outreach to identify PSH eligible individuals; developing and maintaining PSH waiting lists; entering into agreements with providers of PSH units; pre-screening, prioritizing, and referring eligible individuals to PSH units; and arranging for or providing an array of pre-tenancy, move-in and housing support and stabilization services to assist people in maintaining successful, long-term tenancies. Each LLA has established one or more Housing Support Teams (HSTs) responsible for the provision of basic housing supports services and linkage to other needed services in the community. The LLAs are also responsible for designating one or more Tenant Services Liaisons to serve as the primary day-to-day contact for property management staff.

Tracking & Reporting Outcomes

Information on PSH program-related outcomes are being collected and reported by the LLAs for the following key measurement domains: relationships with housing developers and property managers; outreach, referral and PSH unit occupancy; PSH service delivery; and tenancy-related outcomes. DHH is establishing a waiting list management and referral system that will also track PSH unit occupancy and tenancy-related outcomes. Additionally, DHH is working with the LLAs to devise a method for tracking and reporting on services delivered or arranged for by the LLA Housing Support Teams to assist in identifying key services for sustainability planning.

With respect to PBV, OCD expects to continue to rely on LLAs to undertake program outreach and determinations that households need PSH, as well as maintenance of OCD waiting lists covering projects in each of their geographic jurisdictions. LLAs are now under contract with DHH, which in turn has an agreement with OCD, to perform PSH-related services.

Exhibit B

Local Lead Agencies

Region I Office of Aging & Adult Services (OAAS)
Orleans, Plaquemines, and St. Bernard Parishes
Region I Office of Aging and Adult Services
1010 Common Street
New Orleans, LA 70112
Phone (504) 599-0022

Jefferson Parish Human Services Authority
Jefferson Parish
Jefferson Parish Human Services Authority
Division of Community Support
2121 Ridgelake, Suite 100
Metairie, LA 70001
Phone (504) 838-5315

Region V OMH Office
DHH Regions IV & V (Lafayette & Lake Charles areas)
Office of Mental Health
4105 Kirkman St.
Lake Charles, LA 70607
Phone: 337-244-2535

Florida Parishes Human Services Authority
St. Tammany, Livingston, Washington, Tangipahoa, St. Helena
Florida Parishes Human Services Authority
11236 Hwy 16
Amite, LA 70422
Phone (985) 748-2230

Region III OMH Office
DHH Region III (LaForche, St. James, Terrebonne)
DHH OMH Region III
6907 Alma Street
Houma, LA 70364
Phone (985) 876-8876

Capital Area Human Services District
Ascension, East Baton Rouge, West Baton Rouge, East & West Feliciana, Iberville, Pointe Coupee
Capital Area Human Services District
4615 Government Street, Bldg. 2
Baton Rouge, LA 70806
Phone (225) 922-0881

Exhibit C

DATABASE FEATURES
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- Federal Register
- List of CFR Sections Affected
- Regulations.gov
- Unified Agenda
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PART 983—PROJECT–BASED VOUCHER (PBV) PROGRAM

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Authority: 42 U.S.C. 1437f and 3535(d).

Source: 70 FR 59913, Oct. 13, 2005, unless otherwise noted.

Subpart A—General

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§ 983.1 When the PBV rule (24 CFR part 983) applies.

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Part 983 applies to the project-based voucher (PBV) program. The PBV program is authorized by section 8(o)(13) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(o)(13)).

§ 983.2 When the tenant-based voucher rule (24 CFR part 982) applies.

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(a) *24 CFR Part 982.* Part 982 is the basic regulation for the tenant-based voucher program. Paragraphs (b) and (c) of this section describe the provisions of part 982 that do not apply to the PBV program. The rest of part 982 applies to the PBV program. For use and applicability of voucher program definitions at §982.4, see §983.3.

(b) *Types of 24 CFR part 982 provisions that do not apply to PBV.* The following types of provisions in 24 CFR part 982 do not apply to PBV assistance under part 983.

(1) Provisions on issuance or use of a voucher;

(2) Provisions on portability;

(3) Provisions on the following special housing types: shared housing, cooperative housing, manufactured home space rental, and the homeownership option.

(c) *Specific 24 CFR part 982 provisions that do not apply to PBV assistance.* Except as specified in this paragraph, the following specific provisions in 24 CFR part 982 do not apply to PBV assistance under part 983.

(1) In subpart E of part 982: paragraph (b)(2) of §982.202 and paragraph (d) of §982.204;

(2) Subpart G of part 982 does not apply, with the following exceptions:

(i) Section 982.10 (owner temination of tenancy) applies to the PBV Program, but to the extent that those provisions differ from §983.257, the provisions of §983.257 govern; and

(ii) Section 982.312 (absence from unit) applies to the PBV Program, but to the extent that those provisions differ from §983.256(g), the provisions of §983.256(g) govern; and

(iii) Section 982.316 (live-in aide) applies to the PBV Program;

(3) Subpart H of part 982;

(4) In subpart I of part 982: §982.401(j); paragraphs (a)(3), (c), and (d) of §982.402; §982.403; §982.405(a); and §982.406;

(5) In subpart J of part 982: §982.455;

(6) Subpart K of Part 982: subpart K does not apply, except that the following provisions apply to the PBV Program:

(i) Section 982.503 (for determination of the payment standard amount and schedule for a Fair Market Rent (FMR) area or for a designated part of an FMR area). However, provisions authorizing approval of a higher payment standard as a reasonable accommodation for a particular family that includes a person with disabilities do not apply (since the payment standard amount does not affect availability of a PBV unit for occupancy by a family or the amount paid by the family);

(ii) Section 982.516 (family income and composition; regular and interim examinations);

(iii) Section 982.517 (utility allowance schedule);

(7) In subpart M of part 982:

(i) Sections 982.603, 982.607, 982.611, 982.613(c)(2); and

(ii) Provisions concerning shared housing (§982.615 through §982.618), cooperative housing (§982.619), manufactured home space rental (§982.622 through §982.624), and the homeownership option (§982.625 through §982.641).

§ 983.3 PBV definitions.

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(a) *Use of PBV definitions* —(1) *PBV terms (defined in this section).* This section

defines PBV terms that are used in this part 983. For PBV assistance, the definitions in this section apply to use of the defined terms in part 983 and in applicable provisions of 24 CFR part 982. (Section 983.2 specifies which provisions in part 982 apply to PBV assistance under part 983.)

(2) *Other voucher terms (terms defined in 24 CFR 982.4).* (i) The definitions in this section apply instead of definitions of the same terms in 24 CFR 982.4.

(ii) Other voucher terms are defined in §982.4, but are not defined in this section. Those §982.4 definitions apply to use of the defined terms in this part 983 and in provisions of part 982 that apply to part 983.

(b) *PBV definitions. 1937 Act.* The United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*).

Activities of daily living. Eating, bathing, grooming, dressing, and home management activities.

Admission. The point when the family becomes a participant in the PHA's tenant-based or project-based voucher program (initial receipt of tenant-based or project-based assistance). After admission, and so long as the family is continuously assisted with tenant-based or project-based voucher assistance from the PHA, a shift from tenant-based or project-based assistance to the other form of voucher assistance is not a new admission.

Agreement to enter into HAP contract (Agreement). The Agreement is a written contract between the PHA and the owner in the form prescribed by HUD. The Agreement defines requirements for development of housing to be assisted under this section. When development is completed by the owner in accordance with the Agreement, the PHA enters into a HAP contract with the owner. The Agreement is not used for existing housing assisted under this section. HUD will keep the public informed about changes to the Agreement and other forms and contracts related to this program through appropriate means.

Assisted living facility. A residence facility (including a facility located in a larger multifamily property) that meets all the following criteria:

(1) The facility is licensed and regulated as an assisted living facility by the state, municipality, or other political subdivision;

(2) The facility makes available supportive services to assist residents in carrying out activities of daily living; and

(3) The facility provides separate dwelling units for residents and includes common rooms and other facilities appropriate and actually available to provide supportive services for the residents.

Comparable rental assistance. A subsidy or other means to enable a family to

obtain decent housing in the PHA jurisdiction renting at a gross rent that is not more than 40 percent of the family's adjusted monthly gross income.

Contract units. The housing units covered by a HAP contract.

Development. Construction or rehabilitation of PBV housing after the proposal selection date.

Excepted units (units in a multifamily building not counted against the 25 percent per-building cap). See §983.56(b)(2)(i).

Existing housing. Housing units that already exist on the proposal selection date and that substantially comply with the HQS on that date. (The units must fully comply with the HQS before execution of the HAP contract.)

Household. The family and any PHA-approved live-in aide.

Housing assistance payment. The monthly assistance payment for a PBV unit by a PHA, which includes:

(1) A payment to the owner for rent to owner under the family's lease minus the tenant rent; and

(2) An additional payment to or on behalf of the family, if the utility allowance exceeds the total tenant payment, in the amount of such excess.

Housing quality standards (HQS). The HUD minimum quality standards for housing assisted under the program. See 24 CFR 982.401.

Lease. A written agreement between an owner and a tenant for the leasing of a PBV dwelling unit by the owner 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 PHA.

Multifamily building. A building with five or more dwelling units (assisted or unassisted).

Newly constructed housing. Housing units that do not exist on the proposal selection date and are developed after the date of selection pursuant to an Agreement between the PHA and owner for use under the PBV program.

Partially assisted building. A building in which there are fewer contract units than residential units.

PHA-owned unit. A dwelling unit owned by the PHA that administers the voucher program. PHA-owned means that the PHA or its officers, employees, or agents hold a direct or indirect interest in the building in which the unit is located, including an interest as titleholder or lessee, or as a stockholder, member or

general or limited partner, or member of a limited liability corporation, or an entity that holds any such direct or indirect interest.

Premises. The building or complex in which the contract unit is located, including common areas and grounds.

Program. The voucher program under section 8 of the 1937 Act, including tenant-based or project-based assistance.

Proposal selection date. The date the PHA gives written notice of PBV proposal selection to an owner whose proposal is selected in accordance with the criteria established in the PHA's administrative plan.

Qualifying families (for purpose of exception to 25 percent per-building cap). See §983.56(b)(2)(ii).

Rehabilitated housing. Housing units that exist on the proposal selection date, but do not substantially comply with the HQS on that date, and are developed, pursuant to an Agreement between the PHA and owner, for use under the PBV program.

Rent to owner. The total monthly rent payable by the family and the PHA to the owner under the lease for a contract unit. Rent to owner includes payment for any housing services, maintenance, and utilities to be provided by the owner in accordance with the lease. (Rent to owner must not include charges for non-housing services including payment for food, furniture, or supportive services provided in accordance with the lease.)

Responsible entity (RE) (for environmental review). The unit of general local government within which the project is located that exercises land use responsibility or, if HUD determines this infeasible, the county or, if HUD determines that infeasible, the state.

Single-family building. A building with no more than four dwelling units (assisted or unassisted).

Site. The grounds where the contract units are located, or will be located after development pursuant to the Agreement.

Special housing type. Subpart M of 24 CFR part 982 states the special regulatory requirements for single-room occupancy (SRO) housing, congregate housing, group homes, and manufactured homes. Subpart M provisions on shared housing, cooperative housing, manufactured home space rental, and the homeownership option do not apply to PBV assistance under this part.

State-certified appraiser. Any individual who satisfies the requirements for certification as a certified general appraiser in a state that has adopted criteria that currently meet or exceed the minimum certification criteria issued by the Appraiser

Qualifications Board of the Appraisal Foundation. The state's criteria must include a requirement that the individual has achieved a satisfactory grade upon a state-administered examination consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Appraiser Qualifications Board of the Appraisal Foundation. Furthermore, if the Appraisal Foundation has issued a finding that the policies, practices, or procedures of the state are inconsistent with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331–3352), the individual must comply with any additional standards for state-certified appraisers imposed by HUD.

Tenant-paid utilities. Utility service that is not included in the tenant rent (as defined in 24 CFR 982.4), and which is the responsibility of the assisted family.

Total tenant payment. The amount described in 24 CFR 5.628.

Utility allowance. See 24 CFR 5.603.

Utility reimbursement. See 24 CFR 5.603.

Wrong-size unit. A unit occupied by a family that does not conform to the PHA's subsidy guideline for family size, by being is too large or too small compared to the guideline.

§ 983.4 Cross-reference to other Federal requirements.

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The following provisions apply to assistance under the PBV program.

Civil money penalty. Penalty for owner breach of HAP contract. See 24 CFR 30.68.

Debarment . Prohibition on use of debarred, suspended, or ineligible contractors. See 24 CFR 5.105(c) and 2 CFR part 2424.

Definitions. See 24 CFR part 5, subpart D.

Disclosure and verification of income information. See 24 CFR part 5, subpart B.

Environmental review. See 24 CFR parts 50 and 58 (see also provisions on PBV environmental review at §983.58).

Fair housing. Nondiscrimination and equal opportunity. See 24 CFR 5.105(a) and section 504 of the Rehabilitation Act.

Fair market rents. See 24 CFR part 888, subpart A.

Fraud. See 24 CFR part 792. PHA retention of recovered funds.

Funds. See 24 CFR part 791. HUD allocation of voucher funds.

Income and family payment. See 24 CFR part 5, subpart F (especially §5.603 (definitions), §5.609 (annual income), §5.611 (adjusted income), §5.628 (total tenant payment), §5.630 (minimum rent), §5.603 (utility allowance), §5.603 (utility reimbursements), and §5.661 (section 8 project-based assistance programs: approval for police or other security personnel to live in project).

Labor standards. Regulations implementing the Davis-Bacon Act, Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708), 29 CFR part 5, and other federal laws and regulations pertaining to labor standards applicable to an Agreement covering nine or more assisted units.

Lead-based paint. Regulations implementing the Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846) and the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856). See 24 CFR part 35, subparts A, B, H, and R.

Lobbying restriction. Restrictions on use of funds for lobbying. See 24 CFR 5.105(b).

Noncitizens. Restrictions on assistance. See 24 CFR part 5, subpart E.

Program accessibility. Regulations implementing Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). See 24 CFR parts 8 and 9.

Relocation assistance. Regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201–4655). See 49 CFR part 24.

Section 3—Training, employment, and contracting opportunities in development. Regulations implementing Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u). See 24 CFR part 135.

Uniform financial reporting standards. See 24 CFR part 5, subpart H.

Waiver of HUD rules. See 24 CFR 5.110.

[70 FR 59913, Oct. 13, 2005, as amended at 72 FR 73497, Dec. 27, 2007]

§ 983.5 Description of the PBV program.

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(a) *How PBV works.* (1) The PBV program is administered by a PHA that already administers the tenant-based voucher program under an annual contributions

contract (ACC) with HUD. In the PBV program, the assistance is "attached to the structure." (See description of the difference between "project-based" and "tenant-based" rental assistance at 24 CFR 982.1(b).)

(2) The PHA enters into a HAP contract with an owner for units in existing housing or in newly constructed or rehabilitated housing.

(3) In the case of newly constructed or rehabilitated housing, the housing is developed under an Agreement between the owner and the PHA. In the Agreement, the PHA agrees to execute a HAP contract after the owner completes the construction or rehabilitation of the units.

(4) During the term of the HAP contract, the PHA makes housing assistance payments to the owner for units leased and occupied by eligible families.

(b) *How PBV is funded.* (1) If a PHA decides to operate a PBV program, the PHA's PBV program is funded with a portion of appropriated funding (budget authority) available under the PHA's voucher ACC. This pool of funding is used to pay housing assistance for both tenant-based and project-based voucher units and to pay PHA administrative fees for administration of tenant-based and project-based voucher assistance.

(2) There is no special or additional funding for project-based vouchers. HUD does not reserve additional units for project-based vouchers and does not provide any additional funding for this purpose.

(c) *PHA discretion to operate PBV program.* A PHA has discretion whether to operate a project-based voucher program. HUD approval is not required.

§ 983.6 Maximum amount of PBV assistance.

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(a) The PHA may select owner proposals to provide project-based assistance for up to 20 percent of the amount of budget authority allocated to the PHA by HUD in the PHA voucher program. PHAs are not required to reduce the number of PBV units selected under an Agreement or HAP contract if the amount of budget authority is subsequently reduced.

(b) All PBC and project-based voucher units for which the PHA has issued a notice of proposal selection or which are under an Agreement or HAP contract for PBC or project-based voucher assistance count against the 20 percent maximum.

(c) The PHA is responsible for determining the amount of budget authority that is available for project-based vouchers and for ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC.

§ 983.7 Uniform Relocation Act.

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(a) *Relocation assistance for displaced person.* (1) A displaced person must be provided relocation assistance at the levels described in and in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201–4655) and implementing regulations at 49 CFR part 24.

(2) The cost of required relocation assistance may be paid with funds provided by the owner, or with local public funds, or with funds available from other sources. Relocation costs may not be paid from voucher program funds; however, provided payment of relocation benefits is consistent with state and local law, PHAs may use their administrative fee reserve to pay for relocation assistance after all other program administrative expenses are satisfied. Use of the administrative fee reserve in this manner must be consistent with legal and regulatory requirements, including the requirements of 24 CFR 982.155 and other official HUD issuances.

(b) *Real property acquisition requirements.* The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B.

(c) *Responsibility of PHA.* The PHA must require the owner to comply with the URA and 49 CFR part 24.

(d) *Definition of initiation of negotiations.* In computing a replacement housing payment to a residential tenant displaced as a direct result of privately undertaken rehabilitation or demolition of the real property, the term "initiation of negotiations" means the execution of the Agreement between the owner and the PHA.

§ 983.8 Equal opportunity requirements.

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(a) The PBV program requires compliance with all equal opportunity requirements under federal law and regulation, including the authorities cited at 24 CFR 5.105(a).

(b) The PHA must comply with the PHA Plan civil rights and affirmatively furthering fair housing certification submitted by the PHA in accordance with 24 CFR 903.7(o).

§ 983.9 Special housing types.

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(a) *Applicability.* (1) For applicability of rules on special housing types at 24 CFR

part 982, subpart M, see §983.2.

(2) In the PBV program, the PHA may not provide assistance for shared housing, cooperative housing, manufactured home space rental, or the homeownership option.

(b) *Group homes.* A group home may include one or more group home units. A separate lease is executed for each elderly person or person with disabilities who resides in a group home.

§ 983.10 Project-based certificate (PBC) program.

top

(a) *What is it?* "PBC program" means project-based assistance attached to units pursuant to an Agreement executed by a PHA and owner before January 16, 2001, and in accordance with:

(1) The regulations for the PBC program at 24 CFR part 983, codified as of May 1, 2001 and contained in 24 CFR part 983 revised as of April 1, 2002; and

(2) Section 8(d)(2) of the 1937 Act, as in effect before October 21, 1998 (the date of enactment of Title V of Public Law 105–276, the Quality Housing and Work Responsibility Act of 1998, codified at 42 U.S.C. 1437 *et seq.*).

(b) *What rules apply?* Units under the PBC program are subject to the provisions of 24 CFR part 983 codified as of May 1, 2001, except that 24 CFR 983.151(c) on renewals does not apply. Consistent with the PBC HAP, at the sole option of the PHA, HAP contracts may be renewed for terms for an aggregate total (including the initial and any renewal terms) of 15 years, subject to the availability of appropriated funds.

Subpart B—Selection of PBV Owner Proposals

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§ 983.51 Owner proposal selection procedures.

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(a) *Procedures for selecting PBV proposals.* The PHA administrative plan must describe the procedures for owner submission of PBV proposals and for PHA selection of PBV proposals. Before selecting a PBV proposal, the PHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing (§§983.53 and 983.54), complies with the cap on the number of PBV units per building (§983.56), and meets the site selection standards (§983.57).

(b) *Selection of PBV proposals.* The PHA must select PBV proposals in accordance with the selection procedures in the PHA administrative plan. The PHA must select PBV proposals by either of the following two methods.

(1) PHA request for PBV Proposals. The PHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.

(2) Selection of a proposal for housing assisted under a federal, state, or local government housing assistance, community development, or supportive services program that requires competitive selection of proposals (*e.g.* , HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance.

(c) *Public notice of PHA request for PBV proposals.* If the PHA will be selecting proposals under paragraph (b)(1) of this section, PHA procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the PHA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the PHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

(d) *PHA notice of owner selection.* The PHA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

(e) *PHA-owned units.* A PHA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the PHA-owned units were appropriately selected based on the selection procedures specified in the PHA administrative plan. Under no circumstances may PBV assistance be used with a public housing unit.

(f) *Public review of PHA selection decision documentation.* The PHA must make documentation available for public inspection regarding the basis for the PHA selection of a PBV proposal.

§ 983.52 Housing type.

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The PHA may attach PBV assistance for units in existing housing or for newly

constructed or rehabilitated housing developed under and in accordance with an Agreement.

(a) *Existing housing* —A housing unit is considered an existing unit for purposes of the PBV program, if at the time of notice of PHA selection, the units substantially comply with HQS. Units for which new construction or rehabilitation was started in accordance with Subpart D of this part do not qualify as existing housing.

(b) Subpart D of this part applies to newly constructed and rehabilitated housing.

§ 983.53 Prohibition of assistance for ineligible units.

top

(a) *Ineligible unit.* The PHA may not attach or pay PBV assistance for units in the following types of housing:

(1) Shared housing;

(2) Units on the grounds of a penal, reformatory, medical, mental, or similar public or private institution;

(3) Nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care. However, the PHA may attach PBV assistance for a dwelling unit in an assisted living facility that provides home health care services such as nursing and therapy for residents of the housing;

(4) Units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students of the institution;

(5) Manufactured homes;

(6) Cooperative housing; and

(7) Transitional Housing.

(b) *High-rise elevator project for families with children.* The PHA may not attach or pay PBV assistance to a high-rise elevator project that may be occupied by families with children unless the PHA initially determines there is no practical alternative, and HUD approves such finding. The PHA may make this initial determination for its project-based voucher program, in whole or in part, and need not review each project on a case-by-case basis, and HUD may approve on the same basis.

(c) *Prohibition against assistance for owner-occupied unit.* The PHA may not attach or pay PBV assistance for a unit occupied by an owner of the housing.

(d) *Prohibition against selecting unit occupied by an ineligible family.* Before a PHA selects a specific unit to which assistance is to be attached, the PHA must determine whether the unit is occupied and, if occupied, whether the unit's occupants are eligible for assistance. The PHA must not select or enter into an Agreement or HAP contract for a unit occupied by a family ineligible for participation in the PBV program.

§ 983.54 Prohibition of assistance for units in subsidized housing.

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A PHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

(a) A public housing dwelling unit;

(b) A unit subsidized with any other form of Section 8 assistance (tenant-based or project-based);

(c) A unit subsidized with any governmental rent subsidy (a subsidy that pays all or any part of the rent);

(d) A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;

(e) A unit subsidized with Section 236 rental assistance payments (12 U.S.C. 1715z–1). However, the PHA may attach assistance to a unit subsidized with Section 236 interest reduction payments;

(f) A unit subsidized with rental assistance payments under Section 521 of the Housing Act of 1949, 42 U.S.C. 1490a (a Rural Housing Service Program). However, the PHA may attach assistance for a unit subsidized with Section 515 interest reduction payments (42 U.S.C. 1485);

(g) A Section 202 project for non-elderly persons with disabilities (assistance under Section 162 of the Housing and Community Development Act of 1987, 12 U.S.C. 1701q note);

(h) Section 811 project-based supportive housing for persons with disabilities (42 U.S.C. 8013);

(i) Section 202 supportive housing for the elderly (12 U.S.C. 1701q);

(j) A Section 101 rent supplement project (12 U.S.C. 1701s);

(k) A unit subsidized with any form of tenant-based rental assistance (as defined at 24 CFR 982.1(b)(2)) (*e.g.* , a unit subsidized with tenant-based rental

assistance under the HOME program, 42 U.S.C. 12701 *et seq.*);

(l) A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or by the PHA in accordance with HUD requirements. For this purpose, "housing subsidy" does not include the housing component of a welfare payment; a social security payment; or a federal, state, or local tax concession (such as relief from local real property taxes).

§ 983.55 Prohibition of excess public assistance.

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(a) *Subsidy layering requirements.* The PHA may provide PBV assistance only in accordance with HUD subsidy layering regulations (24 CFR 4.13) and other requirements. The subsidy layering review is intended to prevent excessive public assistance 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.

(b) *When subsidy layering review is conducted.* The PHA 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.

(c) *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.

§ 983.56 Cap on number of PBV units in each building.

top

(a) *25 percent per building cap.* Except as provided in paragraph (b) of this section, the PHA may not select a proposal to provide PBV assistance for units in a building or enter into an Agreement or HAP contract to provide PBV assistance for units in a building, if the total number of dwelling units in the building that will receive PBV assistance during the term of the PBV HAP is more than 25 percent of the number of dwelling units (assisted or unassisted) in the building.

(b) *Exception to 25 percent per building cap* —(1) *When PBV units are not counted against cap.* In the following cases, PBV units are not counted against the 25 percent per building cap:

(i) Units in a single-family building;

(ii) Excepted units in a multifamily building.

(2) Terms (i) "Excepted units" means units in a multifamily building that are specifically made available for qualifying families.

(ii) "Qualifying families" means:

(A) Elderly or disabled families; or

(B) Families receiving supportive services. PHAs must include in the PHA administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. It is not necessary that the services be provided at or by the project, if they are approved services. To qualify, a family must have at least one member receiving at least one qualifying supportive service. A PHA may not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered. If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received, FSS supportive services or any other supportive services as defined in the PHA administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit. If a family in an excepted unit fails without good cause to complete its FSS contract of participation or if the family fails to complete the supportive services requirement as outlined in the PHA administrative plan, the PHA will take the actions provided under §983.261(d), and the owner may terminate the lease in accordance with §983.257(c). Also, at the time of initial lease execution between the family and the owner, the family and the PHA must sign a statement of family responsibility. The statement of family responsibility must contain all family obligations including the family's participation in a service program under this section. Failure by the family without good cause to fulfill its service obligation will require the PHA to terminate assistance. If the unit at the time of such termination is an excepted unit, the exception continues to apply to the unit as long as the unit is made available to another qualifying family.

(C) The PHA must monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. The PHA administrative plan must state the form and frequency of such monitoring.

(3) *Set-aside for qualifying families.* (i) In leasing units in a multifamily building pursuant to the PBV HAP, the owner must set aside the number of excepted units made available for occupancy by qualifying families.

(ii) The PHA may refer only qualifying families for occupancy of excepted units.

(c) *Additional, local requirements promoting partially assisted buildings.* A PHA may establish local requirements designed to promote PBV assistance in partially

assisted buildings. For example, a PHA may:

(1) Establish a per-building cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily building containing excepted units or in a single-family building,

(2) Determine not to provide PBV assistance for excepted units, or

(3) Establish a per-building cap of less than 25 percent.

§ 983.57 Site selection standards.

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(a) *Applicability.* The site selection requirements in paragraph (d) of this section apply only to site selection for existing housing and rehabilitated PBV housing. The site selection requirements in paragraph (e) of this section apply only to site selection for newly constructed PBV housing. Other provisions of this section apply to selection of a site for any form of PBV housing, including existing housing, newly constructed housing, and rehabilitated housing.

(b) *Compliance with PBV goals, civil rights requirements, and HQS.* The PHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an Agreement or HAP contract for units on the site, unless the PHA has determined that:

(1) Project-based assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Plan under 24 CFR part 903 and the PHA Administrative Plan. In developing the standards to apply in determining whether a proposed PBV development will be selected, a PHA must consider the following:

(i) Whether the census tract in which the proposed PBV development will be located is in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;

(ii) Whether a PBV development will be located in a census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition;

(iii) Whether the census tract in which the proposed PBV development will be located is undergoing significant revitalization;

(iv) Whether state, local, or federal dollars have been invested in the area that has assisted in the achievement of the statutory requirement;

(v) Whether new market rate units are being developed in the same census tract where the proposed PBV development will be located and the likelihood that such market rate units will positively impact the poverty rate in the area;

(vi) If the poverty rate in the area where the proposed PBV development will be located is greater than 20 percent, the PHA should consider whether in the past five years there has been an overall decline in the poverty rate;

(vii) Whether there are meaningful opportunities for educational and economic advancement in the census tract where the proposed PBV development will be located.

(2) The site is suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d(4)) and HUD's implementing regulations at 24 CFR part 1; Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601–3629); and HUD's implementing regulations at 24 CFR parts 100 through 199; Executive Order 11063 (27 FR 11527; 3 CFR, 1959–1963 Comp., p. 652) and HUD's implementing regulations at 24 CFR part 107. The site must meet the section 504 site selection requirements described in 24 CFR 8.4(b)(5).

(3) The site meets the HQS site standards at 24 CFR 982.401(l).

(c) *PHA PBV site selection policy.* (1) The PHA administrative plan must establish the PHA's policy for selection of PBV sites in accordance with this section.

(2) The site selection policy must explain how the PHA's site selection procedures promote the PBV goals.

(3) The PHA must select PBV sites in accordance with the PHA's site selection policy in the PHA administrative plan.

(d) *Existing and rehabilitated housing site and neighborhood standards.* A site for existing or rehabilitated housing must meet the following site and neighborhood standards. The site must:

(1) Be adequate in size, exposure, and contour to accommodate the number and type of units proposed, and adequate utilities and streets must be available to service the site. (The existence of a private disposal system and private sanitary water supply for the site, approved in accordance with law, may be considered adequate utilities.)

(2) Promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

(3) Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services that are at least

equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.

(4) Be so located that travel time and cost via public transportation or private automobile from the neighborhood to places of employment providing a range of jobs for lower-income workers is not excessive. While it is important that housing for the elderly not be totally isolated from employment opportunities, this requirement need not be adhered to rigidly for such projects.

(e) *New construction site and neighborhood standards.* A site for newly constructed housing must meet the following site and neighborhood standards:

(1) The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed, and adequate utilities (water, sewer, gas, and electricity) and streets must be available to service the site.

(2) The site must not be located in an area of minority concentration, except as permitted under paragraph (e)(3) of this section, and must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

(3) A project may be located in an area of minority concentration only if:

(i) Sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration (see paragraph (e)(3)(iii), (iv), and (v) of this section for further guidance on this criterion); or

(ii) The project is necessary to meet overriding housing needs that cannot be met in that housing market area (see paragraph (e) (3)(vi)) of this section for further guidance on this criterion).

(iii) As used in paragraph (e)(3)(i) of this section, "sufficient" does not require that in every locality there be an equal number of assisted units within and outside of areas of minority concentration. Rather, application of this standard should produce a reasonable distribution of assisted units each year, that, over a period of several years, will approach an appropriate balance of housing choices within and outside areas of minority concentration. An appropriate balance in any jurisdiction must be determined in light of local conditions affecting the range of housing choices available for low-income minority families and in relation to the racial mix of the locality's population.

(iv) Units may be considered "comparable opportunities," as used in paragraph (e)(3)(i) of this section, if they have the same household type (elderly, disabled, family, large family) and tenure type (owner/renter); require approximately the same tenant contribution towards rent; serve the same income group; are located in the same housing market; and are in standard condition.

(v) Application of this sufficient, comparable opportunities standard involves

assessing the overall impact of HUD-assisted housing on the availability of housing choices for low-income minority families in and outside areas of minority concentration, and must take into account the extent to which the following factors are present, along with other factors relevant to housing choice:

(A) A significant number of assisted housing units are available outside areas of minority concentration.

(B) There is significant integration of assisted housing projects constructed or rehabilitated in the past 10 years, relative to the racial mix of the eligible population.

(C) There are racially integrated neighborhoods in the locality.

(D) Programs are operated by the locality to assist minority families that wish to find housing outside areas of minority concentration.

(E) Minority families have benefited from local activities (*e.g.* , acquisition and write-down of sites, tax relief programs for homeowners, acquisitions of units for use as assisted housing units) undertaken to expand choice for minority families outside of areas of minority concentration.

(F) A significant proportion of minority households has been successful in finding units in non-minority areas under the tenant-based assistance programs.

(G) Comparable housing opportunities have been made available outside areas of minority concentration through other programs.

(vi) Application of the "overriding housing needs" criterion, for example, permits approval of sites that are an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood and of sites in a neighborhood experiencing significant private investment that is demonstrably improving the economic character of the area (a "revitalizing area"). An "overriding housing need," however, may not serve as the basis for determining that a site is acceptable, if the only reason the need cannot otherwise be feasibly met is that discrimination on the basis of race, color, religion, sex, national origin, age, familial status, or disability renders sites outside areas of minority concentration unavailable or if the use of this standard in recent years has had the effect of circumventing the obligation to provide housing choice.

(4) The site must promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

(5) The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate, unless there is actively in progress a concerted program to remedy the

undesirable conditions.

(6) The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.

(7) Except for new construction, housing designed for elderly persons, travel time, and cost via public transportation or private automobile from the neighborhood to places of employment providing a range of jobs for lower-income workers, must not be excessive.

§ 983.58 Environmental review.

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(a) *HUD environmental regulations.* Activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58.

(b) *Who performs the environmental review?* (1) Under 24 CFR part 58, a unit of general local government, a county or a state (the "responsible entity" or "RE") is responsible for the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and related applicable federal laws and authorities in accordance with 24 CFR 58.5 and 58.6.

(2) If a PHA objects in writing to having the RE perform the federal environmental review, or if the RE declines to perform it, then HUD may perform the review itself (24 CFR 58.11). 24 CFR part 50 governs HUD performance of the review.

(c) *Existing housing.* In the case of existing housing under this part 983, the RE that is responsible for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

(d) *Limitations on actions before completion of the environmental review.* (1) The PHA may not enter into an Agreement or HAP contract with an owner, and the PHA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until one of the following occurs:

(i) The responsible entity has completed the environmental review procedures required by 24 CFR part 58, and HUD has approved the environmental certification and request for release of funds;

(ii) The responsible entity has determined that the project to be assisted is exempt under 24 CFR 58.34 or is categorically excluded and not subject to compliance

with environmental laws under 24 CFR 58.35(b); or

(iii) HUD has performed an environmental review under 24 CFR part 50 and has notified the PHA in writing of environmental approval of the site.

(2) HUD will not approve the release of funds for PBV assistance under this part if the PHA, the owner, or any other party commits funds (*i.e.* , enters an Agreement or HAP contract or otherwise incurs any costs or expenditures to be paid or reimbursed with such funds) before the PHA submits and HUD approves its request for release of funds (where such submission is required).

(e) *PHA duty to supply information.* The PHA must supply all available, relevant information necessary for the RE (or HUD, if applicable) to perform any required environmental review for any site.

(f) *Mitigating measures.* The PHA must require the owner to carry out mitigating measures required by the RE (or HUD, if applicable) as a result of the environmental review.

§ 983.59 PHA-owned units.

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(a) *Selection of PHA-owned units.* The selection of PHA-owned units must be done in accordance with §983.51(e).

(b) *Inspection and determination of reasonable rent by independent entity.* In the case of PHA-owned units, the following program services may not be performed by the PHA, but must be performed instead by an independent entity approved by HUD.

(1) Determination of rent to owner for the PHA-owned units. Rent to owner for PHA-owned units is determined pursuant to §§983.301 through 983.305 in accordance with the same requirements as for other units, except that the independent entity approved by HUD must establish the initial contract rents based on an appraisal by a licensed, state-certified appraiser; and

(2) Inspection of PHA-owned units as required by §983.103(f).

(c) *Nature of independent entity.* The independent entity that performs these program services may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

(d) *Payment to independent entity and appraiser.* (1) The PHA may only compensate the independent entity and appraiser from PHA ongoing administrative fee income (including amounts credited to the administrative fee

reserve). The PHA may not use other program receipts to compensate the independent entity and appraiser for their services.

(2) The PHA, independent entity, and appraiser may not charge the family any fee for the appraisal or the services provided by the independent entity.

Subpart C—Dwelling Units

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§ 983.101 Housing quality standards.

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(a) *HQS applicability.* Except as otherwise provided in this section, 24 CFR 982.401 (housing quality standards) applies to the PBV program. The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

(b) *HQS for special housing types.* For special housing types assisted under the PBV program, housing quality standards in 24 CFR part 982 apply to the PBV program. (Shared housing, cooperative housing, manufactured home space rental, and the homeownership option are not assisted under the PBV program.)

(c) *Lead-based paint requirements.* (1) The lead-based paint requirements at §982.401(j) of this chapter do not apply to the PBV program.

(2) The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

(d) *HQS enforcement.* Parts 982 and 983 of this chapter do not create any right of the family or any party, other than HUD or the PHA, to require enforcement of the HQS requirements or to assert any claim against HUD or the PHA for damages, injunction, or other relief for alleged failure to enforce the HQS.

(e) *Additional PHA quality and design requirements.* This section establishes the minimum federal housing quality standards for PBV housing. However, the PHA may elect to establish additional requirements for quality, architecture, or design of PBV housing, and any such additional requirements must be specified in the Agreement.

§ 983.102 Housing accessibility for persons with disabilities.

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(a) *Program accessibility.* The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and

implementing regulations at 24 CFR part 8. The PHA shall ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR part 8, subpart C.

(b) *Design and construction.* Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable.

§ 983.103 Inspecting units.

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(a) *Pre-selection inspection* —(1) *Inspection of site.* The PHA must examine the proposed site before the proposal selection date.

(2) *Inspection of existing units.* If the units to be assisted already exist, the PHA must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with the HQS. To qualify as existing housing, units must substantially comply with the HQS on the proposal selection date. However, the PHA may not execute the HAP contract until the units fully comply with the HQS.

(b) *Pre-HAP contract inspections.* The PHA must inspect each contract unit before execution of the HAP contract. The PHA may not enter into a HAP contract covering a unit until the unit fully complies with the HQS.

(c) *Turnover inspections.* Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with the HQS.

(d) *Annual inspections.* (1) At least annually during the term of the HAP contract, the PHA must inspect a random sample, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with the HQS. Turnover inspections pursuant to paragraph (c) of this section are not counted toward meeting this annual inspection requirement.

(2) If more than 20 percent of the annual sample of inspected contract units in a building fail the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

(e) *Other inspections.* (1) The PHA must inspect contract units whenever needed to determine that the contract units comply with the HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information

coming to its attention in scheduling inspections.

(2) The PHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of the HQS. (Family HQS obligations are specified in 24 CFR 982.404(b).)

(3) In conducting PHA supervisory quality control HQS inspections, the PHA should include a representative sample of both tenant-based and project-based units.

(f) *Inspecting PHA-owned units.* (1) In the case of PHA-owned units, the inspections required under this section must be performed by an independent agency designated in accordance with §983.59, rather than by the PHA.

(2) The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located.

(3) The PHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the PHA owner.

Subpart D—Requirements for Rehabilitated and Newly Constructed Units

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§ 983.151 Applicability.

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This Subpart D applies to PBV assistance for newly constructed or rehabilitated housing. This Subpart D does not apply to PBV assistance for existing housing. Housing selected under this subpart cannot be selected as existing housing, as defined in §983.52, at a later date.

§ 983.152 Purpose and content of the Agreement to enter into HAP contract.

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(a) *Requirement.* The PHA must enter into an Agreement with the owner. The Agreement must be in the form required by HUD headquarters (see §982.162 of this chapter).

(b) *Purpose of Agreement.* In the Agreement the owner agrees to develop the contract units to comply with the HQS, and the PHA agrees that, upon timely completion of such development in accordance with the terms of the Agreement,

the PHA will enter into a HAP contract with the owner for the contract units.

(c) *Description of housing.* (1) At a minimum, the Agreement must describe the following features of the housing to be developed (newly constructed or rehabilitated) and assisted under the PBV program:

(i) Site;

(ii) Location of contract units on site;

(iii) Number of contract units by area (size) and number of bedrooms and bathrooms;

(iv) Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent to owner;

(v) Utilities available to the contract units, including a specification of utility services to be paid by owner (without charges in addition to rent) and utility services to be paid by the tenant;

(vi) Indication of whether or not the design and construction requirements of the Fair Housing Act and implementing regulations at 24 CFR 100.205 and the accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR 8.22 and 8.23 apply to units under the Agreement. If these requirements are applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement, as specified in paragraph (c)(i)(viii) of this section.

(vii) Estimated initial rents to owner for the contract units;

(viii) Description of the work to be performed under the Agreement. If the Agreement is for rehabilitation of units, the work description must include the rehabilitation work write up and, where determined necessary by the PHA, specifications, and plans. If the Agreement is for new construction, the work description must include the working drawings and specifications.

(2) At a minimum, the housing must comply with the HQS. The PHA may elect to establish additional requirements for quality, architecture, or design of PBV housing, over and above the HQS, and any such additional requirement must be specified in the Agreement.

§ 983.153 When Agreement is executed.

↑ top

(a) *Prohibition of excess subsidy.* The PHA may not enter the Agreement with the

owner until the subsidy layering review is completed (see §983.55).

(b) *Environmental approval.* The PHA may not enter the Agreement with the owner until the environmental review is completed and the PHA has received the environmental approval (see §983.58).

(c) *Prompt execution of Agreement.* The Agreement must be executed promptly after PHA notice of proposal selection to the selected owner.

§ 983.154 Conduct of development work.

top

(a) *Development requirements.* The owner must carry out development work in accordance with the Agreement and the requirements of this section.

(b) *Labor standards.* (1) In the case of an Agreement for development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in development of the housing.

(2) The HUD prescribed form of Agreement shall include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

(3) The owner and the owner's contractors and subcontractors must comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. The PHA must monitor compliance with labor standards.

(c) *Equal opportunity.* (1) *Section 3* —Training, employment, and contracting opportunities. The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations at 24 CFR part 135.

(2) *Equal employment opportunity.* The owner must comply with federal equal employment opportunity requirements of Executive Orders 11246 as amended (3 CFR, 1964–1965 Comp., p. 339), 11625 (3 CFR, 1971–1975 Comp., p. 616), 12432 (3 CFR, 1983 Comp., p. 198) and 12138 (3 CFR, 1977 Comp., p. 393).

(d) *Eligibility to participate in federal programs and activities.* The Agreement and HAP contract shall include a certification by the owner that the owner and other project principals (including the officers and principal members, shareholders, investors, and other parties having a substantial interest in the project) are not on the U.S. General Services Administration list of parties excluded from federal procurement and nonprocurement programs.

(e) *Disclosure of conflict of interest.* The owner must disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD

regulations.

§ 983.155 Completion of housing.

top

(a) *Completion deadline.* The owner must develop and complete the housing in accordance with the Agreement. The Agreement must specify the deadlines for completion of the housing and for submission by the owner of the required evidence of completion.

(b) *Required evidence of completion* —(1) *Minimum submission.* At a minimum, the owner must submit the following evidence of completion to the PHA in the form and manner required by the PHA:

(i) Owner certification that the work has been completed in accordance with the HQS and all requirements of the Agreement; and

(ii) Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

(2) *Additional documentation.* At the discretion of the PHA, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion. For example, such documentation may include:

(i) A certificate of occupancy or other evidence that the units comply with local requirements (such as code and zoning requirements); and

(ii) An architect's certification that the housing complies with:

(A) HUD housing quality standards;

(B) State, local, or other building codes;

(C) Zoning;

(D) The rehabilitation work write-up (for rehabilitated housing) or the work description (for newly constructed housing); or

(E) Any additional design or quality requirements pursuant to the Agreement.

§ 983.156 PHA acceptance of completed units.

top

(a) *PHA determination of completion.* When the PHA has received owner notice that the housing is completed:

(1) The PHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with the HQS and any additional requirement imposed by the PHA under the Agreement.

(2) The PHA must determine if the owner has submitted all required evidence of completion.

(3) If the work has not been completed in accordance with the Agreement, the PHA must not enter into the HAP contract.

(b) *Execution of HAP contract.* If the PHA determines that the housing has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the PHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

Subpart E—Housing Assistance Payments Contract

top

§ 983.201 Applicability.

top

Subpart E applies to all PBV assistance under part 983 (including assistance for existing, newly constructed, or rehabilitated housing).

§ 983.202 Purpose of HAP contract.

top

(a) *Requirement.* The PHA must enter into a HAP contract with the owner. The HAP contract must be in the form required by HUD headquarters (see 24 CFR 982.162).

(b) *Purpose of HAP contract.* (1) The purpose of the HAP contract is to provide housing assistance payments for eligible families.

(2) The PHA makes housing assistance payments to the owner in accordance with the HAP contract. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term.

§ 983.203 HAP contract information.

top

The HAP contract must specify:

(a) The total number of contract units by number of bedrooms;

(b) Information needed to identify the site and the building or buildings where the contract units are located. The information must include the project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;

(c) Information needed to identity the specific contract units in each building. The information must include the number of contract units in the building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;

(d) Services, maintenance, and equipment to be supplied by the owner without charges in addition to the rent to owner;

(e) Utilities available to the contract units, including a specification of utility services to be paid by the owner (without charges in addition to rent) and utility services to be paid by the tenant;

(f) Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8;

(g) The HAP contract term;

(h) The number of units in any building that will exceed the 25 percent per building cap (as described in §983.56), which will be set-aside for occupancy by qualifying families (elderly or disabled families and families receiving supportive services); and

(i) The initial rent to owner (for the first 12 months of the HAP contract term).

§ 983.204 When HAP contract is executed.

↑ top

(a) *PHA inspection of housing.* (1) Before execution of the HAP contract, the PHA must inspect each contract unit in accordance with §983.103(b).

(2) The PHA may not enter into a HAP contract for any contract unit until the PHA has determined that the unit complies with the HQS.

(b) *Existing housing.* In the case of existing housing, the HAP contract must be executed promptly after PHA selection of the owner proposal and PHA inspection of the housing.

(c) *Newly constructed or rehabilitated housing.* (1) In the case of newly constructed or rehabilitated housing the HAP contract must be executed after the

PHA has inspected the completed units and has determined that the units have been completed in accordance with the Agreement and the owner has furnished all required evidence of completion (see §§983.155 and 983.156).

(2) In the HAP contract, the owner certifies that the units have been completed in accordance with the Agreement. Completion of the units by the owner and acceptance of units by the PHA is subject to the provisions of the Agreement.

§ 983.205 Term of HAP contract.

top

(a) *Ten-year initial term.* The PHA may enter into a HAP contract with an owner for an initial term of up to ten years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than ten years.

(b) *Extension of term.* Within one year before expiration, the PHA may agree to extend the term of the HAP contract for an additional term of up to five years if the PHA determines an extension is appropriate to continue providing affordable housing for low-income families. Subsequent extensions are subject to the same limitations. Any extension of the term must be on the form and subject to the conditions prescribed by HUD at the time of the extension.

(c) *Termination by PHA—insufficient funding.* (1) The HAP contract must provide that the term of the PHA's contractual commitment is subject to the availability of sufficient appropriated funding (budget authority) as determined by HUD or by the PHA in accordance with HUD instructions. For purposes of this section, "sufficient funding" means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

(2) The availability of sufficient funding must be determined by HUD or by the PHA in accordance with HUD instructions. If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the PHA has the right to terminate the HAP contract by notice to the owner for all or any of the contract units. Such action by the PHA shall be implemented in accordance with HUD instructions.

(d) *Termination by owner—reduction below initial rent.* The owner may terminate the HAP contract, upon notice to the PHA, if the amount of the rent to owner for any contract unit, as adjusted in accordance with §983.302, is reduced below the amount of the initial rent to owner (rent to owner at the beginning of the HAP contract term). In this case, the assisted families residing in the contract units will be offered tenant-based voucher assistance.

§ 983.206 HAP contract amendments (to add or substitute contract units).

top

(a) *Amendment to substitute contract units.* At the discretion of the PHA and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit. Prior to such substitution, the PHA must inspect the proposed substitute unit and must determine the reasonable rent for such unit.

(b) *Amendment to add contract units.* At the discretion of the PHA, and provided that the total number of units in a building that will receive PBV assistance or other project-based assistance will not exceed 25 percent of the number of dwelling units (assisted or unassisted) in the building or the 20 percent of authorized budget authority as provided in §983.6, a HAP contract may be amended during the three-year period immediately following the execution date of the HAP contract to add additional PBV contract units in the same building. An amendment to the HAP contract is subject to all PBV requirements (e.g., rents are reasonable), except that a new PBV request for proposals is not required. The anniversary and expiration dates of the HAP contract for the additional units must be the same as the anniversary and expiration dates of the HAP contract term for the PBV units originally placed under HAP contract.

(c) *Staged completion of contract units.* Even if contract units are placed under the HAP contract in stages commencing on different dates, there is a single annual anniversary for all contract units under the HAP contract. The annual anniversary for all contract units is the annual anniversary date for the first contract units placed under the HAP contract. The expiration of the HAP contract for all the contract units completed in stages must be concurrent with the end of the HAP contract term for the units originally placed under HAP contract.

§ 983.207 Condition of contract units.

top

(a) *Owner maintenance and operation.* (1) The owner must maintain and operate the contract units and premises in accordance with the HQS, including performance of ordinary and extraordinary maintenance.

(2) The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the PHA and in the lease with each assisted family.

(3) At the discretion of the PHA, the HAP contract may also require continuing owner compliance during the HAP term with additional housing quality requirements specified by the PHA (in addition to, but not in place of, compliance with the HUD-prescribed HQS). Such additional requirements may be designed to assure continued compliance with any design, architecture, or quality requirement specified in the Agreement.

(b) *Remedies for HQS violation.* (1) The PHA must vigorously enforce the owner's obligation to maintain contract units in accordance with the HQS. The PHA may not make any HAP payment to the owner for a contract unit covering any period during which the contract unit does not comply with the HQS.

(2) If the PHA determines that a contract unit is not in accordance with the housing quality standards (or other HAP contract requirement), the PHA may exercise any of its remedies under the HAP contract for all or any contract units. Such remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

(c) *Maintenance and replacement—Owner's standard practice.* Maintenance and replacement (including redecoration) must be in accordance with the standard practice for the building concerned as established by the owner.

§ 983.208 Owner responsibilities.

top

The owner is responsible for performing all of the owner responsibilities under the Agreement and the HAP contract. 24 CFR 982.452 (Owner responsibilities) applies.

§ 983.209 Owner certification.

top

By execution of the HAP contract, the owner certifies that at such execution and at all times during the term of the HAP contract:

(a) All contract units are in good and tenantable condition. The owner is maintaining the premises and all contract units in accordance with the HQS.

(b) The owner is providing all the services, maintenance, equipment, and utilities as agreed to under the HAP contract and the leases with assisted families.

(c) Each contract unit for which the owner is receiving housing assistance payments is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements.

(d) To the best of the owner's knowledge, the members of the family reside in each contract unit for which the owner is receiving housing assistance payments, and the unit is the family's only residence.

(e) The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family

residing in a contract unit.

(f) The amount of the housing assistance payment is the correct amount due under the HAP contract.

(g) The rent to owner for each contract unit does not exceed rents charged by the owner for other comparable unassisted units.

(h) Except for the housing assistance payment and the tenant rent as provided under the HAP contract, the owner has not received and will not receive any payment or other consideration (from the family, the PHA, HUD, or any other public or private source) for rental of the contract unit.

(i) The family does not own or have any interest in the contract unit.

Subpart F—Occupancy

top

§ 983.251 How participants are selected.

top

(a) *Who may receive PBV assistance?* (1) The PHA may select families who are participants in the PHA's tenant-based voucher program and families who have applied for admission to the voucher program.

(2) Except for voucher participants (determined eligible at original admission to the voucher program), the PHA may only select families determined eligible for admission at commencement of PBV assistance.

(b) *Protection of in-place families.* (1) The term "in-place family" means an eligible family residing in a proposed contract unit on the proposal selection date.

(2) In order to minimize displacement of in-place families, if a unit to be placed under contract that is either an existing unit or one requiring rehabilitation is occupied by an eligible family on the proposal selection date, the in-place family must be placed on the PHA's waiting list (if the family is not already on the list) and, once its continued eligibility is determined, given an absolute selection preference and referred to the project owner for an appropriately sized PBV unit in the project. (However, the PHA may deny assistance for the grounds specified in 24 CFR 982.552 and 982.553.) Admission of such families is not subject to income-targeting under 24 CFR 982.201(b)(2)(i), and such families must be referred to the owner from the PHA's waiting list. A PHA shall give such families priority for admission to the PBV program. This protection does not apply to families that are not eligible to participate in the program on the proposal selection date.

(c) *Selection from PHA waiting list.* (1) Applicants who will occupy PBV units must be selected by the PHA from the PHA waiting list. The PHA must select applicants from the waiting list in accordance with the policies in the PHA administrative plan.

(2) The PHA may use a separate waiting list for admission to PBV units or may use the same waiting list for both tenant-based assistance and PBV assistance. If the PHA chooses to use a separate waiting list for admission to PBV units, the PHA must offer to place applicants who are listed on the waiting list for tenant-based assistance on the waiting list for PBV assistance.

(3) The PHA may use separate waiting lists for PBV units in individual projects or buildings (or for sets of such units) or may use a single waiting list for the PHA's whole PBV program. In either case, the waiting list may establish criteria or preferences for occupancy of particular units.

(4) The PHA may merge the waiting list for PBV assistance with the PHA waiting list for admission to another assisted housing program.

(5) The PHA may place families referred by the PBV owner on its PBV waiting list.

(6) Not less than 75 percent of the families admitted to a PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the PHA waiting list shall be extremely low-income families. The income-targeting requirements at 24 CFR 982.201(b)(2) apply to the total of admissions to the PHA's project-based voucher program and tenant-based voucher program during the PHA fiscal year from the PHA waiting list for such programs.

(7) In selecting families to occupy PBV units with special accessibility features for persons with disabilities, the PHA must first refer families who require such accessibility features to the owner (see 24 CFR 8.26 and 100.202).

(d) *Preference for services offered.* In selecting families, PHAs may give preference to disabled families who need services offered at a particular project in accordance with the limits under this paragraph. The prohibition on granting preferences to persons with a specific disability at 24 CFR 982.207(b)(3) continues to apply.

(1) *Preference limits.* (i) The preference is limited to the population of families (including individuals) with disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;

(ii) Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and

(iii) For whom such services cannot be provided in a nonsegregated setting.

(2) Disabled residents shall not be required to accept the particular services

offered at the project.

(3) In advertising the project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from services provided in the project.

(e) *Offer of PBV assistance.* (1) If a family refuses the PHA's offer of PBV assistance, such refusal does not affect the family's position on the PHA waiting list for tenant-based assistance.

(2) If a PBV owner rejects a family for admission to the owner's PBV units, such rejection by the owner does not affect the family's position on the PHA waiting list for tenant-based assistance.

(3) The PHA may not take any of the following actions against an applicant who has applied for, received, or refused an offer of PBV assistance:

(i) Refuse to list the applicant on the PHA waiting list for tenant-based assistance;

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

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

(iv) Remove the applicant from the waiting list for tenant-based voucher assistance.

§ 983.252 PHA information for accepted family.

top

(a) *Oral briefing.* When a family accepts an offer of PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on the following subjects:

(1) A description of how the program works; and

(2) Family and owner responsibilities.

(b) *Information packet.* The PHA must give the family a packet that includes information on the following subjects:

(1) How the PHA determines the total tenant payment for a family;

(2) Family obligations under the program; and

(3) Applicable fair housing information.

(c) *Providing information for persons with disabilities.* (1) If the family head or spouse is a disabled person, the PHA must take appropriate steps to assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet, including in alternative formats.

(2) The PHA shall have some mechanism for referring to accessible PBV units a family that includes a person with mobility impairment.

(d) *Providing information for persons with limited English proficiency.* The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with obligations contained in Title VI of the Civil Rights Act of 1964 and Executive Order 13166.

§ 983.253 Leasing of contract units.

top

(a) *Owner selection of tenants.* (1) During the term of the HAP contract, the owner must lease contract units only to eligible families selected and referred by the PHA from the PHA waiting list.

(2) The owner is responsible for adopting written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to perform the lease obligations.

(3) An owner must promptly notify in writing any rejected applicant of the grounds for any rejection.

(b) *Size of unit.* The contract unit leased to each family must be appropriate for the size of the family under the PHA's subsidy standards.

§ 983.254 Vacancies.

top

(a) *Filling vacant units.* (1) The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving the owner notice, the PHA must make every reasonable effort to refer promptly a sufficient number of families for the owner to fill such vacancies.

(2) The owner must lease vacant contract units only to eligible families on the PHA waiting list referred by the PHA.

(3) The PHA and the owner must make reasonable good faith efforts to minimize

the likelihood and length of any vacancy.

(b) *Reducing number of contract units.* If any contract units have been vacant for a period of 120 or more days since owner notice of vacancy (and notwithstanding the reasonable good faith efforts of the PHA to fill such vacancies), the PHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (by number of bedrooms) that have been vacant for such period.

§ 983.255 Tenant screening.

↑ top

(a) *PHA option.* (1) The PHA has no responsibility or liability to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny admission to an applicant based on such screening.

(2) The PHA must conduct any such screening of applicants in accordance with policies stated in the PHA administrative plan.

(b) *Owner responsibility.* (1) The owner is responsible for screening and selection of the family to occupy the owner's unit.

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

(i) Payment of rent and utility bills;

(ii) Caring for a unit and premises;

(iii) Respecting the rights of other residents to the peaceful enjoyment of their housing;

(iv) Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and

(v) Compliance with other essential conditions of tenancy;

(c) *Providing tenant information to owner.* (1) The PHA must give the owner:

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

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

(2) When a family wants to lease a dwelling unit, the PHA may offer the owner

other information in the PHA possession about the family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members.

(3) The PHA must give the family a description of the PHA policy on providing information to owners.

(4) The PHA policy must provide that the PHA will give the same types of information to all owners.

§ 983.256 Lease.

top

(a) *Tenant's legal capacity.* The tenant must have legal capacity to enter a lease under state and local law. "Legal capacity" means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

(b) *Form of lease.* (1) The tenant and the owner must enter a written lease for the unit. The lease must be executed by the owner and the tenant.

(2) If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form, except as provided in paragraph (b)(4) of this section. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA model lease.

(3) In all cases, the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

(4) The PHA may review the owner's lease form to determine if the lease complies with state and local law. The PHA may decline to approve the tenancy if the PHA determines that the lease does not comply with state or local law.

(c) *Required information.* The lease must specify all of the following:

(1) The names of the owner and the tenant;

(2) The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);

(3) The term of the lease (initial term and any provision for renewal);

(4) The amount of the tenant rent to owner. The tenant rent to owner is subject to change during the term of the lease in accordance with HUD requirements;

(5) A specification of what services, maintenance, equipment, and utilities are to

be provided by the owner; and

(6) The amount of any charges for food, furniture, or supportive services.

(d) *Tenancy addendum.* (1) The tenancy addendum in the lease shall state:

(i) The program tenancy requirements (as specified in this part);

(ii) The composition of the household as approved by the PHA (names of family members and any PHA-approved live-in aide).

(2) All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum shall prevail over other provisions of the lease.

(e) *Changes in lease.* (1) If the tenant and the owner agree to any change in the lease, such change must be in writing, and the owner must immediately give the PHA a copy of all such changes.

(2) The owner must notify the PHA in advance of any proposed change in lease requirements governing the allocation of tenant and owner responsibilities for utilities. Such changes may be made only if approved by the PHA and in accordance with the terms of the lease relating to its amendment. The PHA must redetermine reasonable rent, in accordance with §983.303(c), based on any change in the allocation of responsibility for utilities between the owner and the tenant, and the redetermined reasonable rent shall be used in calculation of rent to owner from the effective date of the change.

(f) *Initial term of lease.* The initial lease term must be for at least one year.

(g) *Lease provisions governing tenant absence from the unit.* The lease may specify a maximum period of tenant absence from the unit that may be shorter than the maximum period permitted by PHA policy. (PHA termination of assistance actions due to family absence from the unit is subject to 24 CFR 982.312, except that the HAP contract is not terminated if the family is absent for longer than the maximum period permitted.)

§ 983.257 Owner termination of tenancy and eviction.

↑ top

(a) In general. 24 CFR 982.310 applies with the exception that §982.310(d)(1)(iii) and (iv) do not apply to the PBV program. (In the PBV program, "good cause" does not include a business or economic reason or desire to use the unit for an individual, family, or non-residential rental purpose.) 24 CFR 5.858 through 5.861 on eviction for drug and alcohol abuse apply to this part.

(b) Upon lease expiration, an owner may:

(1) Renew the lease;

(2) Refuse to renew the lease for good cause as stated in paragraph (a) of this section;

(3) Refuse to renew the lease without good cause, in which case the PHA would provide the family with a tenant-based voucher and the unit would be removed from the PBV HAP contract.

(c) If a family resides in a project-based unit excepted from the 25 percent per-building cap on project-basing because of participation in an FSS or other supportive services program, and the family fails without good cause to complete its FSS contract of participation or supportive services requirement, such failure is grounds for lease termination by the owner.

§ 983.258 Security deposit: amounts owed by tenant.

top

(a) The owner may collect a security deposit from the tenant.

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

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

(d) The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

(e) If the security deposit is not sufficient to cover amounts the tenant owes under the lease, the owner may seek to collect the balance from the tenant. However, the PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

§ 983.259 Overcrowded, under-occupied, and accessible units.

top

(a) *Family occupancy of wrong-size or accessible unit.* The PHA subsidy standards determine the appropriate unit size for the family size and composition.

If the PHA determines that a family is occupying a:

(1) Wrong-size unit, or

(2) Unit with accessibility features that the family does not require, and the unit is needed by a family that requires the accessibility features, the PHA must promptly notify the family and the owner of this determination, and of the PHA's offer of continued assistance in another unit pursuant to paragraph (b) of this section.

(b) *PHA offer of continued assistance.* (1) If a family is occupying a:

(i) Wrong-size unit, or

(ii) Unit with accessibility features that the family does not require, and the unit is needed by a family that requires the accessibility features, the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

(2) The PHA policy on such continued housing assistance must be stated in the administrative plan and may be in the form of:

(i) Project-based voucher assistance in an appropriate-size unit (in the same building or in another building);

(ii) Other project-based housing assistance (*e.g.* , by occupancy of a public housing unit);

(iii) Tenant-based rental assistance under the voucher program; or

(iv) Other comparable public or private tenant-based assistance (*e.g.* , under the HOME program).

(c) *PHA termination of housing assistance payments.* (1) If the PHA offers the family the opportunity to receive tenant-based rental assistance under the voucher program, the PHA must terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension granted by the PHA).

(2) If the PHA offers the family the opportunity for another form of continued housing assistance in accordance with paragraph (b)(2) of this section (not in the tenant-based voucher program), and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the wrong-sized or accessible unit, at the expiration of a reasonable period as determined by the PHA.

§ 983.260 Family right to move.

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(a) The family may terminate the assisted lease at any time after the first year of occupancy. The family must give the owner advance written notice of intent to vacate (with a copy to the PHA) in accordance with the lease.

(b) If the family has elected to terminate the lease in this manner, the PHA must offer the family the opportunity for continued tenant-based rental assistance, in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.

(c) Before providing notice to terminate the lease under paragraph (a) of this section, a family must contact the PHA to request comparable tenant-based rental assistance if the family wishes to move with continued assistance. If voucher or other comparable tenant-based rental assistance is not immediately available upon termination of the family's lease of a PBV unit, the PHA must give the family priority to receive the next available opportunity for continued tenant-based rental assistance.

(d) If the family terminates the assisted lease before the end of one year, the family relinquishes the opportunity for continued tenant-based assistance.

§ 983.261 When occupancy may exceed 25 percent cap on the number of PBV units in each building.

top

(a) Except as provided in §983.56(b), the PHA may not pay housing assistance under the HAP contract for contract units in excess of the 25 percent cap pursuant to §983.56(a).

(b) In referring families to the owner for admission to excepted units, the PHA must give preference to elderly or disabled families; or to families receiving supportive services.

(c) If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received FSS supportive services or any other service as defined in the PHA administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

(d) A family (or the remaining members of the family) residing in an excepted unit that no longer meets the criteria for a "qualifying family" in connection with the 25 percent per building cap exception (*e.g.* , a family that does not successfully complete its FSS contract of participation or the supportive services requirement as defined in the PHA administrative plan or the remaining members of a family that no longer qualifies for elderly or disabled family status) must vacate the unit within a reasonable period of time established by the PHA, and the PHA shall cease paying housing assistance payments on behalf of the non-qualifying family. If the family fails to vacate the unit within the established time, the unit must be

removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with §983.206(a); or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations (*e.g.* , a family fails, without good cause, to successfully complete its FSS contract of participation or supportive services requirement) shall be terminated by the PHA.

Subpart G—Rent to Owner

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§ 983.301 Determining the rent to owner.

top

(a) *Initial and redetermined rents.* (1) The amount of the initial and redetermined rent to owner is determined in accordance with this section and §983.302.

(2) The amount of the initial rent to owner is established at the beginning of the HAP contract term. For rehabilitated or newly constructed housing, the Agreement states the estimated amount of the initial rent to owner, but the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

(3) The rent to owner is redetermined at the owner's request for a rent increase in accordance with this section and §983.302. The rent to owner is also redetermined at such time when there is a five percent or greater decrease in the published FMR in accordance with §983.302.

(b) *Amount of rent to owner.* Except for certain tax credit units as provided in paragraph (c) of this section, the rent to owner must not exceed the lowest of:

(1) An amount determined by the PHA, not to exceed 110 percent of the applicable fair market rent (or any exception payment standard approved by the Secretary) for the unit bedroom size minus any utility allowance;

(2) The reasonable rent; or

(3) The rent requested by the owner.

(c) *Rent to owner for certain tax credit units.* (1) This paragraph (c) applies if:

(i) A contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986 (see 26 U.S.C. 42);

(ii) The contract unit is not located in a qualified census tract;

(iii) In the same building, there are comparable tax credit units of the same unit

bedroom size as the contract unit and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and

(iv) The tax credit rent exceeds the applicable fair market rental (or any exception payment standard) as determined in accordance with paragraph (b) of this section.

(2) In the case of a contract unit described in paragraph (c)(1) of this section, the rent to owner must not exceed the lowest of:

(i) The tax credit rent minus any utility allowance;

(ii) The reasonable rent; or

(iii) The rent requested by the owner.

(3) The "tax credit rent" is the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (*e.g.* , additional assistance such as tenant-based voucher assistance).

(4) A "qualified census tract" is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which:

(i) At least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI); or

(ii) Where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

(d) *Rent to owner for other tax credit units.* Except in the case of a tax credit unit described in paragraph (c)(1) of this section, the rent to owner for all other tax credit units is determined pursuant to paragraph (b) of this section.

(e) *Reasonable rent.* The PHA shall determine reasonable rent in accordance with §983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent.

(f) *Use of FMRs and utility allowance schedule in determining the amount of rent to owner*—(1) *Amounts used.* (i) *Determination of initial rent (at beginning of HAP contract term).* When determining the initial rent to owner, the PHA shall use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. At its discretion, the PHA may use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract.

(ii) *Redetermination of rent to owner.* When redetermining the rent to owner, the PHA shall use the most recently published FMR and the PHA utility allowance

schedule in effect at the time of redetermination. At its discretion, the PHA may use the amounts in effect at any time during the 30-day period immediately before the redetermination date.

(2) *Exception payment standard and PHA utility allowance schedule.* (i) Any HUD-approved exception payment standard amount under 24 CFR 982.503(c) applies to both the tenant-based and project-based voucher programs. HUD will not approve a different exception payment standard amount for use in the PBV program.

(ii) The PHA may not establish or apply different utility allowance amounts for the PBV program. The same PHA utility allowance schedule applies to both the tenant-based and PBV programs.

(g) *PHA-owned units.* For PHA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the annual anniversary of the HAP contract are determined by the independent entity approved by HUD in accordance with §983.59. The PHA must use the rent to owner established by the independent entity.

§ 983.302 Redetermination of rent to owner.

top

(a) The PHA must redetermine the rent to owner:

(1) Upon the owner's request; or

(2) When there is a five percent or greater decrease in the published FMR in accordance with §983.301.

(b) *Rent increase.* (1) The PHA may not make any rent increase other than an increase in the rent to owner as determined pursuant to §983.301. (Provisions for special adjustments of contract rent pursuant to 42 U.S.C. 1437f(b)(2)(B) do not apply to the voucher program.)

(2) The owner must request an increase in the rent to owner at the annual anniversary of the HAP contract by written notice to the PHA. The length of the required notice period of the owner request for a rent increase at the annual anniversary may be established by the PHA. The request must be submitted in the form and manner required by the PHA.

(3) The PHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with all requirements of the HAP contract, including compliance with the HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

(c) *Rent decrease.* If there is a decrease in the rent to owner, as established in

accordance with §983.301, the rent to owner must be decreased, regardless of whether the owner requested a rent adjustment.

(d) *Notice of rent redetermination.* Rent to owner is redetermined by written notice by the PHA to the owner specifying the amount of the redetermined rent (as determined in accordance with §§983.301 and 983.302). The PHA notice of the rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract.

(e) *Contract year and annual anniversary of the HAP contract.* (1) The contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

(2) The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. The adjusted rent to owner amount applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

(3) See §983.206(c) for information on the annual anniversary of the HAP contract for contract units completed in stages.

§ 983.303 Reasonable rent.

t top

(a) *Comparability requirement.* At all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent as determined by the PHA.

(b) *Redetermination.* The PHA must redetermine the reasonable rent:

(1) Whenever there is a five percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR in effect one year before the contract anniversary;

(2) Whenever the PHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;

(3) Whenever the HAP contract is amended to substitute a different contract unit in the same building; and

(4) Whenever there is any other change that may substantially affect the reasonable rent.

(c) *How to determine reasonable rent.* (1) The reasonable rent of a contract unit

must be determined by comparison to rent for other comparable unassisted units.

(2) In determining the reasonable rent, the PHA must consider factors that affect market rent, such as:

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

(ii) Amenities, housing services, maintenance, and utilities to be provided by the owner.

(d) *Comparability analysis.* (1) For each unit, the PHA comparability analysis must use at least three comparable units in the private unassisted market, which may include comparable unassisted units in the premises or project.

(2) The PHA must retain a comparability analysis that shows how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units.

(3) The comparability analysis may be performed by PHA staff or by another qualified person or entity. A person or entity that conducts the comparability analysis and any PHA staff or contractor engaged in determining the housing assistance payment based on the comparability analysis may not have any direct or indirect interest in the property.

(e) *Owner certification of comparability.* By accepting each monthly housing assistance payment from the PHA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner must give the PHA information requested by the PHA on rents charged by the owner for other units in the premises or elsewhere.

(f) *Determining reasonable rent for PHA-owned units.* (1) For PHA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with §983.58, rather than by the PHA. Reasonable rent must be determined in accordance with this section.

(2) The independent entity must furnish a copy of the independent entity determination of reasonable rent for PHA-owned units to the PHA and to the HUD field office where the project is located.

§ 983.304 Other subsidy: effect on rent to owner.

↑ top

(a) *General.* In addition to the rent limits established in accordance with §983.301 and 24 CFR 982.302, the following restrictions apply to certain units.

(b) *HOME.* For units assisted under the HOME program, rents may not exceed

rent limits as required by the HOME program (24 CFR 92.252).

(c) *Subsidized projects.* (1) This paragraph (c) applies to any contract units in any of the following types of federally subsidized project:

(i) An insured or non-insured Section 236 project;

(ii) A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;

(iii) A Section 221(d)(3) below market interest rate (BMIR) project;

(iv) A Section 515 project of the Rural Housing Service;

(v) Any other type of federally subsidized project specified by HUD.

(2) The rent to owner may not exceed the subsidized rent (basic rent) as determined in accordance with requirements for the applicable federal program listed in paragraph (c)(1) of this section.

(d) *Combining subsidy.* Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements. See §983.55.

(e) *Other subsidy: PHA discretion to reduce rent.* At its discretion, a PHA may reduce the initial rent to owner because of other governmental subsidies, including tax credit or tax exemption, grants, or other subsidized financing.

(f) *Prohibition of other subsidy.* For provisions that prohibit PBV assistance to units in certain types of subsidized housing, see §983.54.

[70 FR 59913, Oct. 13, 2005, as amended at 72 FR 65207, Nov. 19, 2007]

§ 983.305 Rent to owner: effect of rent control and other rent limits.

top

In addition to the limitation to 110 percent of the FMR in §983.301(b)(1), the rent reasonableness limit under §§983.301(b)(2) and 983.303, the rental determination provisions of §983.301(f), the special limitations for tax credit units under §983.301(c), and other rent limits under this part, the amount of rent to owner also may be subject to rent control or other limits under local, state, or federal law.

Subpart H—Payment to Owner

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§ 983.351 PHA payment to owner for occupied unit.

top

(a) *When payments are made.* (1) During the term of the HAP contract, the PHA shall make housing assistance payments to the owner in accordance with the terms of the HAP contract. The payments shall be made for the months during which a contract unit is leased to and actually occupied by an eligible family.

(2) Except for discretionary vacancy payments in accordance with §983.352, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

(b) *Monthly payment.* Each month, the PHA shall make a housing assistance payment to the owner for each contract unit that complies with the HQS and is leased to and occupied by an eligible family in accordance with the HAP contract.

(c) *Calculating amount of payment.* The monthly housing assistance payment by the PHA to the owner for a contract unit leased to a family is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

(d) *Prompt payment.* The housing assistance payment by the PHA to the owner under the HAP contract must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.

(e) *Owner compliance with contract.* To receive housing assistance payments in accordance with the HAP contract, the owner must comply with all the provisions of the HAP contract. Unless the owner complies with all the provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

§ 983.352 Vacancy payment.

top

(a) *Payment for move-out month.* If an assisted family moves out of the unit, the owner may keep the housing assistance payment payable for the calendar month when the family moves out ("move-out month"). However, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault.

(b) *Vacancy payment at PHA discretion.* (1) At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner (in the amounts determined in accordance with paragraph (b)(2) of this section) for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month.

(2) The vacancy payment to the owner for each month of the maximum two-month

period will be determined by the PHA, and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit). Any vacancy payment may cover only the period the unit remains vacant.

(3) The PHA may make vacancy payments to the owner only if:

(i) The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and containing the date when the family moved out (to the best of the owner's knowledge and belief);

(ii) The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;

(iii) The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and

(iv) The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

(4) The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

§ 983.353 Tenant rent; payment to owner.

top

(a) *PHA determination.* (1) The tenant rent is the portion of the rent to owner paid by the family. The PHA determines the tenant rent in accordance with HUD requirements.

(2) Any changes in the amount of the tenant rent will be effective on the date stated in a notice by the PHA to the family and the owner.

(b) *Tenant payment to owner.* (1) The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance).

(2) The amount of the tenant rent as determined by the PHA is the maximum amount the owner may charge the family for rent of a contract unit. The tenant rent is payment for all housing services, maintenance, equipment, and utilities to be provided by the owner without additional charge to the tenant, in accordance with the HAP contract and lease.

(3) The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant.

(4) 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. The owner may not terminate the tenancy of an assisted family for nonpayment of the PHA housing assistance payment.

(c) *Limit of PHA responsibility.* (1) The PHA is responsible only for making housing assistance payments to the owner on behalf of a family in accordance with the HAP contract. The PHA is not responsible for paying the tenant rent, or for paying any other claim by the owner.

(2) The PHA may not use housing assistance payments or other program funds (including any administrative fee reserve) to pay any part of the tenant rent or to pay any other claim by the owner. The PHA may not make any payment to the owner for any damage to the unit, or for any other amount owed by a family under the family's lease or otherwise.

(d) *Utility reimbursement.* (1) If the amount of the utility allowance exceeds the total tenant payment, the PHA shall pay the amount of such excess as a reimbursement for tenant-paid utilities ("utility reimbursement") and the tenant rent to the owner shall be zero.

(2) The PHA either may pay the utility reimbursement to the family or may pay the utility bill directly to the utility supplier on behalf of the family.

(3) If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

§ 983.354 Other fees and charges.

top

(a) *Meals and supportive services.* (1) Except as provided in paragraph (a)(2) of this section, the owner 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.

(2) In assisted living developments receiving project-based assistance, owners may charge tenants, family members, or both for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of reasonable rent. Non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

(b) *Other charges by owner.* The owner may not charge the tenant or family members extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

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Section 508 / Accessibility

ATTACHMENT D – SELF-CERTIFICATION OF UNDOCUMENTED INCOME

ROAD HOME PROGRAM
HOMEOWNER ASSISTANCE PROGRAM

Applicant Name _____ Applicant ID: _____

This form is to be used primarily in those instances in which a member of the Applicant's household is unable to provide documents supporting the reported income. This may happen when a self-employed person operates on a cash basis (such as babysitters, doing hair/nails, small chores). These individuals should first be asked to provide any documentation they have (e.g., quarterly estimated taxes submitted to IRS or income tax return if it is reflective of current income). If no documentation is available, the applicant should provide the information below and certify to its accuracy. The undocumented income reported on this form must represent current gross income source(s).

Household Member: _____ Pay Rate_____ Pay Schedule_____
Explain the type of work the individual does and why no documentation is available.

Explain how the amount certified on the *Income Verification and Certification Worksheet* was estimated

Household Member: _____ Pay Rate_____ Pay Schedule_____
Explain the type of work the individual does and why no documentation is available.

Explain how the amount certified on the *Income Verification and Certification Worksheet* was estimated

_____ Applicant ID: _____
Printed Name

_____ Date: _____
Signature