



HOUSING AUTHORITY OF THE CITY DANBURY SECTION 8 ADMINISTRATIVE PLAN

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ADMINISTRATIVE PLAN
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Chapter 1

STATEMENT OF POLICIES AND OBJECTIVES

INTRODUCTION

The Section 8 program was enacted as part of the Housing and Community Development Act of 1974, which recodified the U. S. Housing Act of 1937. The Housing and Community Development Act has been amended from time to time, and its requirements, as they apply to the Section 8 tenant-based program, are described in and implemented through this administrative plan.

The Housing Authority of the City of Danbury's Section 8 program is a regional program, which covers communities such as Danbury, Brookfield, Ridgefield, New Milford and Newtown. HACD administers the following types of voucher programs:

Housing Choice Vouchers

Housing Choice Vouchers provide subsidies to low income persons and freedom of choice to enable them to rent affordable, decent, safe and sanitary housing anywhere in the United States.

Moderate Rehabilitation

Under the Moderate Rehabilitation Program housing subsidy assistance is attached to units whose owner agreed to rehabilitate the structure. From time to time, new allocations by HUD are made available to the HACD under the McKinney Act.

Family Unification Program (FUP)

The Family Unification Program (FUP) provides rental assistance to families in cases where the need for adequate housing is a primary factor in the reunification of children with families that have been separated or are at risk of being separated.

Violence Against Women

The Violence Against Women Act (VAWA) provides rental assistance to victims of domestic violence families in cases where the need for housing is a primary factor in relocating the families that have been displaced due to domestic violence.

Mainstream Program

The HACD received an allocation of Housing Choice Vouchers to assist applicants with disabilities to secure housing in the private market.

Designated Housing

The HACD received an allocation of Housing Choice Vouchers to assist non-elderly disabled applicants on the HACD public housing waiting list with their housing needs.

A. ADMINISTRATIVE FEE RESERVE (24 CFR 982.54(d)(21))

All expenditures from the administrative fee reserve will be approved by the Housing Authority of the City of Danbury's Board of Commissioners.

B. TERMINOLOGY

The Housing Authority of the City of Danbury is referred to as the "HACD" or "public housing agency throughout this document.

"Family" is used interchangeable with "applicant" or "participant" and can refer to a single person family.

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

"Landlord" and "owner" are used interchangeably.

"Disability" is used where "handicap" was formerly used.

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

The Section 8 program is also known as the Housing Choice Voucher Program.

"HQS" means the housing quality standards required by regulations and enhanced by the HACD.

"Failure to provide" refers to all requirements in the first family obligation.

C. FAIR HOUSING POLICY

It is the policy of the public housing agency to comply fully with all federal, state, and local nondiscrimination laws and with the rules and regulations governing fair housing and equal opportunity in housing and employment.

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

To further its commitment to full compliance with applicable civil rights laws, the HACD will provide federal/state/local information to voucher holders regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act.

Such information will be made available during the family briefing session, and all applicable fair housing information and discrimination complaint forms will be made a part of the voucher holder's briefing packet and available upon request.

All HACD staff is required to attend fair housing training. The importance of affirmatively furthering fair housing and providing equal opportunity to all families, including providing reasonable accommodations to persons with disabilities, is an important part of the fair housing policy.

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

D. REASONABLE ACCOMMODATIONS POLICY (24 CFR 100.202)

A participant with a disability must first ask for a specific change to a policy or practice as an accommodation of their disability. The HACD's policies and practices will be designed to provide assurances that persons with disabilities will be given reasonable accommodations, upon request, so that they may fully access and utilize the housing program and related services. The availability of requesting an accommodation will be made known by including notices on HACD forms and letters.

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

- A physical or mental impairment that substantially limits one or more of the major life activities of the individual;
- A record of such impairment; or
- Being regarded as having such impairment.

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

The HACD will require third party verification that the person needs the specific accommodation due to their disability and the change is required for them to have equal access to the housing program.

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

An undue administrative burden is one that requires a fundamental alteration of the essential functions of the HACD (i.e., waiving a family obligation).

An undue financial burden is one that when considering the available resources of the agency as a whole, the requested accommodation would pose a severe financial hardship on the HACD.

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

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

If a person is denied the accommodation or feels the alternative suggestions are inadequate, they may request an informal hearing to review the decision.

Applying for Admission

All persons who wish to apply for the Section 8 program must submit a pre-application via written format, as indicated in our public notice. Applications will be made available in an accessible format upon request from a person with a disability.

To provide specific accommodation to persons with disabilities, upon request, the information may be mailed to the applicant and, if requested, it will be mailed in an accessible format.

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

E. TRANSLATION OF DOCUMENTS

The HACD has bilingual staff to assist non-English speaking families.

F. FAMILY FILE

The HACD will maintain a file for each family when the family is selected from the waiting list and keep the file active until the family is no longer a program participant. The inactive file should be kept for three years and contain the following:

1. Application forms
2. Income verification forms

3. A copy of each voucher issued
4. Copies of relevant correspondence
5. All requests for tenancy approval
6. A copy of all approved leases
7. All rent reasonableness determinations
8. All unit inspection forms
9. A copy of each HAP contract executed by HACD and owner
10. Interim re determination forms and related records
11. Notification of lease disapproval, if applicable
12. Records concerning denial of assistance, or termination of assistance
13. All HACD records and determinations concerning informal reviews or hearings
14. Social Security number verification
15. Non-citizen verification
16. Proof of legal identity for all family members

G. PRIVACY RIGHTS (24 CFR 5.212)

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

H. OWNER OUTREACH (24 CFR 982.54(d)(5))

The HACD encourages owners of decent, safe and sanitary housing units to lease to Section 8 families. The HACD maintains a list of interested landlords for the Section 8 program and updates this list periodically. When listings from owners are received, they will be compiled by the HACD staff by bedroom size.

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

The HACD conducts periodic meetings with participating owners to improve owner relations and to recruit new owners.

Chapter 2

ELIGIBILITY FOR ADMISSION

INTRODUCTION

This chapter defines both HUD's and the HACD's criteria for admission and denial of admission to the program. The HACD staff will review all information provided by the family without regard to factors other than those defined in this chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by the HACD pertaining to their eligibility.

A. ELIGIBILITY FACTORS (24 CFR 982.201)

The HACD accepts applications only from families whose head or spouse is at least 18 years of age or emancipated minors under state law.

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

The HUD eligibility criteria are:

- An applicant must be a "family"
- An applicant must be within the appropriate income limits
- An applicant must furnish Social Security numbers for all family members age six and older
- An applicant must furnish evidence of citizenship or eligible immigrant status and verification where required
- An applicant must furnish proof of legal identity

At least one member of the applicant family must be either a U. S. citizen or have eligible immigration status before the HACD can provide any financial assistance.

The family's initial eligibility for placement on the waiting list will be made in accordance with the eligibility factors.

Evidence of citizenship or eligible immigrant status will not be verified until the family is selected from the waiting list for final eligibility processing for issuance of a voucher, unless the HACD determines that such eligibility is in question, whether or not the family is at or near the top of the waiting list.

B. FAMILY COMPOSITION (24 CFR 982.201(c))

The applicant must qualify as a family. A family may be a single person or a group of persons. A family includes a family with a child or children. A group of persons consisting of two or more elderly persons or disabled persons living together, or one or more elderly or disabled persons living with one or more live-aides is a family. The HACD determines if any other group of persons qualifies as a family.

A single person family may be:

- An elderly person.
- A displaced person.
- A person with a disability. (Individuals may not be considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence).
- Any other single person.

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

A family also includes two or more elderly or disabled persons living together, or one or more elderly, near-elderly or disabled persons living with one or more live-in aides.

Head of Household

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

Spouse or Head

Spouse means the husband or wife of the head. For proper application of the non-citizens rule, the definition of spouse is: the marriage partner who, in order to dissolve the relationship, would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

Co-Head

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

Live-in Attendants

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

- Is determined by the HACD to be essential to the care and well being of an elderly person, a near-elderly person (i.e., aged 50-61), or a person with disabilities,
- Is not obligated for the support of the person(s), and
- Would not be living in the unit except to provide care for the person(s).

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

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

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

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

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

Verification must include the hours during which the care will be provided.

(24 CFR 982.316) At any time, the HACD may refuse to approve a particular person as a live-in aide or may withdraw such approval if:

1. The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
2. The person commits drug-related criminal activity or violent criminal activity; or
3. The person currently owes rent or other amounts to the HACD or to another HACD in connection with any federally-assisted program.

Split Households Prior to Voucher Issuance

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

1. Which family member applied as head of household
2. Which family unit retains the children or any disabled or elderly members.
3. Restrictions that were in place at the time the family applied.
4. Role of domestic violence in the split.

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

Multiple Families in the Same Household

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

Joint Custody of Children

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

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

C. INCOME LIMITATIONS (24 CFR 982.201(b), 982.353)

In order to be eligible for assistance, an applicant must have an annual income at the time of admission that does not exceed the very low income limits for occupancy established by HUD.

To be income-eligible the family may be under the low-income limit in any of the following categories:

- A very low-income family.
- A low-income family that is continuously assisted under the 1937 Housing Act. An applicant is continuously assisted if the family has received assistance under any 1937 Housing Act program within 120 days of voucher issuances. Programs include public housing, all Section 8 programs, and all Section 23 programs.
- A low-income family physically displaced by rental rehabilitation activity under 24 CFR part 511.
- A low-income non-purchasing family residing in a HOPE 1 or HOPE 2 project.
- A low-income non-purchasing family residing in a project subject to a home ownership program under 24 CFR 248.173.
- A low-income family displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165.

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

To determine if the family is income eligible, the HACD compares the annual income of the family to the applicable income limit for the family's size.

Families whose annual income exceeds the income limit will be denied admission and offered an informal review.

For admission to the program (initial lease-up), 75% of the families may be within the extremely low income limit for the jurisdiction of the receiving HACD in which they want to live.

Portability: For initial lease-up families who exercise portability must be within the very low income limit for the jurisdiction of the receiving HACD in which they want to live.

D. MANDATORY SOCIAL SECURITY NUMBERS (24 CFR 5.216, 5.218)

Families are required to provide verification of Social Security numbers for all family members age six (6) and older prior to admission, if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program.

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

Persons who have not been issued a Social Security number must sign a certification that they have never been issued a Social Security number.

Persons who disclose their Social Security number but cannot provide verification must sign a certification and provide verification within 60 days. Elderly persons must provide verification within 120 days.

E. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS (24 CFR Part 5, Subpart E)

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

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

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

All members ineligible. Applicant families that include no eligible members will be ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Non-citizen students. As defined by HUD in the non-citizen regulations at 24 CFR 5.522, these persons are not eligible for assistance.

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

F. OTHER CRITERIA FOR ADMISSIONS (24 CFR 982.552(b))

The HACD will apply the following criteria, in addition to the HUD eligibility criteria, as grounds for denial of admission to the program.

The family must not have violated any family obligation during the last year of previous participation in the Section 8 program prior to final eligibility determination.

The HACD will make an exception, if the family member who violated the family obligation is not a current member of the household on the application.

The family must have repaid any outstanding repayment agreement with another HACD before this HACD will allow participation in the program.

No family member may have been evicted or terminated from federally-assisted housing for any reason during the last three (3) years prior to final eligibility determination.

The HACD will check criminal history for all adults in the household to determine whether any member of the family has violated any of the prohibited behaviors as referenced further in this plan.

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

G. TENANT SCREENING (24 CFR 982.307)

The HACD will take into consideration any of the criteria for admission described further in this plan.

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

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

The owner is responsible for screening families based on the tenancy histories, including such factors as payment of rent and utility bills, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property or others, and compliance with other essential conditions of tenancy.

The HACD will give the owner the family's current and prior address as shown in the files and the name and address, if known, of the landlord at the family's current and prior addresses.

H. INELIGIBLE FAMILIES

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

I. PROHIBITED ADMISSIONS CRITERIA (24 CFR 982.202(b))

Admissions to the program may not be based on where the family lives before admission to the program.

Admission to the program may not be based on:

- Discrimination because the members of the family are unwed parents, recipients of public assistance, or children born out of wedlock.
- Discrimination because a family includes children; or
- Whether a family decides to participate in a family self-sufficiency (FSS) program.

Chapter 3

APPLYING FOR ADMISSION

INTRODUCTION

HACD reserves the right to open or close the waiting list based on the number of applicants. The waiting list will be closed when there are not enough housing subsidies to assist all the applicants in a reasonable period of time, such as one or two years. When HACD determines that additional applicants are needed, the waiting list will be opened and a public advertisement and notice will be posted.

A. PROGRAM OUTREACH

To affirmatively further fair housing and reach people from all backgrounds, HACD will advertise through a wide variety of sources including local and State newspapers, minority media, minority civic clubs, community and faith-based organizations, service agencies and broadcast media. An effort will also be made to notify elected officials, government agencies and agencies which specifically address the needs of individuals with disabilities. HACD will continuously monitor and evaluate outreach activities to ensure that the widest possible audience is reached.

All notices and advertising announcing the opening of the waiting list will include:

- the dates the list will be open;
- the office hours and location where applications are available and will be accepted;
- the availability of Housing Choice Vouchers;
- eligibility guidelines;
- preferences for the selection of applicants; and
- any limitations which may apply.

Information Campaign

HACD conducts an information campaign to dispel myths about how vouchers work (e.g. misunderstandings regarding restriction of vouchers to certain neighborhoods or automatic termination of vouchers after one year). The information campaign explains what kind of support will be available to participating individuals and explains their housing choices.

Outreach to Property Owners

Outreach to property owners is conducted on an ongoing basis to develop interest in the program and to increase the number of units available in low-poverty areas. HACD notifies and provides program information to local Realtors, agents, apartment associations and any interested landlords. HACD staff is available to make presentations about the HCV Program to these groups. In addition, printed materials and videos describing the program requirements and opportunities for property owners are made available. HACD maintains a list of interested property owners and units available for the program. As inquiries from prospective new property owners are received, staff records the necessary information about units and makes it available the prospective tenants upon request.

HACD makes a concerted effort to contact and encourage local property owners to participate in the program who have units specially designed or adapted for person with disabilities, and those who may be willing to adapt units. Notices shall be sent to landlords presently participating, landlords that have participated in the past, local real estate agencies, and to local social service agencies that specifically address the needs of people with disabilities. Whenever a local property owner makes a unit available for the program, HACD shall inquire as to whether the unit is accessible and the extent of accessibility.

B. OVERVIEW OF THE APPLICATION TAKING PROCESS

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

Pre-Application and Application

HACD will accept pre-applications for the Housing Choice Voucher, Designated Housing Vouchers, Family Unification, Moderate Rehabilitation and Substantial Rehabilitation, Federal Family and State Family, Federal Elderly and state Elderly and Ives Manor and Single Room Occupancy at 2 Mill Ridge Road, Danbury CT. Wait Lists for each program will be maintained by bedroom size with the exception of Housing Choice Voucher, Designated Voucher and Family Unification Programs which will be maintained by date and time of application. Completed pre-applications must be submitted to the address identified in the announcements of waiting list opening. HACD will not deny anyone the right to submit a pre-application when the waiting list is open. All pre-applications will be time and date stamped upon receipt. Accommodations will be made for interested, disabled applicants.

Families who wish to apply for any of the HACD's programs must complete a written pre-application form when application-taking is open, i.e., when applications are being accepted. Pre-applications will be made available in an accessible format upon request from a person with a disability.

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

When the family reaches the top of the waiting list, a full application will be completed by the family. At this time the HACD ensures that verification of all HUD and HACD eligibility factors is current in order to determine the family's eligibility for the issuance of a voucher.

C. **OPENING/CLOSING OF PRE-APPLICATION TAKING** (24 CFR 982.206, 982.54(d)(1), 24 CFR 982.203(a)(3) and (4))

Opening the Waiting List

When the HACD opens the waiting list, the HACD will advertise through public notice in newspapers and minority publications, the location(s) and program(s) for which pre-applications are being accepted.

The notice will contain the location where families access pre-application forms as well as where and when to mail the application, the programs for which pre-applications will be taken, a brief description of the program(s), and limitations, if any, on who may apply.

The notices will be made in an accessible format if requested. They will provide potential applicants with information that includes the HACD address and telephone number, how to submit a pre-application, and information on eligibility requirements.

If the waiting list is open, any family asking to be placed on the waiting list for the Section 8 program will be given the opportunity to complete a pre-application.

Upon request from a person with a disability, additional time will be given as an accommodation for sub-mission of a pre-application after the closing deadline.

If the waiting list is open, the HACD will accept pre-applications from families. However, they may not be placed on the waiting list if there is good cause, such as denial of assistance because of action or inaction by members of the family as described further in this plan.

Closing the Waiting List

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

The HACD will announce the last date pre-applications will be accepted in the same notice that advertises the opening of the list.

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover and new allocations over the next twelve (12) months. When the period for accepting applications is over, the HACD will not add new applicants to the list.

Selected applicants will be placed on the list after applicants who were on the list previously.

D. “INITIAL” APPLICATION PROCEDURES (24 CFR 982.204(b))

The HACD will utilize a preliminary application form (pre-application). The information is to be filled out by the applicant whenever possible. To provide specific accommodation for persons with disabilities, the information may be completed by a staff person over the telephone. It may also be mailed to the applicant and, if requested, it will be mailed in an accessible format. Translations will be provided for non-English speaking applicants where possible. The purpose of the pre-application is to permit the HACD to assess family eligibility or ineligibility in a preliminary fashion, and to determine placement on the waiting list. The pre-application will contain questions designed to obtain the following information:

- Applicant name and number of family members
- Street address and phone number(s)
- Mailing address
- Amount(s) of income received by household members
- Information regarding disabilities to determine qualifications for allowances and deductions
- Social Security numbers
- Race/ethnicity
- Request for specific accommodation needed to fully utilize program and services

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

Ineligible families will not be placed on the waiting list.

The information on the pre-application will not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed and all information is verified.

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

E. APPLICANT STATUS WHILE ON WAITING LIST (24 CFR 982.204)

After a preliminary review of the pre-application, if the family is determined to be eligible for the program they will be notified in writing (or in an accessible format upon request, as a reasonable accommodation).

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

If the family is determined to be ineligible based on the information provided in the pre-application, the HACD will notify the family in writing (in an accessible format upon request as a reasonable accommodation), state the reason(s), and inform the family of its right to an informal review.

F. TIME OF SELECTION (24 CFR 982.204)

When funding is available, families will be selected from the waiting list in their determined sequence regardless of family size, subject to income targeting requirements. When there is insufficient funding available for the family at the top of the list, the HACD will not admit any other applicant until funding is available for the first applicant.

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

G. COMPLETION OF A FULL APPLICATION

Applicants will be required to complete a full application in their own handwriting (unless assistance is needed, or a request for accommodation is made by a person with a disability). Applicants will then be interviewed by HACD staff to review the information on the full application form.

The full application will be mailed to the applicant (or communicated as requested, as an accommodation to a person with a disability) to complete in advance when the applicant is invited to attend the interview.

H. VERIFICATION (24 CFR 982.201(e))

Information provided by the applicant will be verified, using the verification procedures outlined further in this plan. Family composition, income, allowances and deductions, assets, full-time student status, eligibility and rent calculation factors, and other pertinent information will be verified.

I. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY (24 CFR 201)

After the verification process is completed, the HACD will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by the HACD, and the current eligibility criteria in effect. If the family is determined to be eligible, the HACD will mail the family a notification of eligibility. A briefing will be scheduled in order to issue a voucher to the family and to orient them to the housing program.

Chapter 4

MAINTAINING THE WAITING LIST

INTRODUCTION

These procedures will ensure that families are placed on the waiting list in the proper order and are selected for admissions in accordance with the policies contained herein.

A. WAITING LIST (24 CFR 982.204)

The HACD maintains a separate waiting list for admission to its Section 8 Housing Choice Voucher programs. The applicant will be provided the opportunity to have his/her name listed on separate waiting lists for: 1) Housing Choice Vouchers, and/or 2) Moderate Rehabilitation 3) Designated Voucher and 4) Family Unification. HACD will select the next person from the waiting list. HACD will not offer the applicant the form of assistance that he or she rejected while the applicant awaits the desired form of assistance. If an applicant rejects any or all forms of assistance offered, the applicant's name will be removed from the waiting list and the family will have to re-apply for that specific program.

B. SPECIAL ADMISSIONS

Some applicant households will be admitted to the Housing Choice Voucher Program without ever being on the waiting list or without considering the applicant's place on the waiting list. This may only occur when HUD has awarded funding to HACD for a targeted group of households living in specified units. This HUD-targeted funding may include (but is not limited to):

- Families displaced because of natural disaster, demolition or disposition of a public housing development;
- Families residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;
- Housing covered by the Low Income Preservation and Resident Homeownership Act of 1990;
- Non-purchasing families residing in a project subject to a homeownership program;
- Families displaced because of a mortgage prepayment or voluntary termination of a mortgage insurance contract;
- Families residing in a development covered by a project-based HAP contract after the first year of assistance in a PBV unit or at or near the end of the HAP contract term;

- Families referred to HACD by Department of Children & Family Services and determined eligible under the Family Unification Program.
- Families referred to HACD by the Women’s Center and determined eligible under the Violence Against Women Program.

Except for special admissions, applicants will be selected from the waiting list in accordance with the policies defined in this plan.

The HACD will maintain information that permits proper selection from the waiting list. The waiting list contains the following information for each applicant listed:

- Applicant Name
- Date and time of application
- Racial or ethnic designation of the head of household
- Targeted program and preferences qualifications
- Annual (gross) family income
- Number of persons in family

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

1. The application will be in a permanent file.
2. All applicants must meet very low-income eligibility requirements as established by HUD. Any exceptions to these requirements, other than those outlined previously, must have been approved previously by the HUD field office.

Special Admissions (24 CFR 982.54(d)(3), 982.203)

Applicants who are admitted under special admissions, rather than from the waiting list, are identified by codes in the automated system and are not maintained on separate lists.

B. WAITING LIST PREFERENCES (24 CFR 982.207)

Pre-applications for admission are selected by date and time.

C. FUNDING FOR SPECIFIED CATEGORY OF WAITING LIST FAMILIES

When HUD awards funding for a specified category of families meeting specific requirements, the waiting list is searched for eligible families. If there is not a sufficient number of eligible families on the waiting list, the waiting list will be opened to applicants eligible for the specified category. When the pre-application is submitted to the HACD, it will be date-and time-stamped to determine placement order on the waiting list.

Applicants who meet the criteria for a specified category and are admitted under targeted funding and who are not identified as a special admission are identified by codes in the automated system.

D. INCOME TARGETING

As required by QHWRA, each fiscal year the HACD will target a minimum of 75% of its Section 8 new admissions for families whose income does not exceed 30 percent of the area median income. HUD refers to these families as “extremely low income families.”

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

E. LOCAL PREFERENCES

Residency Preference

Effective January 1, 2007, a *Residency preference* shall be given to HACD Applicants who are residents of the Greater Danbury Area, who work within the Greater Danbury area, whose last permanent address was within the Greater Danbury area and applicant has not claimed local residency preference in another community where the applicant is temporarily residing OR who have been offered employment in the Greater Danbury area. Residency Preference shall not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, sex, sexual orientation, religion, age, handicap, disability, national origin, ethnicity, marital status, gender or familial status of any member of an Applicant household.

Verification Requirements

Applicants claiming a HACD Residency Preference shall be required to verify this through:

1. Proof of residency at an address within the Greater Danbury Area limits (No length of stay verification will be imposed on Applicants claiming this Preference.); **or**
2. Proof that the Applicant is currently employed or has obtained employment in the area; **or**
3. Proof that the Applicant's last permanent address was within the Greater Danbury Area; **or**
4. Proof that an Applicant has not claimed local preference in another community.

Preference

Effective January 1, 2007, HACD shall establish a one year pilot program that grants a homelessness preference to HACD Applicants and/or households that lack a fixed, regular and adequate nighttime habitation OR the primary nighttime dwelling is one of the following:

- A supervised public or private shelter designed to provide temporary living accommodations (includes welfare hotels, congregate shelters and transitional housing);
- A public or private place not designed for, or ordinarily used as, a regular sleeping place for human beings.

Persons living with existing HACD residents or living with residents either as authorized or unauthorized members of the household or living with residents in private housing DO NOT qualify as homeless.

Verification Requirements:

1. Submission of a “Certificate of Homelessness” fully completed by an appropriate source or the Applicant's signed statement that he/she lacks a fixed, regular and adequate nighttime residence; or his/her primary nighttime residence is:
 - a. supervised public or private shelter designed to provide temporary housing accommodations (i.e., welfare hotels, congregate shelters and transitional housing);
 - b. a public or private place not designed or used as regular sleeping place for human beings.
2. A third-party written verification from a public or private facility that provides shelter for homeless individuals, the local police department, or a social services agency, certifying the Applicant's homeless status in accordance with the definition in this policy.

F. REMOVAL FROM WAITING LIST AND UPDATING (24 CFR 982.204(c))

The HACD will annually send applicants an update inquiry to ensure the applicant’s continued interest in, and need for, housing. An applicant who does not return the inquiry by the requested deadline date will have his or her name removed from the waiting list.

An extension of 10 days to respond will be granted, if requested and needed as a reasonable accommodation for a person with a disability.

Any mailings to the applicant that require a response will state that failure to respond within the stated date will result in the applicant’s name being dropped from the waiting list.

If a letter is returned by the post office without a forwarding address, the applicant will be removed without further notice and the envelope and letter will be maintained in the file. If a letter is returned with a forwarding address, it will be re-mailed to the address indicated.

If the applicant did not respond to the HACD request for information or updates because of a family member’s disability, the HACD will reinstate the applicant in the family’s former position on the waiting list.

Chapter 5

SUBSIDY STANDARDS

INTRODUCTION

This chapter explains the subsidy standards used to determine the voucher size for families when they are selected from the waiting list, as well as the HACD's procedures when a family's size changes, or a family selects a unit size different from the voucher size.

A. DETERMINING FAMILY UNIT (VOUCHER) SIZE (24 CFR 982.402)

The HACD does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the voucher. The HACD's subsidy standards for determining voucher size shall be applied in a manner consistent with fair housing guidelines.

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

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

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

- Persons of different generations, persons of the opposite sex (other than spouses), and unrelated adults should be allocated a separate bedroom
- Foster children will be included in determining unit size only if they will be in the unit for more than six months.
- A child who is temporarily absent due to placement in foster care is considered a family member when determining unit size.
- Live-in attendants may be provided a separate bedroom. No additional bedrooms are provided for the attendant's family.
- Space may be provided for a child who is away at school but who lives with the family during school recess.
- A pregnant woman will be determined as a two person household when determining unit size.
- Space will not be provided for a family member, other than a spouse, who will be absent most of the time, such as a member who is away in the military.

GUIDELINES FOR DETERMINING VOUCHER SIZE

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

B. EXCEPTIONS TO SUBSIDY STANDARDS (24 CFR 982.403(a)&(b))

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

The HACD will grant an exception upon request as an accommodation for persons with disabilities.

Circumstances may dictate a larger size than the subsidy standards permit when persons cannot share a bedroom because of a need, such as a verified medical or health reason or elderly persons or persons with disabilities who may require a live-in attendant.

Request for Exception to Subsidy Standards

The family may request a larger family unit sized voucher than indicated by the HACD's subsidy standards. Such request must be made in writing within 30 days of the HACD's determination of family unit size. The request must explain the need or justification for a larger family unit sized voucher. Documentation verifying the need or justification will be required as appropriate.

Requests based on health-related reasons must be verified by a doctor/medical professional.

HACD Error

If the HACD errs in the bedroom size designation, the family will be reissued a voucher of the appropriate size so that the family is not penalized.

Changes for Applicants

The voucher size is determined prior to the briefing by comparing the family composition to the HACD subsidy standards. If an applicant requires a change in the voucher size, based on the requirements of the HACD subsidy standards, the above-referenced guidelines will apply.

Changes for Participants

The members of the family residing in the unit must be approved by the HACD. The family must obtain approval of any additional family member before the new member occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform the HACD within 30 days. The above-referenced guidelines will apply.

Underhoused Families

If a unit does not meet HQS space standards due to an increase in family size (i.e., the unit is too small), the HACD will issue a new voucher of the appropriate size and assist the family in locating a suitable unit.

The HACD will also notify the family of the circumstances under which an exception will be granted, such as:

- If a family with a disability is underhoused in an accessible unit.
- If a family requires the additional bedroom because of a health problem which has been verified by the HACD.

C. UNIT SIZE SELECTED (24 CFR 982.401(d)(ii))

The family may select a difference size dwelling than that listed on the voucher. There are three criteria to consider:

1. **Subsidy Limitation:** The family unit size as determined for a family under the HACD subsidy standard for a family assisted in the voucher program is based on the HACD's adopted payment standards. The payment standard for a family shall be the lower of:
 - The payment standard amount for the family unit size, or
 - The payment standard amount for the unit size rented by the family.
2. **Utility Allowance:** The utility allowance used to calculate the gross rent is based on the actual size of the unit the family selects, regardless of the size authorized on the family's voucher.
3. **Housing Quality Standards:** The standards allow two persons per living/sleeping room and permit maximum occupancy levels (assuming a living room is used as a living/sleeping area) as shown in the table below. The levels may be exceeded if a room in addition to bedrooms and living room is used for sleeping.

HQS GUIDELINES FOR UNIT SIZE SELECTED

	<u>Maximum # In Household</u>
0 Bedroom	1
1 Bedroom	4
2 Bedroom	6
3 Bedroom	8
4 Bedroom	10
5 Bedroom	12
6 Bedroom	14

Chapter 6

FACTORS RELATED TO TOTAL TENANT PAYMENT AND FAMILY SHARE DETERMINATION

INTRODUCTION

The HACD will use the enclosed methods to verify and determine that family income at admission and reexamination is correct.

This chapter defines the allowable expenses and deductions to be subtracted from annual income and how the presence or absence of household members may affect the total tenant payment (TTP).

A. INCOME AND ALLOWANCES (24 CFR 5.609)

Income includes all amounts, monetary or not, which are received on behalf of the family. For purposes of calculating the total tenant payment, HUD defines in the federal regulations which is to be calculated and what is to be excluded. In accordance with this definition, all income which is not specifically excluded in the regulations is counted.

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

Adjusted Income is defined as the annual income minus any expenses or deductions allowed by HUD.

HUD has established five allowable deductions from annual income:

1. Dependent allowance: \$480 each for family members (other than the head or spouse) who are minors, and for family members who are age 18 or older and who are full-time students or disabled.
2. Elderly/disabled allowance: \$400 per family for families whose head or spouse is age 62 or over or disabled.

The sum of the following, to the extent that the sum exceeds 3% of annual income:

3. Allowable medical expenses which are not reimbursed, deducted for all family members of an eligible elderly/disabled family.
4. Child care expenses deducted for the care of children under age 13 when child care is necessary to allow an adult member to work, attend school, or actively seek employment.

5. Allowable disability assistance expenses deducted for attendant care or for any auxiliary apparatus for persons with disabilities, if needed to enable the individual or adult family member to work.

B DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS FOR PERSONS WITH DISABILITIES (24 CFR 5.617; 982.201(b)(3))

The annual income for qualified families may not be increased as a result of increases in the earned income of a family member who is a person with disabilities, beginning on the date on which the increase in earned income begins and continuing for a cumulative 12 month period. After the disabled family receives 12 cumulative months of the full exclusion, annual income determinations will include a phase-in period during which one-half the earned income will be excluded from annual income for a period of an additional 12 cumulative months.

A family that qualifies to receive the earned income exclusion is a disabled family that is receiving assistance, and:

- Whose annual income increases as a result of the employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment; or
- Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities participating in any economic self-sufficiency or other job training program; or
- Whose annual income increases as a result of the new employment or increased earnings of a family member during or within six months after receiving assistance, benefits or services under any state TANF program, provided that the total amount of the increase over a six-month period is at least \$500.

The HUD definition of “previously unemployed” includes a person with disabilities who has in the previous 12 months earned no more than the equivalent earning for working 10 hours per week for 50 weeks at the minimum wage. Minimum wage is the prevailing minimum wage in the state or locality.

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

Amounts to be excluded are any earned income increases of a family member who is a person with disabilities during participation in an economic self-sufficiency or job training program but not increases that occur after the conclusion of their participation, unless the training provides continuing assistance, training or mentoring which continues after employment begins.

The amount of TANF benefits received in the six-month period includes monthly income and such benefits and services as one-time payments, wage subsidies or transportation assistance.

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

Initial Twelve-Month Exclusion

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

Second Twelve-Month Exclusion

During the second cumulative 12 month period, beginning immediately after the expiration of the initial cumulative 12 month period referred to above, the HACD must exclude from the annual income of a qualified family 50% of the total amount of any increase in the income of a family member who is a person with disabilities which occurs as a result of the employment of that family member, when that amount represents an increase over the income of that family member prior to the beginning of such employment.

Maximum Four Year Period During Which the Disallowance Applies

The earned income disallowance is limited to lifetime 48-month period for each family member who is a person with disabilities. For each family member who is a person with disabilities, the disallowance only applies for a maximum of 12 months of full exclusion of incremental increase, and a maximum of 12 months of 50% house-in exclusion during the 48-month period starting from the date of the initial exclusion.

If the period of increased income does not last for 12 consecutive months, the disallowance period may be resumed at any time within the 48-month period, and continued until the disallowance has been applied for a total of 12 months of each disallowance (the initial 12-month full exclusion and the second 12-month-in 50% exclusion), provided that both 12-month periods must end within the 48-month period which began on the date when the initial 12-month disallowance began. If both 12-month periods do not end within the 48-month period which began on the date when the initial 12-month disallowance began (i.e., the date of the initial exclusion), the total amount of the disallowance shall be the total disallowance accumulated during the 48-month period.

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

Tracking the Earned Income Exclusion

The earned income exclusion will be reported on the HUD 50058 Family Report form. Documentation will be included in the family's file to show the reason why the increase in earned income did not result in an increase in tenant rent.

Inapplicability to Admission.

The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

C. MINIMUM RENT (24 CFR 5.630)

Minimum Rent

The minimum monthly rent is \$50.

D. DEFINITION OF TEMPORARILY OR PERMANENTLY ABSENT (24 CFR 982.54(d)(10), 982.312, 982.551)

The HACD must compute all applicable income of every family member who is on the lease, including those who are temporarily absent. In addition, the HACD must count the income of the spouse or the head of the household if that person is temporarily absent, even if that person is not on the lease.

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

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

Absence of Any Member

Any member of the household will be considered permanently absent if she or he is away from the unit for three (3) consecutive months except as otherwise provided in this chapter.

Absence Due to Medical Reasons

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the HACD will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than three (3) months, the family member will not be considered permanently absent.

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

Absence Due to Full-time Student Status

A full-time student (other than the head of household or spouse) who attends school away from home but lives with the family during school recesses may, at the family's choice, be considered either temporarily or permanently absent. Income over \$480 is not counted for full-time students. If the family decides that the member is permanently absent, income of that member will not be included in total household income, the member will not be included on the lease, and the member will not be included for determination of voucher size.

Absence Due to Incarceration

If the sole member of a family is incarcerated for more than three (3) months, she or he will be considered permanently absent. Any member of the family other than the sole member will be considered permanently absent if she or he is incarcerated for three (3) consecutive months.

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

Absence of Children Due to Placement in Foster Care

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

If the time period is to be greater than 12 months from the date of removal of the child or children, the voucher size will be reduced. If all children are removed from the home permanently, the voucher size will be reduced in accordance with the HACD's subsidy standards.

Absence of Entire Family

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

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

Families must notify the HACD if they are going to be absent from the unit for more than 30 days.

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

Absent means that no family member is residing in the unit.

In order to determine if the family is absent from the unit, the HACD may write letters to the family at the unit, telephone the family at the unit, check with neighbors, verify if utilities are in service, and/or check with the post office.

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

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

Caretaker for Children

If neither parent remains in the household and the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the HACD will treat that adult as a visitor until court-awarded custody or legal guardianship has been awarded to the caretaker. The voucher will then be transferred to the caretaker.

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

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

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

If a member of the household is subject to a court order that restricts him or her from the home for more than three (3) months, the person will be considered permanently absent.

Visitors

Any adult not included on the HUD Form 50058 who has been in the unit for more than 30 days with HACD approval will be considered to be living in the unit as an unauthorized household member.

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

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

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

The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the household and the HACD will terminate assistance to the family, since prior approval was not requested for the addition.

Minors and college students who were part of the family but who now live away from home during the school year and are no longer on the lease may visit for up to 60 consecutive days per year without being considered a member of the household.

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

Reporting Additions to Owner and HACD

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

The family obligations require the family to inform the HACD of the birth, adoption or court-awarded custody of a child and to request HACD approval to add any other family member as an occupant of the unit. The family must request prior approval of additional household members in writing. If any new family member is added, the income of the addition member will be included in the family income, as applicable under HUD regulations.

Families are required to report any additions to the household in writing to the HACD within ten (10) days of the move-in date.

An interim reexamination will be conducted in the event of any additions to the household.

Other than the birth, adoption, or court-awarded custody of a child, any adult proposed to be added to the household will undergo the same screening as other adult household members.

Reporting Absences to the HACD

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

If a family member leaves the household, the family must report this change to the HACD, in writing, within ten (10) days of the change (i.e., after the change) and certify as to whether the member is temporarily or permanently absent.

The HACD will conduct an interim evaluation for changes which affect the total tenant payment in accordance with the interim policy.

E. AVERAGING INCOME

When annual income cannot be anticipated for a full 12 months, the HACD may:

1. Average all known sources of income that vary, in order to compute an annual income, or
2. Annualize the income anticipated for a shorter period, subject to a redetermination at the end of the shorter period.

If there are possible bonuses or overtime payments which the employer cannot anticipate for the next 12 months, bonuses and overtime received the previous year will be used.

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

The method to be used depends upon the regularity, source and type of income.

G. INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME (24 CFR 982.54(d)(10))

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, the HACD will exclude the income of the person permanently confined to the nursing home and give the family no deductions for the medical expenses of the confined family member.

H. REGULAR CONTRIBUTIONS AND GIFTS (24 CFR 5.609)

Regular contributions and gifts received from persons outside the household are counted as income for calculation of the total tenant payment.

Any contribution or gift received every six (6) months or more frequently will be considered a regular contribution or gift, unless the amount totals less than \$500 per year. This includes rent and utility payments made on behalf of the family as well as other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts.

I. ALIMONY AND CHILD SUPPORT (24 CFR 5.609)

Regular alimony and child support payments are counted as income for purposes of the calculation of total tenant payment.

If the amount of child support or alimony received is less than the amount awarded by the court, the HACD will use the amount awarded by the court unless the family can verify that they are not receiving the full amount and verification of item(s) below are provided.

The HACD will accept as verification that the family is receiving an amount less than the award if the HACD receives verification from the agency responsible for enforcement or collection, or the family furnishes documentation of a child support or alimony collection action filed through a child support enforcement or collection agency, or documentation that they have filed an enforcement or collection action through an attorney.

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

J. LUMP SUM RECEIPTS (24 CFR 5.609)

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

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

In order to determine the amount of retroactive tenant rent that the family owes as a result of the lump sum receipt, the HACD uses a calculation method which calculates prospectively or retroactively, depending on the circumstances.

Prospective Calculation Method

If the payment is reported on a timely basis, within 30 days, the calculation will be done prospectively and will result in an interim adjusted where the entire lump-sum payment will be added to the annual income at the time of the interim.

Retroactive Calculation Method

The HACD will go back to the date on which the lump-sum payment was received, or to the date of admission, whichever is closer. The HACD will determine the amount of income for each certification period, including the period during which the lump sum was received, and recalculate the tenant rent for each certification period to determine the amount due the HACD.

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

K. CONTRIBUTIONS TO RETIREMENT FUNDS – ASSETS (24 CFR 5.603(d))

Contributions to company retirement or pension funds, the only amounts counted are those the family can withdraw without retiring or terminating employment. If the employee has retired or terminated employment, any amount the family member elects as a lump sum will be counted.

L. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE (24 CFR 5.603(d)(3))

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

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

M CHILD CARE EXPENSES (24 CFR 5.603)

Child care expenses for children under age 13 may be deducted from annual income if they enable an adult to work, to attend school, or to actively seek employment.

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

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

Child care for work: The maximum child care expense allowed must be less than the amount earned by the person enabled to work which is included in the family's annual income. The

person enabled to work will be the adult member of the household who earns the least amount of income from working.

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

Amount of expense: Licensed, registered or otherwise regulated childcare providers will provide a signed statement of childcare expenses. The maximum allowance for all other child care is \$100.00 per child, per week.

N MEDICAL EXPENSES (24 CFR 5.609(a)(2), 5.603)

When it is unclear in the HUD rules whether to allow an item as a medical expense, IRS Publication 502 will be used as a guide.

Non-prescription medicines will be counted toward medical expenses for families who qualify, if the family furnishes legible receipts.

O. PRO-RATION OF ASSISTANCE FOR MIXED FAMILIES (24 CFR 5.520)

Applicability

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

Mixed families that were participants as of June 19, 1995 and do not qualify for continued assistance must be offered pro-rated assistance. Mixed applicant families are entitled to pro-rated assistance. Families that become mixed after June 19, 1995 by the addition of an ineligible member are entitled to pro-rated assistance.

Pro-rated Assistance Calculations

Pro-rated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying by the percent of the family members who actually are eligible. Total tenant payment is the gross rent minus the pro-rated assistance.

P. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS

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

The HACD will, however, reduce the rental contribution if the welfare assistance reduction is a result of:

- The expiration of a lifetime time limit on receiving benefits; or
- A situation where a family member has not complied with other welfare agency requirements; or
- A situation where a family member has complied with welfare agency economic self-sufficiency or work activities requirement but cannot or has not obtained employment, such as when the family member has complied with welfare program requirements, but the durational time limit, such as cap on the length of time a family can receive benefits, causes the family to lose their welfare benefits.

Imputed welfare income is the amount of annual income not actually received by a family as a result of a specified welfare benefit reduction that is included in the family's income for the purpose of determining the rental contribution.

Imputed welfare income is not included in annual income if the family was not an assisted family at the time of sanction.

The amount of imputed welfare income is offset by the amount of additional income a family receives that begins after the sanction is imposed.

When additional income is at least equal to the imputed welfare income, the imputed welfare income is reduced to zero.

Verification Before Denying a Request to Reduce Rent

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

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

O. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS (24 CFR 982.153, 982.517, 982.514(b))

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

The HACD's utility allowance schedule and the utility allowance of an individual family, must include utilities and services that are necessary in the locality to provide housing that complies with the housing quality standards.

The HACD may not provide any allowance for non-essential utility costs, such as costs of cable or satellite television.

The HACD must classify utilities in the utility allowance schedule according to the following general categories: space heating, cooking, water heating, other electric, water, sewer, trash collection, refrigerator (amortized cost of tenant-supplied refrigerator), range (amortized cost of tenant-supplied rate); and other specified services.

The HACD will review the utility allowance schedule annually. If the review finds that a utility rate has changed by 10% or more since the last revision of the utility allowance schedule, the schedule will be revised to reflect the new rate. Revised utility allowances will be applied in a participant family's rent calculation at the family's next reexamination.

The utility allowance calculation is based on the actual unit size selected.

Where families provide their own range and refrigerator, the HACD will establish an allowance adequate for the family to purchase or rent a range or refrigerator, even if the family already owns either appliance. Allowances for ranges and refrigerators will be based on the less of the cost of leasing or purchasing the appropriate appliance over a 12 month period.

Where the calculation on the HUD Form 50058 results in a utility reimbursement due the family, the HACD will provide a utility reimbursement payment for the family each month. The check will be made out directly to the tenant, unless the tenant has agreed, in writing, to payment directly to utility companies, in which case the check will be made out directly to the utility companies.

The HACD will approve a higher utility allowance for a family including a person with a disability, if needed.

Chapter 7

VERIFICATION PROCEDURES

INTRODUCTION

HUD regulations require family eligibility, income and allowances be verified by the HACD. HACD staff will obtain written verification from independent sources (i.e., third party verification) whenever possible. Files will be documented when third party verification is not possible. The HACD will obtain proper authorization from the family before requesting information from independent sources.

A. **METHODS OF VERIFICATION AND TIME ALLOWED** (24 CFR 982.516)

The HACD will verify information through the four methods of verification acceptable to HUD in the following order:

1. Up-front Income Verification (UIV) when available
2. third-party written
3. third-party oral
4. review of documentation
5. certification/self-declaration

The HACD will allow three (3) weeks for return of third-party written verification. HACD staff will allow two (2) weeks/attempt to obtain other types of verification before going onto the next method. The HACD will place documentation in the tenant file as to why third party written verification was not obtained.

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

Up Front Income Verification (UIV)

Up-front Income Verification refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings, and benefits. (HUD's EIV, EMS, CCSES etc.)

There may be legitimate differences between information provided by the family and UIV generated information. No adverse action can be taken against a family until the PHA has independently verified the UIV information and the family has been given the opportunity to contest any adverse findings through the informal review/hearing process.

Under no circumstances should a family be terminated solely on information generated through use of UIV.

Third-Party Written Verification

Third-party written verification is used to verify information directly from the source. Third-party written verification forms will be sent and returned via first class mail and/or fax transmittal. Each adult family member (i.e., age 18 or older) will be required to sign an authorization allowing an information source to release the specified information.

Verifications received by fax directly from the source are considered third-party written verifications.

With the exception of computerized printouts from the following agencies, the family will not be allowed to deliver verifications:

- Social Security Administration
- Veterans Administration
- State Department of Social Services (Welfare Assistance)
- State Labor Department (Unemployment Compensation)
- State or federal courts.

Third-Party Oral Verification

Oral Third-party verification will be used when written third-party verification is delay or not possible. When third-party oral verification is used, staff will be required to annotate the file noting with whom they spoke, the date of the conversation, and the facts provided. If oral third party verification is not available, the HACD will compare the information to any documents provided by the family. If obtained by telephone, the HACD must initiate the call.

Review of Documents

In the event that third-party written or oral verification is unavailable the HACD will annotate the file accordingly and utilize documents provided by the family as the primary source if the documents provide complete information.

All such documents, excluding government checks and currency, will be photocopied and retained in the applicant file. In cases where documents are viewed that cannot be photocopied, staff will annotate the file accordingly.

The HACD will accept the following documents from the family, provided that the document is such that tampering would be easily noted:

- Printed wage stubs
- Computer print-outs from the employer
- Signed letters (provided that the information is confirmed by phone)
- Other documents noted in this Chapter as acceptable verification

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

Self-Certification/Self-Declaration

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

Self-certification is accomplished by means of a notarized statement or affidavit which must be witnessed and which is obtained under penalty or perjury.

B. RELEASE OF INFORMATION (24 CFR 5.230)

All adult family members will be required to sign a copy of HUD Form 9886, Authorization for Release of Information/Privacy Act Form.

In addition, all adult family members will be required to sign specific authorization forms when information is needed that is not covered by HUD Form 9886.

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

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

C. COMPUTER MATCHING

For some time, HUD has conducted a computer matching initiative to independently verify resident income. HUD can access income information and compare it to information submitted by HACD on the 50058 Form. HUD can disclose Social Security information to HACD, but is precluded by law from disclosing Federal tax return data to HACD. If HUD receives information from Federal tax return data indicating a discrepancy in the income reported by the family, HUD will notify the family of the discrepancy. The family is required to disclose this information to the HACD. HUD's letter to the family will also notify the family that HUD has notified the HACD in writing that the family has been advised to contact the HACD. HUD will send the HACD a list of families who have received "income discrepancy" letters.

When the HACD receives notification from HUD that a family has been sent an "income discrepancy" letter, the HACD will:

- Wait ten (10) days after the date of notification before contacting tenant.
- After ten (10) days following the date of notification, the HACD will contact the tenant by mail asking the family to promptly furnish any letter or other notice by HUD concerning the amount or verification of family income.

- The HACD will fully document the contact in the tenant's file, including a copy of the letter sent to the family.

When the family provides the required information, the HACD will verify the accuracy of the income information received from the family, review the HACD's interim recertification policy, identify unreported income, charge retroactive rent as appropriate, and change the amount of rent or terminate assistance, as appropriate, based on the information.

If tenant fails to respond to HACD, the HACD will ask HUD to send a second letter. After an addition ten (10) days, the HACD will ask HUD to send a third letter. After an additional 15 days the HACD will send a letter to the head of household, warning of the consequences if the family fails to contact the HACD within ten (10) days.

If the tenant claims a letter from HUD was not received, the HACD will ask HUD to send a second letter with a verified address for the tenant. After ten (10) days, the HACD will contact the tenant family. If the tenant family still claims they have not received a letter, the HACD will ask HUD to send a third letter. After an additional 15 days, the HACD will set up a meeting with the family to complete IRS Forms 4506 and 8821. If the tenant family fails to meet with the HACD or will not sign the IRS forms, the HACD will send a warning letter to the head of the household, notifying the family that termination proceedings will begin within one week if the tenant fails to meet with the HACD and/or sign forms.

If tenant does receive a discrepancy letter from HUD, the HACD will set up a meeting with the family. If the family fails to attend the meeting, the HACD will reschedule the meeting. If the family fails to attend the second meeting, the HACD will send a termination warning. The family must bring the original HUD discrepancy letter to the HACD.

If tenant disagrees with the Federal tax data contained in the HUD discrepancy letter, the HACD will ask the tenant to provide documented proof that the tax data is incorrect. If the tenant does not provide documented proof, the HACD will obtain proof to verify the Federal tax data using third party verification.

D. ITEMS TO BE VERIFIED (24 CFR 982.516)

All income, including income exclusions.

Full-time student status including high school students who are 18 or over.

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

Child care expense where it allows an adult family member to be employed, or to actively seek work or to further his/her education.

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

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

Disability for determination of allowances or deductions.

Proof of legal identity.

U. S. citizenship/eligible immigrant status.

Social Security Numbers for all family members over 6 years of age or older who have been issued a Social Security Number.

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

E. VERIFICATION OF INCOME (24 CFR 982.516)

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

Employment Income

Verification forms request the employer to specify the:

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

Acceptable methods of verification include, in this order:

1. Employment verification form completed by the employer.
2. Minimum of six weeks or 3 bi-weekly check stubs or earning statements which indicate the employee's gross pay, frequency of pay or year to date earnings.
3. W-2 forms plus income tax forms.
4. Self-certifications or income tax returns signed by the family may be used for verifying self-employment income, or income from tips and other gratuities.

Applicants and program participants may be requested to sign an authorization for release of information from the Internal Revenue Service for further verification of income.

In cases where there are questions about the validity of information provided by the family, the HACD will require the most recent federal income tax statements.

Where doubt regarding income exists, a referral to IRS for confirmation will be made on a case-by-case basis.

Social Security, Pensions, Supplementary Security Income (SSI), Disability Income

Acceptable methods of verification include, in this order:

1. Benefit verification form completed by agency providing the benefits.
2. Award or benefit notification letters prepared and signed by the providing agency
3. Computer report electronically obtained or in hard copy.

Unemployment Compensation

Acceptable methods of verification include, in this order;

1. Verification form completed by the unemployment compensation agency.
2. Computer printouts from unemployment office stating payment dates and amounts.
3. Payment stubs

Welfare Payments or General Assistance

Acceptable methods of verification include, in this order:

1. HACD verification form completed by payment provider.
2. Written statement from payment provider indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months.
3. Computer-generated Notice of Action

Alimony or Child Support Payments

Acceptable methods of verification include any of the following;

1. Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.
2. A notarized letter from the person paying the support.
3. Copy of latest check and/or payment stubs from Court Trustee. HACD must record the date, amount, and number of the check.
4. If payments are irregular, the family must provide:
 - A copy of the separation or settlement agreement, or a divorce decree stating the amount and type of support and payment schedules.

- A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement.
- A welfare notice of action showing amounts received by the welfare agency for child support.
- A written statement from an attorney certifying that a collection or enforcement action has been filed.

Net Income from a Business

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

Acceptable methods of verification include:

1. IRS Form 1040, including:
 - a. Schedule C (Small Business)
 - b. Schedule E (Rental Property Income)
 - c. Schedule F (Farm Income)
2. If accelerated depreciation was used on the tax return or financial statement, an accountant’s calculation of depreciation expense, computed using straight-line depreciation rules.
3. Audited or unaudited financial statement(s) of the business.

Child Care Business

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

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

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

Recurring Gifts

The family must provide a self-certification that contains the following information:

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

Zero Income Status

The HACD will request information from the Department of Social Services, Department of Labor, Social Security Offices and towns.

Full-time Student Status

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

Financial aid, scholarships and grants is not counted toward family income.

Verification of full time student status includes:

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

F. INCOME FROM ASSETS (24 CFR 982.516)

Savings Account Interest Income and Dividends

Acceptable methods of verification include, in this order:

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

Interest Income from Mortgages or Similar Arrangements

Acceptable methods of verification include, in this order:

1. A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for next 12 months. (A copy of the check paid by the buyer to the family is not sufficient unless a breakdown of interest and principal is shown.)
2. Amortization schedule showing interest for the 12 months following the effective date of the certification or recertification.

Net Rental Income from Property Owned by Family

Acceptable methods of verification include, in this order:

1. IRS Form 1040 with Schedule E (Rental Income).
2. Copies of latest rent receipts, leases, or other documentation of rent amounts.
3. Documentation of allowable operating expenses of the property: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.
4. Lessee's written statement verifying rent payments to the family and family's self-certification as to net income realized.

G. VERIFICATION OF ASSETS

Family Assets

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

1. Verification forms, letters, or documents from a financial institution or broker.
2. Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.
3. Quotes from a stock broker or realty agent as to net amount family would receive if they liquidated securities or real estate.
4. Real estate tax statements if the approximate current market value can be deduced from assessment.
5. Financial statements for business assets.
6. Copies of closing documents showing the selling price and the distribution of the sales proceeds.
7. Appraisals of personal property held as an investment.
8. Family's self-certification describing assets or cash held at the family's home or in safe deposit boxes.

Assets Disposed of for Less than Fair Market Value (FMV) During Two Years Preceding Effective Date of Certification or Recertification

1. For all certifications and recertifications, the HACD will obtain the Family's certification as to whether any member has disposed of assets for less than fair market value during the two years preceding the effective date of the certification or recertification.
2. If the family certifies that they have disposed of assets for less than fair market value, certification is required that shows: (a) all assets disposed of for less than FMV, (b) the date they were disposed of, (c) the amount the family received, and (d) the market value of the assets at the time of disposition. Third party verification will be obtained wherever possible.

H. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME (24 CFR 982.516)

Child Care Expenses

1. Written verification from the person who receives the payments is required. If the child care provider is an individual, s/he must provide a statement of the amount they are charging the family for their services.
2. Verifications must specify the child care provider's name, address, telephone number, Social Security Number, the names of the children cared for, the number of hours the child care occurs, the rate of pay, and the typical yearly amount paid, including school and vacation periods.
3. Family's certification as to whether any of those payments have been or will be paid or reimbursed by outside sources.
4. Verification that childcare provider is licensed/registered or otherwise regulated must be obtained from provider, otherwise childcare situation will be treated as unregulated and eligible only for a maximum allowance of \$100.00 per child, per week.

Medical Expenses

Families who claim medical expenses will be required to submit a certification as to whether any expense payments have been, or will be, reimbursed by an outside source. All expense claims will be verified by one or more of the methods listed below.

1. Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist of (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and (b) extent to which those expenses will be reimbursed by insurance or a government agency.
2. Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.
3. Written confirmation from the Social Security Administration of Medicare premiums to be paid by the family over the next 12 months. A computer printout will be accepted.
4. For attendant care:
 - a. A reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.
 - b. Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or stubs from the agency providing the services.
5. Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months.
6. Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next 12 months.

7. Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses. HACD may use this approach for “general medical expenses” such as non-prescription drugs and visits to doctors or dentists, but not for one time, nonrecurring expenses from the previous year.
8. The HACD will use mileage at the IRS rate, or cab, bus fare, or other public transportation cost for verification of the cost of transportation directly related to medical treatment.

Assistance to Persons with Disabilities (24 CFR 5.611(c))

1. In all cases:
 - (a) Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another family member to be employed.
 - (b) Family’s certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.
2. Attendant Care:
 - (a) Attendant’s written certification of amount received from the family, frequency of receipt, and hours of care provided.
 - (b) Certification of family and attendant and/or copies of canceled checks family used to make payments.
3. Auxiliary Apparatus:
 - (a) Receipts for purpose or proof of monthly payments and maintenance expenses for auxiliary apparatus.
 - (b) In the case where the person with disabilities is employed, a statement from the employer that the auxiliary apparatus is necessary for employment.

I. VERIFYING NON-FINANCIAL FACTORS (24 CFR 5.617(b)(2))

Verification of Legal Identity

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

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

- Certificate of Birth, naturalization papers
- Church issued baptismal certificate
- Current, valid Driver’s license
- U. S. military discharge (DD 214)

U. S. passport
Voter's registration
Company/agency Identification Card
State or Federal government issued identification card
DSS Eligibility Management System (EMS) print out

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

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

Verification of Marital Status

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

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

Verification of marriage status is a marriage certificate.

Familial Relationships

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

The following verifications will always be required if applicable:

Verification of relationship:

Official identification showing names
Birth certificates
Baptismal certificates

Verification of guardianship is:

Court-order assignment
Verification from social services agency
School records

Verification of Permanent Absence of Family Member

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

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

Verification of Change in Family Composition

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

Verification of Disability

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

Verification of Citizenship/Eligible Immigrant Status (24 CFR 5.508, 5.510, 5.512, 5.514)

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

1. Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury. The HACD will require citizens to provide documentation of citizenship. Acceptable documentation will include at least one of the following original documents:

- U. S. birth certificate
U. S. passport
Resident alien/registration card
Social Security card
2. Eligible Immigrants aged 62 and over are required to sign a declaration of eligible immigration status and provide proof of age.
 3. Non-citizens with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents which are copied front and back and returned to the family. The HACD verifies the status through the INS SAVE system. If this primary verification fails to verify status, the HACD must request within ten days that the INS conduct a manual search.
 4. Ineligible family members who do not claim to be citizens or eligible immigrants must be listed on a statement of ineligible family members signed by the head of household or spouse.
 5. Non-citizen students on student visas are ineligible members even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they do not sign a declaration but are listed on the statement of ineligible members.

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

Time of Verification

For applicants, verification of U. S. citizenship/eligible immigrant status occurs at the same time as verification of other factors of eligibility for final eligibility determination/at the time of initial application.

For family members added after other members have been verified, the verification occurs at the first recertification after the new member moves in.

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

Extensions of Time to Provide Documents

The HACD will grant an extension of 15 days for families to submit evidence of eligible immigrant status.

Acceptable Documents of Eligible Immigration

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

Resident Alien Card (I-551)

Alien Registration Receipt Card (I-151)

Arrival-Departure Record (I-94)

Temporary Resident Card (I-688)

Employment Authorization Card (I-688B)

Receipt issued by the INS for issuance of replacement of any of the above documents that shows individual's entitlement has been verified.

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

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

If the HACD determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside permanently in the family's unit, the family's assistance will be terminated for 36 months, unless the ineligible individual has already been considered in prorating the family's assistance.

Verification of Social Security Numbers (24 CFR 5.216)

Social security numbers must be provided as a condition of eligibility for all family members age six and over if they have been issued a number. Verification of Social Security numbers will be done through a Social Security Card issued by the Social Security Administration. If a family member cannot produce a Social Security Card, only the documents listed below showing his or her Social Security Number may be used for verification. The family is also required to certify in writing that the documents(s) submitted in lieu of the Social Security Card information provided is/are complete and accurate:

- A driver's license
- Identification card issued by a Federal, State or local agency
- Identification card issued by a medical insurance company or provider (including Medicare and Medicaid)
- An identification card issued by an employer or trade union
- An identification card issued by a medical insurance company
- Earnings statements or payroll stubs
- Bank statements
- IRS Form 1099
- Benefit award letters from government agencies
- Retirement benefit letter

- Life insurance policies
- Court records such as real estate, tax notices, marriage and divorce, judgment or bankruptcy records
- Verification of benefits or social Security Number from Social Security Administration
- EMS print out

New family members ages six and older will be required to produce their Social Security Card or provide the substitute documentation described above together with their certification that the substitute information provided is complete and accurate. This information is to be provided at the time the change in family composition is reported to the HACD.

If an applicant or participant is able to disclose the Social Security Number but cannot meet the documentation requirements, the applicant or participant must show proof they have applied to Social Security for a replacement card. The applicant/participant or family member will have an additional 30 days to provide proof of the Social Security Number. If they fail to provide this documentation, the family's assistance will be terminated.

In the case of an individual at least 62 years of age, the HACD may grant an extension for an additional 60 days to a total of 120 days. If, at the end of this time, the elderly individual has not provided documentation, the family's assistance will be terminated.

If the family member states they have not been issued a number, the family member will be required to show they have applied for a Social Security Number.

Chapter 8

VOUCHER ISSUANCE AND BRIEFINGS

INTRODUCTION

Issuance of Vouchers [24 CFR 982.204(d), 982.54(d)(2)]

When funding is available, HACD will issue vouchers to applicants whose final eligibility has been determined. HACD will strive to maintain 100% utilization of all program funds. Program capacity will be closely monitored to determine success rates, average lease up time, and monthly turnover. This statistical information will serve as the basis to determine the number of vouchers to be issued on an ongoing basis to achieve the 100% utilization rate.

When eligibility has been determined, the HACD will conduct a mandatory briefing to ensure that families know how the program works. The briefing will provide a broad description of owner and family responsibilities, HACD procedures, and how to lease a unit. The family will also receive a briefing packet that provides more detailed information about the program, including the benefits of moving outside areas of poverty and minority concentration.

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

B. BRIEFING TYPES AND REQUIRED ATTENDANCE (24 CFR 982.301)

Initial Applicant Briefing

A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in group and/or individual meetings. Families who attend group briefings and still have the need for individual assistance will be referred to a housing coordinator. Briefings will be conducted in English and, when necessary, in Spanish.

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

The HACD will not issue a voucher to a family unless the household representative has attended a briefing and signed the voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend two (2) scheduled briefings without prior notification and approval of the HACD may be denied admission based on failure to supply information needed for certification. The

HACD will conduct individual briefings for families with disabilities at their homes, upon request by the family, if required as a reasonable accommodation.

Briefing Packet (24 CFR 982.301(b))

The documents and information provided in the briefing packet for the voucher programs will comply with all HUD requirements. The HACD also includes other information and materials which are not required by HUD.

The family is provided the following information and materials:

1. The voucher, with its term indicate.
2. A description of the method used to calculate the housing assistance payment (HAP) for a family, information on the utility allowances, and the payment standards for the voucher program.
3. How the payment standard is determined, including an explanation of rent reasonableness.
4. Guidance and factors to consider which assist the family in selecting a unit, such as proximity to employment, public transportation, schools, day care, shopping, and the accessibility of services including social services. Guidance will also be provided to assist the family in evaluating the prospective units, such as the condition of unit, whether the rent is reasonable, the cost of tenant-paid utilities and energy efficiency of the unit.
5. An explanation of the geographical area in which the family may lease a unit, including an explanation of portability.
6. The Request for tenancy Approval form and a description of the procedure for requesting approval of a rental unit.
7. The HACD policy on providing information about families to prospective owners.
8. The subsidy standards, including when and how exceptions are made and how the voucher size relates to the unit size selected.
9. The HUD brochure on how to select a unit and/or the HUD brochure "A Good Place to Live," concerning how to select a unit that complies with HQS.
10. The HUD pamphlet on lead-based paint entitled Protect Your Family From Lead in Your Home and information about where blood level testing is available.
11. Information on federal, state and local equal opportunity laws.
12. A list of landlords or other parties who may have suitable rental units available.
13. If the family includes a person with disabilities, notice that the HACD will assist in locating accessible units and a list of available accessible units known to the HACD.
14. The family obligations under the program.
15. The grounds on which the HACD may terminate assistance for a participant family because of family action or failure to act.
16. HACD informal hearing procedures, including when the HACD is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
17. An HQS checklist and a sample contract.

18. Procedures for notifying the HACD and/or HUD of program abuses such as side payments, extra charges, violations of tenant rights, and owner failure to repair.
19. The family's rights as a tenant and a program participant.
20. Requirements for reporting changes occurring between certifications.
21. Information on security deposits

Other Information to be Provided at the Briefing (24 CFR 982.301(a))

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

The briefing presentation emphasizes:

- Family and owner responsibilities.
- How portability works for families eligible to exercise portability.

Advantages in move to an area with a low concentration of poor families if the family is living in a high poverty census tract in the HACD's jurisdiction.

Exercising choice in residency.

Choosing a unit carefully and only after due consideration.

Mobility services.

If the family includes a person with disabilities, the HACD will ensure compliance with 24 CFR 8.6 to ensure effective communication.

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

At the briefing, families are encouraged to search for housing in non-impacted areas, and the HACD will provide assistance to families who wish to do so. The HACD will have available a listing of available units and landlords interested in the program. The mobility services provided may include:

- Direct contact with landlords.
- Counseling with the family.
- Providing information about services in various non-impacted areas.
- Meeting with neighborhood groups to promote understanding
- Formal or informal discussions with landlord groups.
- Formal or informal discussions with social service agencies
- Meeting with rental referral companies or agencies.
- Meeting with fair housing groups or agencies.

D. ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION

HACD staff will help clients who require assistance in filling out discrimination complaint forms by referring them to the appropriate HUD office.

E. SECURITY DEPOSIT REQUIREMENTS (24 CFR 982.313)

Security deposits charged by owners may not exceed those charged to unassisted tenants (nor the maximum prescribed by state law, i.e., two months rent, or one months rent if the tenant is 62 or older).

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

F. TERM OF VOUCHER (24 CFR 982.303, 982.54(d)(11))

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

Expirations

The voucher is valid for a period of at least 60 calendar days from the date of issuance. The family must submit a Request for Tenancy Approval within the 60-day period, unless an extension has been granted by the HACD, or the voucher will expire (i.e., the family will lose the voucher).

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

Suspensions

When a Request for Tenancy Approval is received, the HACD will not suspend or stop the clock on the term of the voucher.

Extensions

The HACD will extend the term of the voucher up to 120 days from the beginning of the initial term. If the family needs and requests an extension, and it is granted, it will be granted in 30-day increments not to exceed two extensions. Approval of each extension should be granted by a housing supervisor.

Extensions are granted at the discretion of the HACD primarily for the following reasons:

The HACD is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of the HACD through its mobility services, throughout the initial 60-day period. A completed search record is required.

The family was prevented from finding a unit due to the disability accessibility requirement of a family member.

Special Extensions

Special extensions beyond the 120 day search time may be granted by the HACD but only in cases where there are circumstances documented and verified that are beyond the family's control and that affect the family's ability to find suitable housing within the initial 60 days and subsequent allowable extension.

The housing supervisor must review the family's search record and all documentation provided by the family to verify and support the request. The housing supervisor shall approve or disapprove the special extension. If the family does not provide proper documentation a special extension will not be granted.

Assistance to Voucher Holders

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

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

G. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS (24 CFR 982.315)

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

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

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

If documentation is not provided, the HACD will terminate assistance on the basis of failure to provide information necessary for a reexamination.

H. REMAINING MEMBER OF TENANT FAMILY – RETENTION OF VOUCHER (24 CFR 982.315)

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

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

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

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

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

Chapter 9

REQUEST FOR TENANCY APPROVAL AND CONTRACT EXECUTION

INTRODUCTION (24 CFR 982.305(a))

After families are issued a voucher, they may search for a unit anywhere within the jurisdiction of the HACD, or outside of the HACD's jurisdiction if they qualify for portability. The family must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a housing assistance payments (HAP) contract with the HACD.

A. REQUEST FOR TENANCY (24 CFR 982.302, 982.305(b))

The request for tenancy approval (RTA) and a copy of the proposed lease, including the HUD-prescribed tenancy addendum, must be submitted by the family during the term of the voucher. The family must submit the request for tenancy approval in the form and manner required by the HACD.

The request for tenancy approval must be signed by both the owner and voucher-holder.

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

The HACD will review the proposed lease and the RTA to determine whether they are approvable. The RTA will be approved if:

1. The unit is an eligible type of housing.
2. The unit meets HUD's housing quality standards (and any additional criteria as identified in this plan).
3. The rent is reasonable.
4. The security deposit is approval in accordance with any limitation in this plan.
5. The proposed lease complies with HUD and HACD requirements.
6. The owner is approvable, and there are no conflicts of interest.

In addition to the above, at the time a family initially receives assistance in a particular rent unit (i.e., new admissions and moves), if the gross rent for the unit exceeds the applicable payment standard for the family, the family share of the rent may not exceed 40% of the family monthly adjusted income.

Disapproval of Request for Tenancy Approval

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

The owner will be given no more than 15 calendar days to submit an approved RTA from the date of disapproval.

When, for any reason, an RTA is not approved, the HACD will furnish another RTA form to the family along with the notice of disapproval so the family can continue to search for eligible housing.

B. ELIGIBLE TYPES OF HOUSING (24 CFR 982.353)

The HACD will approve any of the following types of housing in the voucher program:

- All structure types can be utilized.
- Manufactured homes where the tenant leases the mobile home and the pad.
- Manufactured homes where the tenant owns the mobile home and leases the pad.

A family can own a rental unit but cannot reside in it while being assisted, except in the case when tenant owns the mobile home and leases the pad.

The HACD may not permit a voucher holder to lease a unit which is receiving any duplicative rental subsidies.

C. LEASE REVIEW (24 CFR 982.308)

The HACD will review the lease, particularly noting whether any optional charges are approvable, and whether it is in compliance with regulations and state/local law. The tenant also must have legal capacity to enter into a lease under state and local law. Responsibility for utilities, appliances and optional services must correspond to those provided on the request for tenancy approval.

The terms and conditions of the landlord's lease must be consistent with state and local law. The lease must specify:

- The names of the owner and all tenants, and
- The address of the unit rented (including apartment number, if any), and
- The amount of monthly rent to owner, and
- The utilities and appliances to be supplied by the owner, and
- The utilities and appliances to be supplied by the family.

The HUD-prescribed tenancy addendum must be included in the lease word-for-word before the lease is executed.

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

The lease must provide that drug-related criminal activity engaged in by the tenant, any household member, or any guest on or near the premises, or any person under the tenant's control on the premises is grounds to terminate tenancy.

The lease must also provide that the owner may evict the family when the owner determines that:

Any household member is illegally using a drug;

A pattern of illegal use of drug by any household member interferes with the health, safety or right to peaceful enjoyment of the premises by other residents. The lease must provide that the following types of criminal activity by a "covered person" are grounds to terminate tenancy:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; or
- Any violent criminal activity on or near the premises by a tenant, household member, or guest; or
- Any violent criminal activity on the premises by any other person under the tenant's control.

The lease must provide that the owner may terminate tenancy if a tenant is fleeing to avoid prosecution or custody or confinement after conviction for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees or is violating a condition of probation or parole imposed under federal or state law.

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

Actions Before Lease Term

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

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

D. SEPARATE AGREEMENTS

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

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

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

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

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

All agreements for special items or services must be attached to the lease approved by the HACD. If agreements are entered into a t a later date, they must be approved by the HACD and attaché dot the lease.

E. RENT LIMITATIONS (24 CFR 982.507)

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

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

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

F. DISAPPROVAL OF PROPOSED RENT (24 CFR 982.502)

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

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

If the rent can be approved by negotiations with the owner, the HACD will continue processing the request for tenancy approval and lease. If the revised rent involves a change in the provision of utilities, a new request for tenancy approval must be submitted by the owner.

If the owner does not agree on the rent to owner after the HACD has tried and failed to negotiate a revised rent, the HACD will inform the family and owner that the lease is disapproved.

G. INFORMATION TO OWNERS (24 CFR 982.307(b), 982.54(d)(7))

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

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

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

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

The HACD will provide documented information regarding tenancy history for the past two (2) years to prospective landlords upon written request from the landlord.

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

- Eviction history (documenting the disposition of the eviction).
- Damage to rental units, including independent verification.

The information will be provided in writing.

Only the housing supervisor may provide this information. The HACD's policy on providing information to owners is included in the briefing packet and will apply uniformly to all families and owners.

H. CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE

When the family reports changes in factors that will affect the total tenant payment (TTP) prior to the effective date of the HAP contract at admission, the information will be verified and the TTP will be recalculated. If the family does not report any change, the HACD need not obtain new verifications before signing the HAP contract, unless verifications more than 60 days old.

I. CONTRACT EXECUTION PROCESS (24 CFR 982.305(c))

The HACD prepares the housing assistance payments (HAP) contract and lease for execution. The family and the owner will execute the lease agreement, and the owner and the HACD will execute the HAP contract. Copies of the documents will be furnished to the parties who signed the respective documents. The HACD will retain a copy of all signed documents.

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

Owners must provide the current address of their residence (not a post office box). As a requested reasonable accommodation, if families lease properties owned by relatives, the owner's current address will be compared to the address of the subsidized unit.

Owners must provide a social security number.

Owners must also submit proof of ownership of the property, such as a grant deed or tax bill, or a mortgage statement (include the volume and page number from the most recent transaction in the municipal land records), and a copy of the management agreement if the property is managed by a management agent.

The owner must provide a business or home telephone number.

Unless their lease was effective prior to June 17, 1998, a family may not lease properties owned by a parent, child, grandparent, grandchild, sister or brother of any family member. The HACD will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

Chapter 10

HOUSING QUALITY STANDARDS AND INSPECTIONS

INTRODUCTION

Housing quality standards (HQS) are the HUD-required minimum standards for a unit's condition. Rental units must meet HQS both at initial occupancy and during the term of the lease. HQS apply to the building and premises, as well as to the unit. All units must pass HQS inspection on or before the beginning date of the assisted lease and HAP contract.

A. GUIDELINES/TYPES OF INSPECTIONS (24 CFR 982.401(a) 982.405)

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

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

If the tenant is responsible for supplying the stove and/or the refrigerator, the HACD will allow the stove and/or the refrigerator to be placed in the unit after the inspection if, after the unit has passed all other HQS, the owner and the family certify that the appliances are in the unit and working according to HQS. The HACD will not conduct a re-inspection in that event.

There are four types of inspections the HACD will perform.

1. Initial/Move in: Conducted when the Request for Tenancy Approval has been received and accepted. Inspection must not be over 30 days old.
2. Annual: Must be conducted prior to the HAP contract anniversary date.
3. Special/Complaint: At request of owner, family or an agency or third party.
4. Quality Control: To maintain quality standards.

B. INITIAL HQS INSPECTION (24CFR 982.401(a), 982.305(b)(2))

Timely Initial HQS Inspection

The HACD will inspect the unit, determine whether the unit satisfies HQS and notify the family and the owner of the determination within a reasonable amount of time.

The HACD will conduct initial HQS inspections for the family and owner within 10 days of receipt of the RTA.

The initial inspection will be conducted to

- Determine if the unit and property meet the HQS defined in this plan.
- Document the current condition of the unit in order to assist in future evaluations of whether the condition of the unit exceeds normal wear and tear.
- Document the information to be used for determination of rent reasonableness.

If the unit fails the initial HQS inspection, the family and the owner will be advised to notify the HACD once repairs are completed.

On an initial inspection, the owner will be given up to 30 days to correct the items noted as failing HQS unless, at the inspector's discretion and depending on the amount and complexity of work to be done, additional time will be given.

The owner will be allowed one re-inspection for repair work to be completed.

If unit fails initial inspection for deteriorated paint surfaces, the tenant will not be allowed to move in until corrective action has been taken and the apartment has passed inspection.

If the time period given by the inspector to correct the repairs has elapsed, or if the maximum number of failed re-inspections has occurred, the family must select another unit.

C. ANNUAL HQS INSPECTIONS (24 CFR 982.405(a))

The HACD conducts an inspection in accordance with HQS annually, at least 30 days prior to the anniversary date of the HAP contract. Special inspections may be scheduled between anniversary dates.

HQS deficiencies which cause a unit to fail must be corrected by the landlord unless it is a failure for which the tenant is responsible.

The family must allow the HACD to inspect the unit at reasonable times with reasonable notice. (24 CFR 982.551(d)).

The HACD will work with the tenant to accommodate the tenant's schedule.

The HACD will notify the family in writing at least 5 days prior to the inspection.

Inspection: The family is notified of the date and time of the inspection appointment by mail. If the family is unable to be present, they must reschedule the appointment so that the inspection is completed within 7 days.

If the family does not contact the HACD to reschedule the inspection, or if the family misses two (2) inspection appointments without good cause (i.e., emergency, disability), the HACD will consider the family to have violated a family obligation and their assistance will be terminated.

Time Standards for Repairs

1. Emergency items that endanger the family's health or safety must be corrected by the owner or tenant within 24 hours of notification.
2. For non-emergency items, repairs must be made within 30 days.
3. For major repairs, the director may approve an extension beyond 30 days.

Rent Increases

Increases in the rent paid to the owner may not be approved if the unit is in a failed condition.

D. SPECIAL/COMPLAINT INSPECTIONS (24 CFR 982.405(c))

If at any time the family or owner notifies the HACD that the unit does not meet HQS, the HACD will conduct an inspection.

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

The HACD will inspect only the items which were reported, but if the inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs.

If the anniversary date is within 120 days of a special inspection, the special inspection will be categorized as annual and all annual procedures will be followed.

E. QUALITY CONTROL INSPECTIONS (24 CFR 982.405(b))

Quality control inspections will be performed by the supervisor on the number of files required by SEMAP. The purpose of the quality control inspections is to ascertain that each inspector is conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in the application of the HQS.

The sampling of files chosen for quality control will include recently completed inspections (conducted within the prior three months), a cross-section of neighborhoods, and a cross-section of inspectors.

F. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS (24 CFR 982.401(a))

The HACD adheres to the acceptability criteria in the program regulations and HUD inspection booklet with the additions described below:

Security:

If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring the family is instructed on the use of the quick release system.

Owners are responsible for providing and replacing old batteries for battery-powered units. Tenants will be instructed not to tamper with smoke detectors or remove batteries under penalty of law.

Ground Fault Circuit Interrupters (GFCI) are required as indicated in the local city building code.

Bedrooms:

Bedrooms in basements or attics are not allowed unless they meet local code requirements and must have adequate ventilation and emergency exit capability.

Bedrooms, or rooms to be used for sleeping, must be at least 70 square feet in size, excluding any projections.

Modifications:

Modifications or adaptations to a unit due to a disability must meet all applicable HQS and building codes.

Admittance to Basement:

Owners are required to allow the inspector access to the basement to inspect the heating system. If the owner does not allow access he/she may instead present a safety inspection certificate from a local public agency or evidence that the heating equipment was serviced and is in good working order. The evidence of service or inspection must not be over one year old.

G. EMERGENCY REPAIR ITEMS (24 CFR 982.404(a))

The following items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notice by the Inspector:

- Lack of security for the unit
- Waterlogged ceiling in imminent danger of falling
- Natural gas leak or fumes
- Electrical problem which could result in shock or fire
- No heat between November 1st and April 15th
- Lack of functioning toilet
- Non-operational smoke detector

In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to make the repair, proper authorities will be notified by the HACD.

If the emergency repair item(s) are not corrected in the time period required by the HACD, and the owner is responsible the housing assistance payment will be abated and the HAP contract will be terminated.

If the emergency repair item(s) are not corrected in the time period required by the HACD, and it is an HQS breach which is a family obligation, the HACD will terminate the assistance to the family.

Smoke Detectors

Inoperable smoke detectors are a serious health threat and will be treated by the HACD as an emergency (24 hour) fail item.

H. CONSEQUENCIES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS)

(24 CFR 982.405, 982.453)

When it has been determined that a unit on the program fails to meet Housing Quality Standards, and the owner is responsible for completing the necessary repair(s) he will be notified in writing of the HQS violation(s). If the owner does not make the corrections in the time period specified by the HACD, the assistance payment to the owner will be abated.

Suspension of Housing Assistance Payments

A notice of suspension will be sent to the owner, and abatement will be effective as of the first of the following month.

The HACD will inspect units under suspension within 5 days of the owner's notification that the work has been completed.

If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection. This pro-rated portion of the HAP will be included with the next month's payment.

The family will be notified of the reinspection date.

No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The notice of suspension states that the tenant is not responsible for the HACD's portion of rent that is abated.

Extension of Time to Complete Repairs

The HACD will grant an extension in lieu of abatement in the following cases:

- The owner has a good history of HQS compliance.
- There is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services.
- The repairs are expensive (such as exterior painting or roof repair) and the owner needs time to obtain the funds.
- The repairs must be delayed due to climate conditions.

The extension will be made for a period to be determined by the HACD. At the end of that time, if the work is not completed, the HACD will begin the abatement.

Termination of Contract

If the owner is responsible for repairs, and fails to correct all the deficiencies cited prior to the end of the suspension period, the owner will be sent a HAP Contract Proposed Termination Notice. Prior to the effective date of the termination, the suspension will remain in effect.

If repairs are completed before the effective termination date, the termination will be rescinded by the HACD if the tenant chooses to remain in the unit. Only one Housing Quality Standards inspection will be conducted after the termination notice is issued.

I. DETERMINATION OF RESPONSIBILITY (24 CFR 982.404)

Certain HQS deficiencies are considered the responsibility of the family:

- Tenant-paid utilities not in service.
- Failure to provide or maintain family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. “Normal wear and tear” is defined as items that could not be charged against the tenant’s security deposit under state law or court practice.

The owner is responsible for all other HQS violations.

The owner is responsible for vermin infestation even if caused by the family’s living habits.

If, however, such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. The HACD may terminate the family’s assistance on that basis.

If the family is responsible and the owner carries out the repairs, the owner will be encouraged to bill the family for the cost of the repairs and the family’s file will be noted.

J. CONSEQUENCES IF FAMILY IS RESPONSIBLE (24 CFR 982.404(b))

If emergency or non-emergency violations of HQS are determined to be the responsibility of the family, the HACD will require the family make any repair(s) or corrections with 30 days of

notice for non-emergency violations and 24 hours of notice for emergency violations. If the repair(s) or correction(s) are not made in this time period, the HACD will terminate assistance to the family. Extensions in these cases must be approved by a supervisor. The owner's rent will not be abated for items which are the family's responsibility.

If the tenant is responsible and corrections are not made, the HAP Contract will terminate when assistance is terminated. The landlord will be notified 30 days prior to termination.

Chapter 11

OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS

INTRODUCTION

It is the responsibility of the HACD to ensure that rents charged by the owners of units occupied by program participants are reasonable based upon a comparison with rents charged by the owners of comparable unassisted units in the rental market.

A. RENT TO OWNER

The amount of rent paid to an owner (i.e., the rent to owner, or the contract rent) is limited only by rent reasonableness. The HACD must demonstrate that the rent to owner is reasonable in comparison to rent for other comparable unassisted units.

The only other limitation on rent to owner is the maximum rent standard at initial occupancy. At the time when a family initially receives assistance, if the gross rent (i.e., the contract rent plus the amount of the utility allowance) for the unit exceeds the applicable payment standard for the family, the family share may not exceed 40% of the family's monthly adjusted income.

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

B. MAKING PAYMENTS TO OWNERS (24 CFR 982.451)

Once the HAP contract is executed, the HACD begins processing housing assistance payments to the landlord. The effective date and the amount of the HAP are communicated by letter to both the landlord and tenant. A HAP register will be used as the basis for monitoring the accuracy and timeliness of payments. Changes are made to the HAP register for the following month. Checks are disbursed by the HACD to the owner each month.

Checks that are not received will not be replaced until a written request has been received from the payee and a stop payment has been put on the check.

Excess Payments

The total of rent paid by the tenant plus the housing assistance payment made by the HACD to the owner may not be more than the rent to owner. The owner must immediately return any excess payment to the HACD.

Late Payments to Owners

The HACD will not be obligated to pay any late payment penalty if HUD determines that late payment is due to factors beyond the control of the HACD, such as a delay in the receipt of program funds from HUD. The HACD will use administrative fee income or the

administrative fee reserve as its only source for any late payment penalty paid to an owner. The HACD will not use any program funds for the payment of late fee penalties to the owner.

Rent Increases

The owner is required to notify the HACD in writing at least 60 days before any change in the amount of rent to owner is scheduled to go into effect. Any requested change in rent to owner will be subject to rent reasonableness requirements.

C. RENT REASONABLENESS DETERMINATIONS (24 CFR 982.507)

The HACD will determine and document on a case-by-case basis that the rent approved for a unit is reasonable in comparison with rent charged for other comparable unassisted units in the market.

The HACD will not approve a lease until it determines that the initial rent to owner is a reasonable rent. The HACD must redetermine the reasonable rent before any increase in the rent to owner, and if there is a five percent decrease in the published fair market rent (FMR) in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the contract anniversary.

The HACD must redetermine rent reasonableness if directed by HUD and based on a need identified by the HACD's auditing system. The HACD may elect to redetermine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or redetermined by the HACD.

The owner will be advised that by accepting each monthly housing assistance payment, she or he will be certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises.

If requested, the owner must give the HACD information on rents charged for other units in the premises or elsewhere. The data for other unassisted units will be gathered from newspapers, realtors, professional associations, inquires to owners, market surveys, and other available sources.

The following items will be used for rent reasonableness documentation:

- Size (number of bedrooms/square footage)
- Location
- Quality
- Age of unit
- Unit type
- Utilities
- Amenities

Rent Reasonableness Methodology

Information is gathered on rental units throughout the jurisdiction and each unit is rated using the HACD's rent reasonableness system. The average rents are identified for units of like size and type within the same neighborhood. Each defined factor of the items listed above on the unit to be assisted will be compared to those of comparable unassisted units in the database.

D. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM (24 CFR 982.503)

The payment standard is used to calculate the housing assistance payment for a family. In accordance with HUD regulations and with HACD Board of Commissioners approval, the HACD will keep the voucher payment standard between 90 and 110 percent of the HUD published FMR. The HACD reviews the appropriateness of the payment standard annually. In determining whether a change is needed, the HACD will ensure that the payment standard is always within the basic range of 90 to 110 percent, unless an exception payment standard has been approved by HUD. The HACD shall

The HACD will establish a single voucher payment standard amount for each FMR area in the HACD jurisdiction. For each FMR area, the HACD will establish payment standard amounts for each unit size (as determined by the number of bedrooms in a unit). The HACD may have a higher payment standard within the jurisdiction if it is needed to expand housing opportunities outside areas of minority or poverty concentration, as long as the payment standard is within the HUD range – 90 to 110% of FMR.

The HACD may approve a higher payment standard within the basic range, if required as a reasonable accommodation for a family that includes a person with a disability or disabilities.

E. ADJUSTMENTS TO PAYMENT STANDARDS (24 CFR 982.503)

Payment standards may be adjusted, within HUD regulatory limitations, to increase housing assistance payments in order to keep families' rents affordable. The HACD will not raise payment standards solely to make "high end" units available to voucher holders. The HACD may use some or all of the measures noted below in making its determination as to whether an adjustment should be made to the payment standards.

Assisted Families' Rent Burdens

The HACD will review its voucher payment standard amounts at least annually to determine whether a large number of families in a particular unit size are paying more than 30% of their annual adjusted income for rent.

If it is determined that particular unit sizes in the HACD's jurisdiction have payment standard amounts that are creating rent burdens for families, the HACD will modify its payment standards for those particular unit sizes. The HACD will establish a separate voucher payment standard, within the basic range, for designated parts of its jurisdiction if it determines that a

higher payment standard is needed in those designated areas to provide families with quality housing choices and to give families an opportunity to move outside areas of concentration of high poverty and low income.

Rent to Owner Increases

The HACD may review a sample of unassisted units to determine how often owners are increasing rents and the average percent of increase by bedroom size.

Time to Locate Housing

The HACD may consider the average time period for families to lease up under the program. If many voucher-holders are unable to locate suitable housing within the initial term of the voucher and the HACD determines that this is due to rents in the jurisdiction being unaffordable for families even with the presence of a voucher, the payment standard may be adjusted. The HACD will maintain records of those families who were unsuccessful in finding units within the timeframe allowed by the HACD.

Lowering of the Payment Standard

Lowering the FMR may require an adjustment of the payment standard. Additionally, statistical analysis may reveal that the payment standard should be lowered. In any case, the payment standard will not be set below 90% of the FMR without authorization from HUD and approval of the HACD's Board of Commissioners.

Financial Feasibility

Before increasing the payment standard, the HACD will review the budget to determine the impact that projected subsidy increases would have on the funding available for the program and on the number of families served.

F. EXCEPTION PAYMENT STANDARD

If the dwelling unit is located in an exception area, the HACD must use the appropriate payment standard amount established by the HACD for the exception area.

Chapter 12

RE-EXAMINATIONS

INTRODUCTION

In accordance with HUD requirements, the HACD will re-examine the income and household composition of all families at least annually. Families will be provided with accurate annual and interim rent adjustments. Re-examinations and interim examinations will be processed in a manner that ensures families are given reasonable notice of rent increase.

A. ANNUAL ACTIVITIES (24 CFR 982.516, 982.405)

There are two activities the HACD must conduct on an annual basis: Re-examination of income and family composition and HQS inspection. These activities will be coordinated around the anniversary date of the HAP contract.

The HACD produces a monthly listing of assisted units under contract to ensure that timely reviews of housing quality and of factors related to total tenant payment/family share can be made.

Reexamination of the family's income and composition must be conducted at least annually.

B. ANNUAL RECERTIFICATION/REEXAMINATION (24 CFR 982.516)

Families are required to be reexamined at least annually. The head of household and any family members 18 or older must complete and sign all required documents.

Moves Between Reexaminations

When families move to another dwelling unit an annual reexamination will be schedule (unless a reexamination has occurred in the last 120 days) and/or the anniversary date will be change.

Income limits are not used as a test for continued eligibility at reexamination.

Reexamination Notice to the Family

The HACD will maintain a reexamination tracking system and the household will be notified by mail of the date and time for their interview at least 120 days in advance of the anniversary date of their lease and the Housing Assistance Payment contract. If requested as an accommodation by a person with a disability, the HACD will provide the notice in an accessible format. The HACD will also mail the notice to a third party, if requested as a reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

Completion of Annual Reexamination

The HACD will have all reexaminations for families completed before the anniversary date. This includes notifying the family of any change in rent at least 30 days before the scheduled date of the change in family rent.

Collection of Information (24 CFR 982.516(f))

The HACD has established appropriate reexamination procedures necessary to ensure that the income data provided by families is complete and accurate.

The HACD will require the family to complete a personal declaration form prior to all reexamination interviews. The family will be given no more than 30 days to complete the personal declaration form and return it.

Requirements to Attend

Only the head or co-head of household will be required to attend the reexamination interview. If the head of the household is unable to attend the interview, the appointment will be rescheduled.

Failure to Respond to Notification to Reexamine

The written notification must state which family member is required to attend the interview. The family may call to request another appointment date up to 24 hours prior to the interview.

If the family does not appear for the reexamination interview, and has not rescheduled or made prior arrangements with the HACD, the HACD will reschedule a second appointment.

If the family fails to appear for the second appointment and has not rescheduled or made other prior arrangements, the HACD will send the family notice of termination and offer them an informal hearing.

Exceptions to this policy may be made if the family is able to document an emergency situation that prevented it from canceling or attending the appointment, or if requested as a reasonable accommodation for a person with a disability.

Documents Required From the Family

In the notification letter to the family, the HACD will include instructions for the family to bring documentation of all liquid and non-liquid assets to the reexamination, as well as any additional information that may affect the family's reexamination status.

Verification of Information

The HACD will follow the verification procedures and guidelines described in this plan. Verifications for reexaminations must be less than 120 days old.

Rent Increase

If rent increases, a thirty day notice is mailed to the family prior to the annual reexamination date.

If less than thirty days are remaining before the scheduled effective date of the annual reexamination, the tenant rent increase will be effective on the first of the month following the 30-day notice.

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there will be retroactive increase in rent to the anniversary date.

Rent Decreases

If rent decreases as a result of an annual reexamination, it will be effective on the anniversary date or the first day of the month following completion of the reexamination process, whichever is sooner.

If the family causes a delay so that the processing of the reexamination is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the reexamination processing by the HACD.

C. REPORTING INTERIM CHANGES (24 CFR 982.516)

Program participants must report all changes in household composition to the HACD between annual reexaminations. This includes additions due to birth, adoption and court-awarded custody. The family must obtain HACD approval prior to all other additions to the household.

If any new family member is added, family income must include any income of the new family member. The HACD will conduct a reexamination to determine such additional income and will make the appropriate adjustments in the housing assistance payment and family unit size.

The U. S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular reexamination after moving into the unit.

Interim Reexamination Policy

The HACD will conduct interim reexaminations when families have an increase in income. Families will be required to report all increases in income or assets within 30 days of the increase.

Families will be required to report increases in income of more than \$100.00 per month.

Decreases in Income

Participants may report a decrease in income and other changes which would reduce the amount of tenant rent, such as an increase in allowances or deductions. The change which may result in a rent decrease must be calculated by the HACD within a reasonable time after the request.

HACD Errors

If the HACD makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted, if necessary, to correct the error, but the family will not be charged retroactively. Families will be given decreases, when applicable, retroactive to when the decrease for the change would have been effective if calculated correctly.

D. OTHER INTERIM REPORTING ISSUES

An interim reexamination does not affect the date of the annual reexamination.

An interim reexamination will be scheduled and conducted for families with zero income every 90 days.

In the following circumstances, the HACD may conduct the interim reexamination by mail:

1. Changes that will not result in a change in tenant rent or voucher size;
2. Changes in income that are normal for the family, such as seasonal employment;
3. As a reasonable accommodation when requested.

Any changes reported by participants other than those listed in this section will be noted in the file but will not be processed between regularly scheduled annual reexaminations.

E. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS (24 CFR 5.615)

The HACD will not reduce the family share of the rent for families whose welfare assistance is reduced due to a “specified welfare benefit reduction”, which is a reduction in benefits by the welfare agency specifically because of fraud in connection with the welfare program, or non-

compliance with a welfare agency requirement to participate in an economic self-sufficiency program.

However, the HACD will reduce the rent if the welfare assistance reduction is a result of the expiration of a lifetime time limit on receiving benefits, or a situation where the family has complied with welfare program requirements but cannot or has not obtained employment, or a situation where a family member has not complied with other welfare agency requirements.

The family's annual income will include the imputed welfare income, as determined at the family's annual or interim reexamination, during the term of welfare benefits reduction (as specified by the welfare agency).

Definition of Covered Family

A covered family is a household that receives benefits for welfare or public assistance from a state or public agency program which requires, as a condition of eligibility to receive assistance, the participation of a family member in an economic self-sufficiency program.

Definition of "Imputed Welfare Income"

Imputed welfare income is the amount of annual income not actually received by a family (as a result of a specified welfare benefit reduction) that is included in the family's income for purposes of determining rent.

The amount of imputed welfare income is determined by the HACD, based on written information supplied to the HACD by the welfare agency, including:

The amount of the benefit reduction.

The term of the benefit reduction

The reason for the reduction.

Subsequent changes in the term or amount of the benefit reduction.

The family's annual income will include the imputed welfare income as determined at the family's annual or interim reexamination (during the term of the welfare benefits reduction, as specified by the welfare agency).

The amount of imputed welfare income will be offset by the amount of additional income the family receives that commences after the sanction was or is imposed. When additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income will be reduced to zero.

If the family was not an assisted resident when the welfare sanction began, imputed welfare income will not be included in annual income.

If the family claims the amount of imputed welfare income has been calculated incorrectly, the housing supervisor will review the calculation for accuracy. If the imputed welfare income

amount is correct, the HACD will provide a written notice to the family that includes a brief explanation of how the amount of imputed welfare income was determined, and a statement that the family may request an informal hearing if they do not agree with the HACD determination.

Verification Before Denying A Request to Reduce Rent

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

The HACD will rely on the welfare agency's written notice to the HACD regarding welfare sanctions.

Cooperation Agreements (24 CFR 5.613)

The HACD will rely on the welfare agency's written notice regarding the amount of specified benefit reduction.

Family Dispute of Amount of Imputed Welfare Income

If the family disputes the amount of imputed income and the HACD denies the family's request to modify the amount, the HACD will provide the tenant with a notice of denial, which will include an explanation for the HACD's determination of the amount of imputed welfare income, and a statement that the tenant may request an informal hearing.

F. NOTIFICATION OF RESULTS OF REEXAMINATION

The HUD Form 50058 will be completed and transmitted as required by HUD.

The notice of rent adjustment is mailed to the owner and the tenant. Signatures are not required by the HACD. If the family disagrees with the rent adjustment, they may request an informal hearing.

G. TIMELY REPORTING OF CHANGES IN INCOME AND ASSETS (24 CFR 982.516(c))

Standard for Timely Reporting of Changes

The HACD requires that families report interim changes to the HACD within 30 days of when the change occurs. Any information, document or signature needed from the family which is needed to verify the change must be provided within 30 days of the change.

If the change is not reported within the required time period, or if the family fails to provide documentation or signatures, it will be considered untimely reporting.

Procedures When the Change is Reported in a Timely Manner

The HACD will notify the family and the owner of any change in the HAP to be effective according to the following guidelines:

Increases in rent are effective on the first of the month following at least 30 days notice.

Decreases in rent are effective the first of the month following that in which the change is reported. However, no rent reductions will be processed until all the facts have been verified, even if a retroactive adjustment results.

Procedures When the Change is not Reported by the participant in a Timely Manner

If the family does not report the change as described under “Timely Reporting of Changes in Income and Assets,” above, the family will have caused an unreasonable delay in the interim reexamination processing and the following guidelines will apply:

An increase in tenant rent will be effective retroactive to the date on which it would have been effective had it been reported on a timely basis. The family will be liable for any overpaid housing assistance and may be required to sign a repayment agreement or make a lump sum repayment.

A decrease in tenant rent will be effective on the first of the month following the month in which the change was reported.

Procedures When the Change is Not Reported in a Timely Manner

“Processed in a timely manner” means that the change goes into effect on the date it should when the family reports the change in a timely manner, as described above. If the change is not made effective on that date, the change is not processed by the HACD in a timely manner.

In this case, an increase will be effective after the required thirty days’ notice prior to the first of the month after completion of processing by the HACD.

If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective and the family will be credited for the amount.

H. CONTINUANCE OF ASSISTANCE FOR “MIXED” FAMILIES (24 CFR 5.518)

Under the non-citizens rule, “mixed” families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

“Mixed” families who were participants as of June 19, 1995 shall continue receiving full assistance if they meet all of the following criteria:

1. The HACD implemented the non-citizens rule prior to November 29, 1996, and
2. The head of household or spouse is a U. S. citizen or has eligible immigrant status, and
3. All members of the family other than the head, the spouse, parents of the head or the spouse, and children of the head or spouse are citizens or eligible immigrants.

I. MISREPRESENTATION OF FAMILY CIRCUMSTANCES

If any participant deliberately misrepresents the information on which eligibility or tenant rent is established, the HACD may terminate assistance and may refer the family file to the proper authorities for appropriate disposition.

Chapter 13

MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

INTRODUCTION

HUD regulations permit families to move with continued assistance to another unit within the HACD's jurisdiction, or to a unit outside of the HACD's jurisdiction under portability procedures.

A. ALLOWABLE MOVES

A family may move to a new unit with continued assistance if:

1. The assisted lease for the old unit has terminated because the HACD has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family.
2. The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated).
3. The family has given proper notice of lease termination (if the family has a right to terminate the lease on notice to owner) for owner breach or otherwise.

For a family to be considered "continually assisted" once the HACD has terminated the HAP contract, the family has a maximum of 15 days from receipt of written notice to schedule an appointment with the HACD and be issued a voucher.

B. RESTRICTIONS ON MOVES (24 CFR 982.314, 982.552(a))

Families will not be permitted to move within the HACD's jurisdiction during the initial term of assisted occupancy.

Families will not be permitted to move outside the HACD's jurisdiction under portability procedures during the initial term of assisted occupancy.

Families will not be permitted to move more than once in a 12-month period.

The HACD will deny permission to move if there is insufficient funding for continued assistance.

The HACD will deny permission to move if:

The family has violated a family obligation.

The family owes the HACD money

The family has moved or been issued a voucher within the last 12 months.

The Executive Director may make exceptions to these restrictions there is an emergency reason or good cause for the move over which the participant has no control.

C. PROCEDURE FOR MOVES (24 CFR 982.314)

Issuance of Voucher

Subject to the restrictions on moves, if the family has not been reexamined within the last 120 days, the HACD will issue the voucher to move as soon as the family requests the move.

If the family does not locate a new unit, the family will not lose its assistance and may remain in the current unit so long as the owner permits and there is a HAP contract in place.

The annual reexamination date will be changed to coincide with the new lease-up date.

Notice Requirements

Briefing sessions should emphasize the family's responsibility to give the owner and the HACD proper written notice of any intent to move.

The family must give the owner the required number of days written notice of intent to vacate as specified in the lease and must give a copy to the HACD simultaneously.

Time of Contract Change

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move except that there will be no overlapping assistance.

In a move, assistance stops at the old unit at the end of the month in which the tenant ceased to occupy, unless proper notice was given to end a lease mid-month. Assistance will started on the new unit on the effective date of the least and contract. Assistance payments may overlap for the month in which the family moves.

D. PORTABILITY (24 CFR 982.353, 982,355)

Portability applies to families moving out of or into the HACD's jurisdiction, within the United States and its territories.

E. OUTGOING PORTABILITY (24 CFR 982.353, 982.355)

Within the limitations of the regulations and this policy, a participant family has the right to receive voucher assistance to lease a unit outside the HACD's jurisdiction, anywhere in the United States, in the jurisdiction of a receiving HACD with a housing choice voucher program. When a family requests to move outside of the HACD's jurisdiction, the request must specify the area to which the family wants to move.

If there is more than one HACD in the area in which the family has selected a unit, the HACD will choose the receiving HACD.

Restrictions on Portability

Applicants

If neither the head nor the spouse had a domicile (i.e., a legal residence) in the HACD's jurisdiction at the date of their initial application for assistance, the family will not be permitted to exercise portability upon issuance of a voucher, unless the HACD approves such move.

For a portable family that was not already receiving assistance in the HACD's voucher program, the HACD must determine whether the family is eligible for admission under the receiving HACD's program.

Participants

After an applicant has leased-up in the jurisdiction of the HACD, they cannot exercise portability during the first year of assisted occupancy, except in the following circumstances: The receiving and initial HACD agree to allow the move, and the family's move relates to an opportunity for education, job training or employment.

The HACD will not permit families to exercise portability if the family is in violation of a family obligation, the family owes money to the HACD, or if the family has moved out of its assisted unit in violation of the lease.

F. INCOMING PORTABILITY (24 CFR 982.354, 982.355)

Absorption or Administration

The HACD will accept a family with a valid voucher from another jurisdiction and will either administer or absorb the voucher. If the receiving HACD is administering, the family will be issued a voucher by the receiving HACD. The term of the voucher will not expire before the expiration date of any initial HACD voucher. The family must submit a request for tenancy approval for an eligible unit to the receiving HACD during the term of the receiving HACD voucher. The receiving HACD may grant extensions in accordance with this administrative plan. However, if the family decides not to lease up in the HACD's jurisdiction, they must contact the initial HACD to request an extension.

When the HACD does not absorb the incoming voucher, it will administer the initial HACD's voucher and the receiving HACD's policies will prevail.

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

The receiving HACD does not redetermine eligibility for a portable family that was already receiving assistance in the initial HACD's Section 8 voucher program.

The HACD will issue a voucher according to its own subsidy standards. If the family has a change in family composition which would change the voucher size, the HACD will change to the proper size based on its own subsidy standards.

Income and Total Tenant Payment of Incoming Portables (24 CFR 982.353(d))

As the receiving HACD, the HACD will conduct a reexamination interview but only verify the information provided if the documents are missing or are over 120 days old, whichever is applicable, or there has been a change in the family's circumstances.

If the HACD conducts a reexamination of the family it will not cause a delay in the issuance of a voucher.

If the family's income is such that a \$0 subsidy amount is determined prior to lease-up in the HACD's jurisdiction, the HACD will refuse to enter into a contract on behalf of the family at \$0 assistance.

Request for Tenancy Approval

A briefing will be mandatory for all portability families.

When the family submits an RTA, it will be processed using the HACD's policies. If the family does not submit an RTA or does not execute a lease, the initial HACD will be notified before the expiration of the voucher.

If the family leases up successfully, the receiving HACD will notify the initial HACD within 60 days and the bill process will commence.

The receiving HACD will notify the initial HACD if the family fails to submit an RTA for an eligible unit within the term of the voucher.

If the HACD denies assistance to the family, the receiving HACD will notify the initial HACD within 60 days and the family will be offered a review or hearing.

The receiving HACD will notify the family of its responsibility to contact the initial HACD if the family wishes to move outside the receiving HACD's jurisdiction under continued portability.

Regular Program Functions

The receiving HACD will perform all applicable program functions such as annual reexamination of family income and composition, annual HQS inspection of the unit, and interim examinations when requested or deemed necessary by the receiving HACD.

Terminations

The receiving HACD will notify the initial HACD in writing of any termination of assistance within 30 days of the termination. If an informal hearing is required and requested by the family, the hearing will be conducted by the receiving HACD, using the regular hearing procedures included in this plan. A copy of the hearing decision will be furnished to the initial HACD.

The initial HACD will be responsible for collecting amounts owed by the family for claims paid and for monitoring repayment. If the initial HACD notifies the receiving HACD that the family is in arrears or the family has refused to sign a repayment agreement, the receiving HACD will terminate assistance to the family.

Required Documents

As the receiving HACD, this HACD will require the documents listed on the HUD portability billing form from the initial HACD.

Billing Procedures

As the receiving HACD, the HACD will bill the initial HACD monthly for housing assistance payments. The billing cycle for other amounts including administrative fees and special claims will also be monthly, unless otherwise requested by the initial HACD.

As receiving HACD, this HACD will bill 100% of the housing assistance payment, 100% of special claims and 80% of the initial HACD's administrative fee as indicated in the Federal Register's Annual factors for Determining HACD Ongoing Fees, for each "portability" voucher leased as of the first day of the month.

As receiving HACD, this HACD will notify the initial HACD of changes in subsidy amounts and will expect the initial HACD to notify the receiving HACD of changes in the administrative fee amount to be billed.

Chapter 14

CONTRACT TERMINATIONS

INTRODUCTION

This chapter describes the circumstances under which the contract can be terminated by the HACD and the owner, and the policies and procedures for such terminations.

A. CONTRACT TERMINATION (24 CFR 982.311)

The term of the HAP contract is the same as the term of the lease. The HAP contract between the owner and the HACD may be terminated by the action of the HACD, or by the owner or tenant terminating the lease.

No future subsidy payments on behalf of the family will be made by the HACD to the owner after the month in which the HAP contract is terminated. The owner must reimburse the HACD for any subsidies paid in error by the HACD for any period after the contract termination date.

After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease up in another unit. The contract for the new unit may begin during the month in which the family moved from the old unit.

B. TERMINATION BY THE FAMILY: MOVES (24 CFR 982.314(c)(2))

Family termination of the lease must be in accordance with the terms of the lease.

C. TERMINATION OF TENANCY BY THE OWNER: EVICTIONS (24 CFR 982.310, 982.455)

If the owner wishes to terminate the lease, the owner must provide proper notice as stated in the lease.

During the term of the lease, the owner may not terminate tenancy except for the grounds stated in the HUD regulations.

During the term of the lease the owner may only evict for:

Serious or repeated violations of the lease, including but not limited to failure to pay rent or other amounts due under the lease, or repeated violation of the terms and conditions of the lease;

Violations of federal, state or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises; or criminal activity by the tenant, any member of

the household, a guest or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises, or any drug-related criminal activity on or near the premises.

Other good cause.

During the initial term of the lease, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do.

Evidence of Criminal Activity

The owner may terminate tenancy and evict a family by judicial action for criminal activity by a covered person if the owner determines that the covered person has engaged in the criminal activity regardless of arrest or conviction and/or without satisfying the standard of proof used for a criminal conviction.

Termination of Tenancy Decisions

If the law and regulation permit the owner to take an action but do not require action to be taken, the owner can decide whether to take the action. Relevant circumstances for consideration include:

- The seriousness of the offense
- The effect on the community
- The extent of participation by household members
- The effect on uninvolved household members
- The demand for assisted housing by families who will adhere to responsibilities.
- The extent to which the leasehold has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action.
- The effect on the integrity of the program.

Exclusion of Culpable Household Member

The owner may require a tenant to exclude a household member in order to continue to reside in the assisted unit.

Consideration of Rehabilitation

When determining whether to terminate tenancy for illegal drug use or alcohol abuse, the owner may consider whether the member:

- Is no longer participating
- Has successfully completed a supervised drug or alcohol rehab program
- Has otherwise been successfully rehabilitated.

The owner may require the tenant to submit evidence of any of the three actions listed above. Termination by the owner must be considered with fair housing and equal opportunities as stated in 24 CFR 5.105.

The owner must provide the tenant with a written notice specifying the grounds for termination of tenant, at or before the commencement of the eviction action. The notice may be included in, or may be combined with, any owner eviction notice to the tenant.

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

Housing assistance payments are paid to the owner under the terms of the HAP contract. If the owner has begun eviction and the family continues to reside in the unit, the HACD must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

The HACD must continue making housing assistance payments to the owner in accordance with the contract as long as the tenant continues to occupy the unit and the contract is not violated. By endorsing the monthly check from the HACD, the owner certifies that the tenant is still in the unit, that the rent is reasonable and that the tenant is in compliance with the contract.

If an eviction is not due to a serious or repeated violation of the lease, and if the HACD has no other grounds for termination of assistance, the HACD may issue a new voucher so that the family can move with continued assistance.

D. TERMINATION OF THE CONTRACT BY HACD (24 CFR 982.404(a), 982.453, 982.454, 982.552(a)(3))

The term of the HAP contract terminates when the lease terminates, when the HACD terminates program assistance for the family, or when the owner has breached the HAP contract.

The HACD may also terminate the contract if the HACD terminates assistance to the family, the family is required to move from a unit when the unit does not meet the HQS space standards because of an increase in family size or a change in family composition, or funding is no longer available under the ACC.

The contract will terminate automatically if 180 days have passed since the last housing assistance payment has been made to the owner.

Notice of Termination

When the HACD terminates the HAP contract under the violation of HQS space standards, the HACD will provide the owner and family written notice of termination of the contract, and the HAP contract terminates at the end of the calendar month that follows the calendar month in which the HACD gives such notice to the owner.

Chapter 15

DENIAL OR TERMINATION OF ASSISTANCE

INTRODUCTION

The HACD may deny or terminate assistance for a family because of the family's action or failure to act. The HACD will provide families with a written description of the family obligations under the program, the grounds under which the HACD can deny or terminate assistance, and the HACD's informal hearing procedures.

A. GROUND FOR DENIAL OR TERMINATION (24 CFR 982.54, 982.552, 982.553)

If denial or termination is based upon behavior resulting from a disability, the HACD will delay the denial or termination in order to determine if there is an accommodation that would negate the behavior resulting from the disability.

Form of Denial or Termination

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

1. Denial of placement on the HACD waiting list
2. Denying or withdrawing a voucher;
3. Refusing to enter into a HAP contract or approve tenancy;
4. Refusing to process or provide assistance under portability procedures.

Termination of assistance for a participant may include any or all of the following:

1. Refusing to enter into a HAP contract or approve tenancy;
2. Terminating housing assistance payments under an outstanding HAP contract; and
3. Refusing to process or provide assistance under portability procedures

Mandatory Denial and Termination (24 CFR 982.54(d), 982.552(b), 982.553(a), 982.553(b))

The HACD must deny assistance to applicants and terminate assistance for program participants if the family is under contract and 180 days (or 6 months, depending on the HAP contract used) have elapsed since the HACD's last housing assistance payment was made.

The HACD must deny assistance to applicants and terminate assistance to program participants convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.

The HACD must deny admission to the program for applicants and terminate assistance for program participants if the HACD determines that any household member is currently engaging in illegal use of a drug.

The HACD must deny admission to the program for applicants and terminate assistance for program participants if the HACD determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

The HACD must deny admission to the program for applicants if the HACD determines that any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

The HACD must terminate program assistance for a family evicted from housing assisted under the voucher program for serious violation of the lease.

The HACD must deny admission to the program for an applicant or terminate assistance for a program participant if any member of the family fails to sign and submit consent forms for obtaining information.

The HACD must deny admission to the program for applicants or terminate program assistance when required under the regulations to establish citizenship or eligible immigration status.

Grounds for Denial or Termination of Assistance (24 CFR 982.552(c))

The HACD will deny program assistance for an applicant or terminate program assistance for a participant for any of the following reasons:

- The family violates any family obligation under the program as listed in 24 CFR 982.551.
- Any family member violates the family obligation under 24 CFR 982.551 not to engage in any drug-related activity
- Any family member violates the family obligation under 24 CFR 982.551 not to engage in any violent criminal activity
- Any family member has been evicted or terminated from federally assisted housing in the last three (3) years.
- Any family member commits fraud, bribery or any other corrupt criminal act in connection with any federal housing program.
- The family currently owes rent or other amounts to the HACD or to another HACD in connection with Section 8 or public housing assistance under the 1937 Act.
- The family has not reimbursed any HACD for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- The family breaches an agreement with a HACD to pay amounts owed to a HACD, or amounts paid to an owner by a HACD. At its discretion, the HACD may offer the family the opportunity to enter into a repayment agreement.
- The family participating in an FSS program fails to comply, without good cause, with the family's FSS contract of participation.

- Any member of the family engages in drug or alcohol abuse which interferes with the health, safety or peaceful enjoyment of other residents.
- Any member of the family commits drug-related criminal activity or violent criminal activity.
- The family has threatened or engaged in abusive or violent behavior toward HACD personnel. “Threatening” refers to oral or written threats or physical gestures that communicate an intent to abuse or commit violence. “Abusive or violent behavior towards HACD personnel” includes verbal as well as physical abuse or violence. Use of expletives that are generally
- Considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate may be cause for termination or denial.
- Actual physical abuse or violence will always be cause for termination

B. SCREENING AND TERMINATION FOR DRUG ABUSE AND OTHER CRIMINAL ACTIVITY

Administration

All screening procedures shall be administered fairly and in such a way as to not violate rights to privacy or discriminate on the basis of race, color, nationality, religion, familial status, disability, gender or other legally protected groups.

Screening of Applicants

In an effort to prevent future drug-related and other criminal activity, as well as other patterns of behavior that post a threat to the health, safety or right to peaceful enjoyment of the premises by other residents, the HACD will endeavor to screen applicants as thoroughly and fairly as possible.

Such screening will apply to any member of the household who is 18 years of age or older, or who is an emancipated minor.

HUD Definitions

Covered person, for purposes of 24 CFR 982 and this chapter, means a tenant, any member of the tenant’s household, a guest or another person under the tenant’s control.

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-related criminal activity means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Guest, for purposes of this chapter and 24 CFR part 5, Subpart A and 24 CFR 982 means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. The requirements of part 982 apply to a guest as so defined.

Household, for the purposes of 24 CFR 982 and this chapter, means the family and any HACD-approved live-in aide(s).

Other person under the tenant's control, for the purposes of the definition of *covered person* and for 24 CFR Parts 5 and 982 and for this chapter, means that the person, although not staying as a guest (as defined in this chapter) in the unit, is (or was at the time of the activity in question) on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the tenant's control.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

Standard for Violation

The HACD will deny participation in the program to applicants and terminate assistance to participants in cases where the HACD determines there is reasonable cause to believe that a household member is illegally using a drug or if the person abuses alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents, including cases where the HACD determines that there is a pattern of illegal use of a drug or a pattern of alcohol abuse.

Engaged in or engaging in violent criminal activity means any act within the past 3 years by an applicant or participant or household member which involved criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonable likely to cause, serious bodily injury or property damage, which resulted in the arrest and/or conviction of the applicant, participant, or household member.

In evaluating evidence of negative past behavior, the HACD will give fair consideration to the seriousness of the activity with respect to how it would affect other residents and/or the likelihood of favorable conduct in the future which could be supported by evidence of rehabilitation.

Drug-Related and Violent Criminal Activity

Ineligibility for Admission if Evicted or Terminated for Drug-Related Activity: Persons evicted or terminated from federally assisted housing because of drug-related criminal activity are ineligible for admission to the Section 8 program for a three year period beginning on the date of such eviction/termination.

However, the household may be admitted if, after considering the individual circumstances of the household, the HACD determines that the evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation

program approved by the HACD or the circumstances leading to eviction no longer exist because the criminal household member has died or is imprisoned.

Applicants will be denied assistance if they have been arrested for or convicted of violent criminal activity within the last three (3) years prior to the date of the certification interview.

Denial of Assistance for Sex Offenders

The HACD will deny admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. In screening applicants, the HACD will perform criminal history background checks to determine whether any household member is subject to a lifetime sex offender registration requirement.

Termination of Assistance for Participants

Termination of Assistance for Drug-Related Criminal Activity or Violent Criminal Activity:

Under the family obligations listed at 24 CFR 982.551, the members of the household must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

Assistance will be terminated for participants who have been arrested for or convicted of drug-related or violent criminal activity during participation in the program, or who have been evicted or terminated from a unit assisted under any federally assisted housing program within the last three (3) years prior to the date of the notice to terminate assistance.

If any member of the household violates the family obligations by engaging in drug-related or violent criminal activity, the HACD will terminate assistance.

In appropriate cases, the HACD may permit the family to continue receiving assistance provided that family members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the HACD may consider individual circumstances with the advice of juvenile court officials.

The HACD will waive the requirement regarding drug-related criminal activity if the person demonstrates successful completion of a credible rehabilitation program approved by the HACD, or the circumstances leading to the violation no longer exist because the person who engaged in drug-related criminal activity or violent criminal activity is no longer in the household due to death or incarceration.

Terminating Assistance for Alcohol Abuse by Household Members

Under the family obligations listed at 24 CFR 982.551, the members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. Assistance will be terminated due to violation of a family obligation if the HACD determines that a member of the household has demonstrated a pattern of alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

In appropriate cases, the HACD may permit the family to continue receiving assistance provided that family members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the HACD may consider individual circumstances with the advice of juvenile court officials.

Required Evidence

Preponderance of evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is proven more probable than not. The intent is not to prove criminal liability, but to establish that the act(s) occurred. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Credible evidence may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence, can be considered credible evidence. Other credible evidence includes documentation of arrest warrants and/or drug raids.

Confidentiality of Criminal Records

The HACD will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished.

C. FAMILY OBLIGATIONS (24 CFR 982.551)

- a. The family must supply any information that the HACD or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status. "Information" includes any requested certification, release or other documentation.
- b. The family must supply any information requested by the HACD or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.
- c. The family must disclose and verify Social Security numbers and must sign and submit consent forms for obtaining information.

- d. All information supplied by the family must be true and complete.
- e. The family is responsible for an HQS breach caused by the family.
- f. The family must allow the HACD to inspect the unit at reasonable times and after reasonable notice.
- g. The family may not commit any serious or repeated violations of the lease.
- h. The family must notify the owner and, at the same time, notify the HACD before the family moves out of the unit or terminates the lease upon notice to the owner.
- i. The family must promptly give the HACD copy of any owner eviction notice.
- j. The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- k. The composition of the assisted family residing in the unit must be approved by the HACD. The family must promptly inform the HACD of the birth, adoption or court-awarded custody of a child. The family must request HACD approval to add any other family member as an occupant of the unit.
- l. The family must promptly notify the HACD if any family member no longer resides in the unit.
- m. If the HACD has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or HACD approval is denied, the family may not allow a foster child or live-in aide to reside with the assisted family.
- n. Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family.
- o. The family must not sublease or let the unit.
- p. The family must not assign the lease or transfer the unit.
- q. The family must supply any information or certification requested by the HACD to verify that the family is living in the unit, or relating to family absence from the unit, including any HACD-requested information or certification on the purposes of family absences. The family must cooperate with the HACD for this purpose. The family must promptly notify the HACD of absence from the unit.
- r. The family must not own or have any interest in the unit.
- s. The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with this program.
- t. The household members may not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.
- u. The members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.
- v. An assisted family, or members of the family, may not receive Section 8 voucher assistance while receiving another housing subsidy, for the same unit or for a different unit, under any federal, state or local housing assistance program determined by HUD or in accordance with HUD requirements to be duplicative.

Housing Authority Discretion (24 CFR 982.552(c))

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the HACD has discretion to consider all the circumstances in each case, including the seriousness of the case. The HACD will use its discretion in reviewing the extent of participation or culpability of individual family members and the length of time since the violation occurred. The HACD may also review the family's recent history and record of compliance, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure to act.

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

Enforcing Family Obligations

Explanations and Terms

The term "promptly" when used in the family obligations always means "within 10 days."

Denial or termination of assistance is always optional except where this plan or the regulations state otherwise.

HQS Breach: The HACD will determine if an HQS breach is the responsibility of the family. Families may be given extensions by the HACD to cure HQS breaches.

Lease Violations: The following criteria will be used to decide if a serious or repeated violation of the lease has occurred which will result in termination of assistance:

If the owner terminates tenancy through court action for serious or repeated violation of the lease.

If there are police reports, neighborhood complaints or other third party information that has been verified by the HACD.

Notification of Eviction: If the family requests assistance to move and they did not notify the HACD of an eviction within 10 days of receiving the notice of lease termination, the move will be denied.

Proposed Additions to the Family: The HACD will deny a family's request to add additional family members who are:

- Persons who have been evicted or terminated from federally assisted housing within the past three (3) years
- Persons who have previously violated a family obligation

- Persons who have committed drug-related criminal activity or violent criminal activity within the past three (3) years
- Persons who do not meet the HACD's definition of a family
- Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- Persons who currently owe rent or other amounts to the HACD or to another HACD in connection with housing under the 1937 Act.
- Persons who have engaged in or threatened abusive or violent behavior toward HACD personnel.

Family Members Move-Out: Families are required to notify the HACD if any family member leaves the assisted household. When the family notifies the HACD, they must furnish the following information:

- The date the family member moved out.
- The new address, if known, of the family member.
- A statement as to whether the family member is temporarily or permanently absent.

Limitation on Profit-Making Activity in Unit: If the business activity area results in the inability of the family to use any of the critical living areas, such as a bedroom (utilized for a business) which is not available for sleeping, it will be considered a violation. If the HACD determines that the use of the unit as a business is not incidental to use as a dwelling unit, it will be considered a violation. If the HACD determines the business is not legal, it will be considered a violation.

Interest in Unit: The owner may not reside in the assisted unit regardless of whether she or he is a member of the assisted family, unless the family owns the mobile home and rents the pad under the voucher program.

Fraud: In each case, the HACD will consider which family members were involved, the circumstances and any hardship that might be caused to innocent members.

D PROCEDURES FOR NON-CITIZENS (24 CFR 5.514, 5.516, 5.518)

Denial or Termination Due to Ineligible Immigrant Status

Applicant or participant families in which all members are neither U. S. citizens nor eligible immigrants are not eligible for assistance and must have their assistance terminated. The PHA must offer the family an opportunity for a hearing.

Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

False or Incomplete Information

If the individual is unable to verify his or her citizenship, the HACD will give him or her an opportunity to provide a new declaration as an eligible immigrant or an opportunity to elect not to contend his or her status.

The HACD will then verify eligible status, deny, terminate or pro rate as applicable.

The HACD will deny or terminate assistance based on the submission of false information or on misrepresentation.

Procedure for Denial or Termination

If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the family status, the family may make an appeal to the INS and request a hearing with the HACD either after the INS appeal or in lieu of the INS appeal.

After the HACD has been a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for pro-rated assistance (if applicable).

E. ZERO (\$0) ASSISTANCE TENANCIES

The family may remain in the unit at zero (\$0) assistance for up to 180 days after the last HAP payment. If the family is still in the unit after 180 days, the assistance will be terminated. If, within the 180 day time frame, an owner rent increase or a decrease in the total tenant payment causes the family to be eligible for a housing assistance payment, the HACD will resume assistance payments for the family. In order for a family to move to another unit during the 180 days, the rent for the unit would have to be high enough to necessitate a housing assistance payment.

F. OPTION NOT TO TERMINATE FOR MISREPRESENTATION (24 CFR 982.551, 982.552(e))

If the family has misrepresented any facts that caused the HACD to overpay assistance, the HACD may choose not to terminate and may offer to continue assistance provided that the family either reimburses the HACD in full or executes a repayment agreement and makes payments in accordance with the agreement.

G. MISSED APPOINTMENTS AND DEADLINES (24 CFR 982.551, 982.552(c))

It is a family obligation to supply information, documentation, and certification as needed for the HACD to fulfill its responsibilities. The HACD schedules appointments and sets deadlines in order to obtain the required information. The obligations also require that the family allow the HACD to inspect the unit, and appointments are made for this purpose.

An applicant or participant who fails to keep an appointment or fails to supply information required by a deadline without notifying the HACD may be sent a notice of denial or termination of assistance for failure to allow the HACD to inspect the unit or failure to provide required information.

The family will be given information about the requirement to keep appointments and the number of times appointments will be rescheduled, as specified in this plan.

Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

- Eligibility for Admissions;
- Verification Procedures;
- Voucher Issuance and Briefings;
- Housing Quality Standards Inspections;
- Reexaminations; and
- Appeals.

Acceptable reasons for missing appointments or failing to provide information by deadlines are medical emergency, incarceration, family emergency, and work or training obligations.

Procedure when Appointments Are Missed or Information Is Not Provided

For most purposes in this plan, the family will be given two (2) opportunities to attend an appointment or to provide information before being issued a notice of termination or denial of admittance.

After issuance of the termination notice, if the family offers to correct the breach within the time allowed to request a hearing, the notice will be rescinded if the family subsequently attends an appointment or provides information and the family does not have a history of non-compliance.

Chapter 16

OWNER DISAPPROVAL AND RESTRICTION

INTRODUCTION

The regulations define when the HACD must disallow owner participation in the program and they provide the HACD discretion to disapprove or otherwise restrict the participation of owners in certain categories.

A. DISAPPROVAL OF OWNER (24 CFR 982.306, 982.54(d)(8))

The owner does not have a right to participate in the program. For purposes of this section, the term “owner” includes a principal or other interested party.

The HACD will disapprove the owner for the following reasons:

- HUD or another agency directly related has informed the HACD that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR Part 24.
- HUD has informed the HACD that the federal government has instituted an administration or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending.
- HUD has informed the HACD that a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.
- Unless their lease was effective prior to June 17, 1998, the owner may not be a parent, child, grandparent, grandchild, sister or brother of any family member. This HACD will waive this requirement as a reasonable accommodation for a family member who is a person with a disability.
- The owner has violated obligations under a housing assistance payments contract under Section 8 of the 1937 Act.
- The owner has violated any obligation under the HAP contract for the dwelling unit, including the owner’s obligations to maintain the unit to HQS, including any standards the HACD has adopted in this policy.
- The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.
- The owner has engaged in drug-related criminal activity or any violent criminal activity.
- The owner has a history or practice of non-compliance with the HQS for units leased under federal housing programs.
- The owner has a history or practice of renting units that fail to meet state or local housing codes.

- The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD.

B. OWNER RESTRICTIONS AND PENALTIES (24 CFR 982.453)

If an owner has committed fraud or abuse or is guilty of frequent or serious contract violations, the HACD will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The HACD may also terminate some or all contracts with the owner.

Before imposing any penalty against an owner the HACD will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations.

C. CHANGE IN OWNERSHIP

A change in ownership does not require execution of a new HAP contract. The HACD will process a change of ownership only upon the written request of the new owner and only if accompanied by a copy of the escrow statement or other document showing the transfer of title and the Tax Identification Number or Social Security Number of the new owner.

Chapter 17

SECTION 8 HOME OWNERSHIP PROGRAM

INTRODUCTION

The Section 8 Home Ownership Program of the Housing Authority of the City of Danbury permits eligible participants in the Section 8 housing choice voucher program, including participants with portable vouchers, the option of purchasing a home with their Section 8 assistance rather than renting. The home ownership option is limited to five percent (5%) of the total Section 8 voucher program administered by HACD in any fiscal year, provided that disabled families shall not be subject to the 5% limit.

Eligible applicants for the Section 8 home ownership program must have completed an initial Section 8 lease term, may not owe HACD or any other Housing Authority an outstanding debt, and must meet the eligibility criteria set forth herein.

Section 8 home ownership assistance may be used to purchase the following type of homes within the City of Danbury: new or existing single-family, condominium, planned use developments, cooperatives, lofts, live/work units, or manufactured homes. HACD also will permit portability of Section 8 home ownership assistance to another jurisdiction, provided the receiving jurisdiction operates a Section 8 home ownership program for which the Section 8 home ownership applicant qualifies or authorizes HACD to administer the home ownership assistance in their jurisdiction.

A FAMILY ELIGIBILITY REQUIREMENTS.

Participation in the Section 8 home ownership program is voluntary. Each Section 8 home ownership participant must meet the general requirements for admission to the Section 8 housing choice voucher program as set forth in HACD's Administrative Plan. Such Section 8 family also must be "eligible" to participate in the home ownership program. The additional eligibility requirements for participation in HACD's Section 8 home ownership program include that the family must:

- Be a first-time homeowner or an elderly or disabled family;
- With the exception of elderly and disabled households, meet a minimum income requirement without counting income from "welfare assistance" sources;
- With the exception of elderly and disabled households, meet the requisite employment criteria;
- Have completed an initial lease term in the Section 8 housing choice voucher program;
- Have fully repaid any outstanding debt owed to HACD or any other Housing Authority;
- Not defaulted on a mortgage securing debt to purchase a home under the home ownership option; and
- Not have any member who has a present ownership interest in a residence at the commencement of homeownership assistance.

B. FIRST-TIME HOMEOWNER

Each Section 8 family, except families with a disabled member, must be a first-time homeowner. A "first-time homeowner" means that no member of the household has had an ownership interest in any residence during the three years preceding commencement of home ownership assistance. However, a single parent or displaced homemaker who, while married, owned a home with a spouse (or resided in a home owned by a spouse) is considered a "first-time homeowner" for purposes of the Section 8 homeownership option; and the right to purchase title to a residence under a lease-purchase agreement is not considered an "ownership interest". A member of a cooperative also qualifies as a "first time homeowner".

C. MINIMUM INCOME REQUIREMENT

(1) Amount of Income.

At the time the family begins receiving homeownership assistance, the head of household, spouse, and/or other adult household members who will own the home, must have a gross annual income at least equal to the Federal minimum hourly wage multiplied by 2000 hours.

In the case of a disabled family, the gross annual minimum income requirement will be the monthly Federal Supplemental Security Income benefit for an individual multiplied by twelve.

(2) Exclusion of Welfare Assistance Income.

With the exception of elderly and disabled families, HACD will disregard any "welfare assistance" income in determining whether the family meets the minimum income requirement. Welfare assistance includes assistance from Temporary Assistance for Needy Families ("TANF"); Supplemental Security Income ("SSI") that is subject to an income eligibility test; food stamps; general assistance; or other welfare assistance specified by HUD. The disregard of welfare assistance income under this section affects the determination of minimum monthly income in determining initial qualification for the home ownership program. It does not affect the determination of income-eligibility for admission to the Section 8 housing choice voucher program, calculation of the family's total tenant payment, or calculation of the amount of home ownership assistance payments.

D. EMPLOYMENT HISTORY

With the exception of disabled and elderly households, each family must demonstrate that one or more adult members of the family who will own the home at commencement of home ownership assistance is employed full-time (an average of 30 hours per week) and has been so continuously employed for two years prior to execution of the sales agreement. In order to reasonably accommodate a family's participation in the program, HACD will exempt elderly or disabled families from this requirement.

HACD's Executive Director may also consider whether and to what extent an employment interruption is considered permissible in satisfying the employment requirement. The Executive Director may also consider successive employment during the two-year period and self-employment in a business.

E. COMPLETION OF INITIAL LEASE TERM

Applicants for and new participants in the Section 8 housing choice voucher program shall be ineligible for participation in the Section 8 home ownership program until completion of an initial Section 8 lease term and the participant's first annual recertification in the Section 8 housing choice voucher program.

Nothing in this provision will preclude Section 8 participants that have completed an initial lease term in another jurisdiction from participating in the Section 8 home ownership program.

F. REPAYMENT OF ANY HOUSING AUTHORITY DEBTS

Participants in the Section 8 housing choice voucher program shall be ineligible for participation in the Section 8 home ownership program in the event any debt or portion of a debt remains owed to HACD or any other Housing Authority. Nothing in this provision will preclude Section 8 participants that have fully repaid such debt(s) from participating in the Section 8 home ownership program.

G. ADDITIONAL ELIGIBILITY FACTORS

(1) Elderly and Disabled Households.

Elderly and disabled families are exempt from the employment requirements set forth in Section 2. C. above. In the case of an elderly or disabled family, HACD will consider income from all sources, including welfare assistance in evaluating whether the household meets the minimum income required to purchase a home through the Section 8 home ownership program.

(2) Prior Mortgage Defaults.

If a head of household, spouse, or other adult household member who will execute the contract of sale, mortgage and loan documents has previously defaulted on a mortgage obtained through the Section 8 home ownership program, the family will be ineligible to participate in the home ownership program.

H. FAMILY PARTICIPATION REQUIREMENTS

Once a family is determined to be eligible to participate in the program, it must comply with the following additional requirements:

- Complete a home ownership counseling program approved by HACD prior to commencement of homeownership assistance;
- Within a specified time, locate the home it proposes to purchase;
- Submit a sales agreement containing specific components to HACD for approval;
- Allow HACD to inspect the proposed home ownership dwelling to assure that the dwelling meets appropriate housing quality standards;
- Obtain an independent inspection covering major building systems;
- Obtain HACD approval of the proposed mortgage (which must comply with generally accepted mortgage underwriting requirements); and
- Enter into a written agreement with HACD to comply with all of its obligations under the Section 8 program.

Home Ownership Counseling Program.

A family's participation in the home ownership program is conditioned on the family attending and successfully completing a home ownership and housing counseling program provided or approved by HACD prior to commencement of home ownership assistance.

The home ownership and counseling program will cover home maintenance; budgeting and money management; credit counseling; negotiating purchase price; securing mortgage financing; finding a home; and the advantages of purchasing and locating homes in areas that do not have a high concentration of low-income families.

The counseling agency providing the counseling program shall either be approved by HUD or the program shall be consistent with the home ownership counseling provided under HUD's Housing Counseling program. HACD may require families to participate in a HACD-approved home ownership counseling program on a continuing basis.

Locating and Purchasing a Home

(1) Locating a Home

Upon approval for the Section 8 home ownership program, a family shall have one hundred eighty (180) days to locate a home to purchase. A home shall be considered located if the family submits a proposed sales agreement with the requisite components to HACD. For good cause, HACD may extend a Section 8 family's time to locate the home for additional thirty (30) day increments. During a Section 8 participant's search for a home to purchase, their Section 8 rental assistance shall continue pursuant to the Administrative Plan. If a Section 8 participant family is unable to locate a home within the time approved by HACD, the Section 8 rental assistance through the Section 8 housing choice voucher program shall continue.

(2) Type of Home

A family approved for Section 8 home ownership assistance may purchase the following type of homes within the City of Danbury: a new or existing home, a single-family home, a condominium, a home in a planned use development, a cooperative, a loft or live/work unit, or a manufactured home to be situated on a privately owned lot or on a leased pad in a mobile home park. The home must be already existing or under construction at the time HACD determines the family eligible for home ownership assistance. The family also may purchase a home in a jurisdiction other than the City of Danbury, provided the Housing Authority in the receiving jurisdiction operates a Section 8 home ownership program for which the Section 8 home ownership applicant qualifies or authorizes HACD to administer the home ownership assistance in their jurisdiction.

In the former case, a family's participation in the Section 8 home ownership program will be subject to the Section 8 home ownership program and policies of the receiving jurisdiction.

(3) Purchasing a Home

Once a home is located and a sales agreement approved by HACD is signed by the family, the family shall have up to three (3) months, or such other time as is approved by HACD's Executive Director or set forth in the HACD-approved sales agreement, to purchase the home.

(4) Failure to Complete Purchase.

If a Section 8 participant is unable to purchase the home within the maximum time permitted by HACD, HACD shall continue the family's participation in the Section 8 housing choice voucher program. The family may not re-apply for the Section 8 home ownership program until they have completed an additional year of participation in the Section 8 housing choice voucher program following the initial determination of their eligibility for the home ownership option.

(5) Lease-Purchase

Families may enter into lease-purchase agreements while receiving Section 8 rental assistance. All requirements of the housing choice voucher program apply to lease-purchase agreements, except that families are permitted to pay an extra amount out-of-pocket to the owner for purchase related expenses-- a "home ownership premium." Any "home ownership premium," defined as an increment of value attributable to the value of the lease-purchase right or agreement, is excluded from HACD's rent reasonableness determination and subsidy calculation, and must be absorbed by the family. When a lease-purchase participant family is ready to exercise their option, they must notify the Home Ownership Counselor at HACD and apply for the home ownership option. If determined eligible for home ownership assistance, the family may be admitted to the home ownership program and must meet all the requirements of these policies.

Sales Agreement

Prior to execution of the offer to purchase or sales agreement, the financing terms must be provided by the family to HACD for approval. The sales agreement must provide for inspection by HACD and the independent inspection referred to in Section 3(E) and must state that the purchaser is not obligated to purchase unless such inspections are satisfactory to HACD. The contract also must provide that the purchaser is not obligated to pay for any necessary repairs without approval by HACD. The sales agreement must provide that the purchaser is not obligated to purchase if the mortgage financing terms are not approved by HACD pursuant to Section 3(F). The sales agreement must also contain a seller certification that the seller is not debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

Independent Initial Inspection Conducted

To assure the home complies with the housing quality standards of the Section 8 program, home ownership assistance payments may not commence until HACD first inspects the home. An independent inspection of existing homes covering major building systems also must be completed by a professional selected by the family and approved by HACD. HACD will not pay for the independent inspection. The independent inspection report must be provided to HACD. HACD may disapprove the unit due to information contained in the report or for failure to meet federal housing quality standards.

Financing Requirements

The proposed financing terms must be submitted to and approved by HACD prior to close of escrow. HACD shall determine the affordability of the family's proposed financing. In making such determination, HACD may take into account other family expenses, including but not limited to child care, unreimbursed medical expenses, education and training expenses and the like. Certain types of financing, including but not limited to, balloon payment mortgages, unless convertible to a variable rate mortgage, are prohibited and will not be approved by HACD. Seller-financing mortgages shall be considered by HACD on a case by case basis. If a mortgage is not FHA-insured, HACD will require the lender to comply with generally accepted mortgage underwriting standards consistent with those of HUD/ FHA, Ginnie Mae, Fannie Mae, Freddie Mac, Connecticut Housing Finance Agency (CHFA), the Federal Home Loan Bank, or other private lending institution.

Compliance With Family Obligations

A family must agree, in writing, to comply with all family obligations under the Section 8 program and HACD's home ownership policies. These obligations include (1) attending ongoing home ownership counseling, if required by HACD; (2) complying with the mortgage terms; (3) not selling or transferring the home to anyone other than a member of the assisted family who resides in the home while receiving home ownership assistance; (4) not refinancing or adding debt secured by the home without prior approval by HACD; (5) not obtaining a

present ownership interest in another residence while receiving home ownership assistance; and (6) supplying all required information to HACD, including but not limited to annual verification of household income, notice of change in home ownership expenses, notice of move-out, and notice of mortgage default. HACD's Home Ownership Family Obligation policies are set forth in Appendix A hereto.

Compliance Lien

Upon purchase of a home, the family must execute documentation as required by HUD and HACD, consistent with State and local law, securing HACD's right to recapture the home ownership assistance in accordance with Section 5. C. below. The lien securing the recapture of home ownership subsidy may be subordinated to a refinanced mortgage.

[Note: Moving to another home in the same PHA jurisdiction, as well as buying another home in another PHA jurisdiction, is permitted with continued use of homeownership assistance. See §§ 982.636 & 637.]

I. AMOUNT OF ASSISTANCE

The amount of the monthly assistance payment will be based on three factors: the voucher payment standard for which the family is eligible; the monthly home ownership expense; and the family's household income. HACD will pay the lower of either the payment standard minus the total family contribution ("TFC") or the family's monthly home ownership expenses minus the TFC. The Section 8 family will pay the difference.

Determining the Payment Standard

The voucher payment standard is the fixed amount the HACD annually establishes as the "fair market" rent for a unit of a particular size located within the HACD jurisdiction. In the home ownership program, the initial payment standard will be the lower of either (1) the payment standard for which the family is eligible based on family size; or (2) the payment standard which is applicable to the size of the home the family decides to purchase. The payment standard for subsequent years will be based on the higher of: (1) the payment standard in effect at commencement of the home ownership assistance; or (2) the payment standard in effect at the most recent regular reexamination of the family's income and size. The initial payment standard, for purposes of this comparison, shall not be adjusted even if there is a subsequent decrease in family size. HACD will request HUD approval of a higher payment standard, up to 100% of the published Fair Market Rent limit, where warranted as a reasonable accommodation for a family that includes a person with disabilities.

Determining the Monthly Home Ownership Expense

Monthly home ownership expense includes all of the following: principal and interest on the initial mortgage and any mortgage insurance premium (MIP) incurred to finance the purchase and any refinancing of such debt; real estate taxes and public assessments; homeowner's insurance; maintenance expenses per HACD allowance; costs of major repairs and

replacements per HACD allowance (replacement reserves); utility allowance per HACD's schedule of utility allowances; principal and interest on mortgage debt incurred to finance major repairs, replacements or improvements for the home including changes needed to make the home accessible; and homeowner association dues, fees or regular charges assessed, if any. Home ownership expenses for a cooperative member may only include HACD approved amounts for the cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home; principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt; home insurance; the allowances for maintenance expenses, major repairs and replacements and utilities; and principal and interest on debt incurred to finance major repairs, replacements, or improvements, including changes needed to make the home accessible.

Determining the Total Family Contribution

The TFC is that portion of the home ownership expense that the family must pay. It is generally 30% percent of the family's adjusted income, plus any gap between the payment standard and the actual housing cost. All family income (including public assistance), will be counted to determine the family's adjusted monthly income for purposes of determining the amount of assistance.

Payment to Family or Lender

HACD will provide the lender with notice of the amount of the housing assistance payment prior to close of escrow and will pay HACD's contribution towards the family's homeowner expense directly to the family, unless otherwise required by the lender. The family will be responsible to submit the entire mortgage payment to the lender unless the lender requires direct payment of HACD's contribution.

J. TERMINATION OF SECTION 8 HOME OWNERSHIP ASSISTANCE

Grounds for Termination of Home Ownership Assistance

(1) Failure to Comply with Family Obligations Under Section 8 Program or HACD's Home Ownership Policies.

A family's home ownership assistance may be terminated if the family fails to comply with its obligations under the Section 8 program, HACD home ownership policies, or if the family defaults on the mortgage. If required, the family must attend and complete ongoing home ownership and housing counseling classes. The family must comply with the terms of any mortgage incurred to purchase and/or refinance the home.

The family must provide HACD with written notice of any sale or transfer of any interest in the home; any plan to move out of the home prior to the move; the family's household income and home ownership expenses on an annual basis; any notice of mortgage default received by the family; and any other notices which may be required pursuant to HACD home ownership

policies. Except as otherwise provided in this Section, the family may not convey or transfer the home to any entity or person other than a member of the assisted family while receiving home ownership assistance.

(2) Occupancy of Home

Home ownership assistance will only be provided while the family resides in the home. If the family moves out of the home, HACD will not continue home ownership assistance commencing with the month after the family moves out. Neither the family nor the lender is obligated to reimburse the HACD for home ownership assistance paid for the month the family moves out.

(3) Changes in Income Eligibility

A family's home ownership assistance may be changed in the month following annual recertification of the household income, but participation in the Section 8 Home Ownership program shall continue until such time as the assistance payment amounts to \$0 for a period of six (6) consecutive months.

(4) Maximum Term of Home Ownership Assistance.

Notwithstanding the provisions of Section 5(A), subparagraphs 1 through 3, except for disabled and elderly families, a family may receive Section 8 home ownership assistance for not longer than ten (10) years from the date of close of escrow unless the initial mortgage incurred to finance purchase of the home has a term that is 20 years or longer, in which case the maximum term is 15 years. Families that qualify as elderly at the commencement of home ownership assistance are not subject to a maximum term limitation. Families that qualify as disabled families at the commencement of home ownership assistance or at any time during the provision of home ownership assistance are not subject to a maximum term limitation. If a disabled family or elderly family ceases to qualify as disabled or elderly, the appropriate maximum term becomes applicable from the date home ownership assistance commenced; provided, however, that such family shall be eligible for at least six additional months of home ownership assistance after the maximum term becomes applicable. The time limit applies to any member of the household who has an ownership interest in the unit during any time that home ownership payments are made, or is a spouse of any member of the household who has an ownership interest.

Procedure for Termination of Home Ownership Assistance.

A participant in the Section 8 Home Ownership program shall be entitled to the same termination notice and informal hearing procedures as set forth in the Administrative Plan of the HACD for the Section 8 housing choice voucher program.

Recapture of Home Ownership Assistance

In certain circumstances the home ownership assistance provided to the family is subject to total or partial recapture upon the sale or refinancing of the home. Sales proceeds that are used by the family to purchase a new home with Section 8 home ownership assistance are not subject to recapture. Further, a family may refinance to take advantage of better terms without any recapture penalty, provided that no proceeds are realized ("cash-out"). Only "cash-out" proceeds from refinancing and sales proceeds not used to purchase a new home with Section 8 assistance less those amounts provided for in §982.640 are subject to recapture. Further, the amount of home ownership assistance subject to recapture shall automatically be reduced in annual increments of 10% beginning one year from the purchase date. At the end of 10 years the amount of home ownership assistance subject to recapture will be zero.

K. CONTINUED PARTICIPATION IN SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

Default on FHA-Insured Mortgage

If the family defaults on an FHA-insured mortgage, HACD may permit the family to move with continued Section 8 housing choice rental assistance if the family demonstrates that it has (a) conveyed title to the home to HUD or its designee, as required by HUD; and (b) moved from the home within the period established or approved by HUD.

Default on non-FHA-Insured Mortgage

If the family defaults on a mortgage that is not FHA-insured, HACD may permit the family to move with continued Section 8 housing choice voucher rental assistance if the family demonstrates that it has (a) conveyed title to the home to the lender, to HACD or to its designee, as may be permitted or required by the lender; and (b) moved from the home within the period established or approved by the lender and/or HACD.

L. HACD ADMINISTRATIVE FEE

For each month that home ownership assistance is paid by HACD on behalf of the family, HACD shall be paid the ongoing administrative fee described in 24 C.F.R. §982.152(b).

M. WAIVER OR MODIFICATION OF HOME OWNERSHIP POLICIES

The Executive Director of HACD shall have the discretion to waive or modify any provision of the Section 8 home ownership program or policies not governed by statute or regulation for good cause or to comply with changes in HUD regulations or directives.

Chapter 18

OWNER OR FAMILY DEBTS TO THE HACD

INTRODUCTION

This chapter describes the HACD's policies for the recovery of monies that have been overpaid for families and to owners.

When families or owners owe money to the HACD, the HACD will make every effort to collect it. The HACD will use a variety of collection tools to recover debts including, but not limited to, requests for lump sum repayments, repayment agreements, reclaim from future housing assistance payments, use of collection agencies, and use of credit bureaus.

A. REPAYMENT AGREEMENT FOR FAMILIES (24 CFR 982.552(c)(v-vii))

A repayment agreement is a document entered into between the HACD and a person who owes a debt to the HACD. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of repayment, any special provisions of the agreement, and the remedies available to the HACD upon default of the agreement.

The minimum monthly amount of monthly repayment for any repayment agreement is \$25. The terms for any repayment agreements will not exceed 12 months. Requests for extensions will be reviewed on a case-by-case basis.

If the family already has a repayment agreement in place or the HACD determines that the family committed program fraud, the HACD will not enter into a repayment agreement.

B. DEBTS OWED FOR CLAIMS (24 CFR 792.103, 982.552(c)(v-viii))

If a family owes money to the HACD for claims paid to an owner, the HACD may enter into a repayment agreement.

Family Error/Late Reporting

Families who owe money to the HACD due to the family's failure to report increases in income will be required to repay in accordance with the repayment procedures for a person who owes a debt to the HACD.

Late Repayments

A repayment agreement will be considered to be in arrears if the repayment is not received by the close of the business day 15 days after the due date.

If the family's repayment agreement is in arrears for 30 days, the HACD will terminate the housing assistance. If the family requests a move to another unit and has an open repayment agreement, the family will not be allowed to move until the repayment agreement is paid in full.

C. DEBTS DUE TO MISREPRESENTATIONS/NON-REPORTING OF INFORMATION
(24 CFR 982.163)

HUD's definition of program fraud and abuse is a single act or pattern of actions that constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and that results in repayment of Section 8 program funds in violation of Section 8 program requirements.

The HACD will enter into a repayment agreement with the family if the debt does not exceed \$1,000 or is the result of less than 6 aggregate months of unreported income (whichever is lower). Program assistance will be terminated for families who owe in excess of \$1,000 or if the debt is the result of 6 or more aggregate months of unreported income. The HACD will use the following collection tolls in an attempt to recover debts including but not limited to:

- Requests for lump sum repayments
- Repayment agreements
- Use of Collections agencies and or credit bureaus

The HACD may also institute such actions as termination, or referring the case to HUD's Regional Inspector for Investigation, or pursue the matter in civil/criminal court.

D. GUIDELINES FOR REPAYMENT AGREEMENTS (24 CFR 982.552(c)(v-vii)

Repayment agreements will be executed between the HACD and the head of household and spouse.

Repayments may only be made by money order, cashier's check and personal check. The HACD has the right to refuse personal checks.

A repayment agreement will be considered to be in default when it is in arrears for 30 days.

The amount of the monthly repayments may be decreased in cases of family hardship if requested with reasonable notice from the family, verification of the hardship, and the approval of the HACD.

The family's assistance will be terminated unless the HACD receives the balance of the repayment agreement in full within 21 days from the date of the termination notice.

The HACD will not execute another repayment agreement if there is one already in place. Arrearages must be repaid in full.

E. OWNER DEBTS TO THE HACD (24 CFR 982.453(b))

If the HACD determines that the owner has retained housing assistance or repayments to which the owner is not entitled, the HACD may reclaim the amounts from future housing assistance repayments owed to the owner for any unit or units under contract.

If future housing assistance or repayments are insufficient to reclaim the amount owed, the HACD may enter into a repayment agreement with the owner for the amount owed, pursue collections through the local court system, and/or restrict the owner from future participation.

F. WRITING OFF DEBTS

Debts will be written off if the debt is more than three (3) years old or the debtor is deceased.

Chapter 19

COMPLAINTS AND APPEALS

INTRODUCTION

The informal hearing requirements defined in HUD regulations are applicable to participating families who disagree with an action, decision, or inaction of the HACD.

A. COMPLAINTS TO THE HACD

The HACD will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. The HACD may require that complaints other than HQS violations be put in writing. HQS complaints may be reported by telephone.

B. INFORMAL REVIEW PROCEDURES FOR APPLICANTS (24 CFR 982.54(d)(12), 982.554

Reviews are provided for applicants who are denied assistance before the effective date of the HAP contract. The exception is that when an applicant is denied assistance for citizen or eligible immigrant status, the applicant is entitled to an informal hearing.

When the HACD determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain the reason(s) for which they are ineligible, the procedure for requesting a review if the applicant does not agree with the decision, and the time limit for requesting a review.

When denying admission due to criminal activity by a household member, the HACD will include in the notice a statement that the applicant may request a copy of the criminal record upon which the decision to deny admission was based.

The HACD must provide applicants with the opportunity for an informal review of decisions denying:

- Listing on the HACD's waiting list,
- Issuance of a voucher,
- Participation in the program, or
- Assistance under portability procedures.

Informal reviews are not required for established policies and procedures and HACD determinations such as:

1. Discretionary administrative determinations by the HACD,
2. General policy issues or class grievances,

3. A determination of the family unit size under the HACD subsidy standards,
4. Refusal to extend or suspend a voucher,
5. Disapproval of a lease,
6. Determination that a unit is not in compliance with HQS, or
7. Determination that a unit is not in compliance with HQS due to family size or composition.

Procedure for Informal Review

A request for an informal review must be received in writing by the close of the business day, no later than 10 days from the date of the HACD's notification of denial of assistance. The informal review will be scheduled within 30 days from the date the request is received.

The informal review may not be conducted by the person who made or approved the decision under review, nor by a subordinate of such person.

The informal review may be conducted by a staff person who is at the hearing officer or supervisor level or above, or a qualified individual from outside the HACD.

The applicant will be given the option of presenting oral and/or written objections to the decision. Both the HACD and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.

A notice of review findings will be provided in writing to the applicant within ten (10) days after the review. The notice shall include the decision of the review officer and an explanation of the reasons for the decision.

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

C. INFORMAL HEARING PROCEDURES (24 CFR 982.555(a-f), 982.54(13))

When the HACD makes a decision regarding the eligibility and the amount of assistance, applicants and participants must be notified in writing. The HACD will give the family prompt notice of such determinations, which will include:

- The proposed action or decision of the HACD'
- The date on which the proposed action or decision will take place;
- The family's right to an explanation of the basis for the HACD's decision;
- The procedures for requesting a hearing if the family disputes the action or decision;
- The time limit for requesting the hearing;
- To whom the hearing request should be addressed; and
- A copy of the HACD's hearing procedures.

When terminating assistance for criminal activity as shown by a criminal record, the HACD will provide the subject of the record and the tenant/participant/head of household with a copy of the criminal record upon which the decision to terminate was based.

The HACD must provide participants with the opportunity for an informal hearing for decisions related to any of the following HACD determinations:

1. Determination of the family's annual or adjusted income and the computation of the housing assistance payment.
2. Appropriate utility allowance used from schedule.
3. Family unit size determination under HACD subsidy standards.
4. Determination to terminate assistance for any reason.
5. Determination to terminate a family's FSS contract, withhold supportive services, or propose forfeiture of the family's escrow account.

The HACD must always provide the opportunity for an informal hearing before termination of assistance. As with informal reviews, the request for an informal hearing must be received in writing by the close of the business day no later than ten (10) days from the date of the HACD's notification of action. The informal hearing will be scheduled within 30 days from the date the request is received.

Informal hearings are not required for established policies and procedures and HACD determinations such as:

1. Discretionary administrative determinations by the HACD.
2. General policy issues or class grievances.
3. Establishment of the HACD schedule of utility allowances for families in the program.
4. A HACD determination not to approve an extension or suspension of a voucher term.
5. A HACD determination not to approve a unit or lease.
6. A HACD determination that an assisted unit is not in compliance with HQS (the HACD must provide an informal hearing for family breach of HQS because that is a family obligation determination).
7. A HACD determination that the unit is not in accordance with HQS because of the family size.
8. A HACD determination either to exercise or not to exercise any right or remedy against the owner under a HAP contract.

Notification of Hearing

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

The notification of hearing will contain:

1. The date and time of the hearing;
2. The location where the hearing will be held;
3. The family's right to bring evidence, witnesses, and legal or other representation to the hearing at the family's expense;
4. The right to review any documents or evidence in the possession of the HACD upon which the HACD based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing. Requests for such documents or evidence must be received no later than 48 hours (excluding weekends and holidays) before the hearing date; and
5. A notice to the family that the HACD will request a copy of any documents or evidence the family will use at the hearing. Requests for such documents or evidence must be received no later than 48 hours (excluding weekends and holidays) before the hearing date.

The HACD's Hearing Procedures

After a hearing date is agreed upon, the family may request to reschedule only upon showing "good cause," which is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

If a family does not appear at a scheduled hearing and has not rescheduled the hearing 24 hours in advance, the Hearing Officer may decide to uphold the HACD's decision to terminate assistance to the family.

Families have the right to:

- Present written or oral objections to the HACD's determination;
- Examine the documents in the file which are the basis for the HACD's action, and all documents submitted to the hearing officer;
- Copy any relevant documents at their expense;
- Present any information or witnesses pertinent to the issues of the hearing;
- Request that HACD staff be available or present at the hearing to answer questions pertinent to the case; and
- Be represented by legal counsel, an advocate, or another designated representative at the family's own expense.

If the family requests copies of documents relevant to the hearing, the HACD will make the copies for the family and assess a charge of \$.25 per copy. In no case will the family be allowed to remove the file from the HACD's office.

In addition to other rights contained in this chapter, the HACD has a right to:

- Present evidence and any information pertinent to the issue of the hearing;

- Be notified if the family intends to be represented by legal counsel, an advocate, or another designated representative;
- Examine and copy any documents to be used by the family prior to the hearing;
- Have its attorney present; and
- Have staff persons and other witnesses familiar with the case present.

The informal hearing shall be conducted by the hearing officer appointed by the HACD who is neither the person who made or approved the decision, nor a subordinate of that person. The HACD appoints hearing officers who are managers from other departments within the agency, are managers from other HACDs, or are professional mediators or arbitrators.

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

No documents may be presented which have not been provided to the other party before the hearing if these documents have been requested by the other party. "Documents" includes records and regulations.

The hearing officer may ask the family for additional information and may adjourn the hearing, in order to reconvene at a later date, before reaching a decision.

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

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

A notice of hearing findings shall be provided in writing to the HACD and the family within ten (10) days and shall include:

- A clear summary of the decision and the reasons for the decision;
- If the decision involves money owed, the amount owed; and
- The date on which the decision goes into effect.

The HACD is not bound by hearing decision of the following sort:

- those concerning matters for which the HACD is not required to provide an opportunity for a hearing;
- those which conflict with or contradict HUD regulations or requirements;
- those which conflict with or contradict federal, state or local laws; or
- those which exceed the authority of the person conducting the hearing.

The HACD shall send a letter to the participant within ten (10) days if it determines that the HACD is not bound by the hearing officer's determination. The letter shall include the HACD's reasons for the decision.

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

D. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS" (24 CFR Part 5, Subpart E)

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

INS Determination of Ineligibility

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, the HACD notifies the applicant or participant within 10 days of their right to appeal to the INS within 30 days of notification or to request an informal hearing with the HACD either in lieu of or subsequent to the INS appeal.

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

The request for a HACD hearing must be made within 14 days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within 14 days of receipt of that notice.

After receipt of request for an informal hearing, the hearing is conducted as described in section D of this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members, the HACD will either deny the applicant family, defer termination if the family is a participant and qualifies for deferral, or termination participation if the family does not qualify for deferral.

If there are eligible members in the family, the HACD will offer to pro-rate assistance or give the family the option to remove the ineligible member(s).

All other complaints related to eligible citizen/immigrant status:

- If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide documentation or certification, the family will be denied or terminated for failure to provide documentation.
- Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.
- Participants whose assistance is pro-rated (either based on the statement that some members are ineligible, or due to failure to verify eligible immigration status for some

members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of tenant rent and total tenant payment.

- Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

E. MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES (24 CFR 982.204, 982.552(c))

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

(Examples of mitigating circumstances are: a person with a cognitive disorder may not have understood the requirement to report increases in income, a person may not understand the need to make regular repayments on a promissory notice, minor criminal records for public drunkenness may actually be due to medication reactions; prior incarcerations for being disorderly may be due to an emotional disorder.

Chapter 20

SPECIAL HOUSING TYPES

MANUFACTURED HOMES

The HACD will permit a family to lease a manufactured home and space with assistance under the program. The HACD will also provide assistance for a family that owns the manufactured home and leases only the space.

Housing Quality Standards (24 CFR 982.621)

A manufactured home must meet all HQS requirement outlined previously and regulated by 24 CFR 982.401. In addition, the manufactured home also must meet the following requirements:

A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as susceptibility to sliding or wind damage.

A manufactured home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning or sliding due to the action of wind.

Manufactured Home Space Rental (24 CFR 982.622)

Rent to owner for a manufactured home space will include payment for maintenance services that the owner must provide to the tenant under the lease for the space.

Rent to owner does not include the cost of utilities and trash collection for the manufactured home. However, the owner may charge the family a separate fee for the cost of utilities or trash collection provided by the owner.

Reasonable Rent

During the assisted tenancy, the rent to owner for the manufactured home space may not exceed a reasonable rent as determined by the HACD.

The HACD will not approve a lease for a manufactured home space until the HACD has determined that the initial rent to owner for the space is a reasonable rent. At least annually during the assisted tenancy, the HACD will redetermine that the rent is reasonable. The HACD will determine whether the rent to owner for a manufactured home space is a reasonable rent in comparison to rents for other comparable manufactured home spaces. The HACD will consider the size and location of the space and any services and maintenance provided by the owner in accordance with the lease.

By accepting each monthly housing assistance payment from the HACD, the owner of the manufactured home space certifies that the rent to owner for the space is not more than rent charged by the owner for the unassisted rental of comparable spaces in the same manufactured home park or elsewhere. If requested by the HACD, the owner must provide the HACD with information on rents for other manufactured home space.

Housing Assistance Payments for Manufactured Home Space (24 CFR 982.623)

HAP for the Voucher Program

There is a separate FMR for a family renting a manufactured home space. The payment standard is used to calculate the monthly housing assistance payment for a family. The FMR for rental of a manufactured home space is generally 40% of the published FMR for a two-bedroom unit.

Subsidy Calculation for the Voucher Program

During the term of a voucher tenancy, the amount of the monthly housing assistance payment for a family will equal the less of the payment standard minus the total tenant payment, or the rent paid for rental of the real property on which the manufactured home owned by the family is located (space rent) minus the total tenant payment.

The space rent is the sum of the following as determined by the HACD:

Rent to owner for the manufactured home space, and
Owner maintenance and management charges for the space, and
The utility allowance for tenant-paid utilities.

Amortization Cost

The amortization cost may include debt service to amortize costs (other than furniture costs) included in the purchase price of the manufactured home. The debt service includes the payment for principal and interest on the loan. The debt service amount will be reduced by 15 % to exclude debt service to amortize the cost of furniture, unless the HACD determines that furniture was not included in the purchase price.

Any debt service due to refinancing the manufactured home after purchase of the home is not included in the amortization costs.

The HACD will not approve as part of the monthly amortization payment any set up charges to be included in the debt service incurred by a family that relocated its home.

The HACD will not include as part of the monthly amortization payment any set up charges incurred before the family became an assisted family, if monthly payments are still being made to amortize such charges.

Utility Allowance Schedule for Manufactured Home Space Rental (24 CFR 982.624)

The HACD will establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowances will include a reasonable amount for utility hook up charges payable by the family, if the family actually incurs the expenses because of a move.

Allowances for utility hook up charges do not apply to a family that leases a manufactured home space in place.

Utility allowances for manufactured home space will not be applied to cover the costs of digging a well or installation of a septic system.

SPECIAL HOUSING TYPES AS REASONABLE ACCOMMODATION

In addition to manufactured housing, the HACD will allow housing choice vouchers to be used in the following types of housing as a reasonable accommodation for a person with a disability:

Single Room Occupancy (SRO) units

Defined at CFR 982.065 as a single room with access to a bathroom that contains at least 110 sq. feet of floor space.

Group homes

A group home must be licensed, certified or otherwise approved in writing by the state as a group home for elderly persons or persons with disabilities.

Congregate housing

Defined at CFR 982.609 as a single room or multiple rooms (e.g. sitting room). The unit must contain a refrigerator and there must be a central kitchen and dining facilities on the premises.

Shared housing

Defined at CFR 982.618, each unit must contain private space for each assisted family, plus appropriate common space for shared use by the residents of the unit. The private space for each family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family may not be less than the family size. A zero or one bedroom unit may not be used for shared housing.

Chapter 21

SECTION 8 MANAGEMENT ASSESSMENT PROGRAM

GENERAL (24 CFR 985)

HUD implemented the Section 8 Management Assessment Program (SEMAP) on October 13, 1998 to serve as a management tool for objectively measuring program compliance, identifying management capabilities and deficiencies, as well as improving risk assessment for potential program problems. SEMAP also provides local housing agencies with a structured self assessment system for evaluating the tenant-based rental assistance programs.

A. PERFORMANCE INDICATORS

The following performance indicators have been established to help meet HUD's overall goal of getting the right Section 8 families in the right units at the right cost. Effective delivery of rental assistance and family-self-sufficiency goals is also measured. The individual indicators and their assigned points are presented below.

1. Selection from the Waiting List	15
2. Rent Reasonableness	20
3. Adjusted Income	20
4. Utility Allowance	5
5. HQS Quality Control	5
6. HQS Enforcement	10
7. Expanding Housing Opportunity	5
8. Payment Standards	5
9. Annual Reexaminations	10
10. Tenant Rent Calculations	5
11. Pre Contract HQS Inspections	5
12. Annual Inspections	10
13. Lease-Up	20
14. FSS Escrowing and percent of Families with Escrow Accounts	20
15. Deconcentration Bonus	5
TOTAL POSSIBLE POINTS	160
High Performer: 90+percent	
Standard Performer: 61-89 percent	
Troubled: <=60 percent	

Certification Period

HACD is required to submit a certification to HUD by February 28th of each year for the period from January 1st through December 31th, (HACD's fiscal year).

SEMAP Certification Process

The certification for each of the performance indicators is supported by documentation from the following sources:

- . Family files and the HACD computer records
- . Multi-Family Tenant Characteristic System (MTCS)
- . Management files, marketing materials, studies, and surveys.

Family Files and Computer Records

A random sample of family files and computer Records along with management files, marketing materials, studies and surveys are reviewed to support the following SEMAP indicators:

- . Indicator 1: Selection from the Waiting List
- . Indicator 2: Rent Reasonableness
- . Indicator 3: Adjusted Income
- . Indicator 4: Utility Allowance Schedule
- . Indicator 5: HQS Quality Control
- . Indicator 6: HQS Enforcement
- . Indicator 7: Expanding Housing Opportunities
- . Indicator 8: Payment Standards
- . Indicator 15: De-concentration (Bonus)

Multi-Tenant Characteristic System (MTCS) Data

MTCS is a computerized tracking and monitoring system used by HUD to track family data in both the Section 8 and public housing programs. Family information is electronically submitted to MTCS upon completion of a HUD 50058 Family Report. The following SEMAP indicators are evaluated based on information from the MTCS database.

- . Indicator 9: Annual Reexaminations
- . Indicator 10: Tenant Rent Calculations
- . Indicator 11: Pre-Contract HQS
- . Indicator 12: Annual Inspections
- . Indicator 13: Lease-Up
- . Indicator 14: FSS Enrollment and Escrow Account

Summary by Indicator

Indicator 1: Selection from the Waiting List 15 points

The purpose of this indicator is to determine whether the local housing agency has written admission policies in its Administrative Plan and to confirm whether the agency follows their admission policies when selecting applicants from the waiting list. The Administrative Plan must be formally adopted by HACD and must be submitted to HUD.

Verification Process

HUD will rate this indicator on the SEMAP certification. The agency can earn either all or none of the 15 points for this indicator. To earn all 15 points, the review must confirm that HACD has written admissions policies in its Administrative Plan and at least 98 percent of the families in the samples were selected from the waiting list in accordance with these policies and met the selection criteria that determined their places on the waiting list and their order of selection.

Indicator 2: Rent Reasonableness- 20 points

The purpose of this indicator is to determine whether HACD has implemented a written, reasonable method for determining and documenting the rent charged for each unit leased. The method used must ensure that the rent charged is reasonable based on current rents for comparable unassisted units at the time of initial leasing; when there is any increase in the rent to owner; and at the HAP contract anniversary if there is a five percent decrease in the published FMR in effect 60 days before the HAP contract anniversary.

Verification Process

This indicator will be rated by HUD on HACD's SEMAP certification. HACD can earn a maximum of 20 points for this indicator if the review confirms that:

- . HACD has a reasonable method it follows to determine reasonable rent which considers location, size, type, quality, and age of the units, and the amenities, housing services, and maintenance and utilities provided by the owner; and
- . A random sample of tenant files demonstrates that the rent reasonable system was used and documented in 98 percent of the files sampled for initial lease-up, any rent increase to owner, and if there is a five percent decrease in the published FMR in effect 60 days prior to the HAP contract anniversary.

Fifteen points can be earned if the review confirms that the above criterion is met in 80-97 percent of the units sampled for the review. Zero points are earned if the rent reasonableness method is used and documented in less than 80 percent of the random sample files that are reviewed.

Indicator 3: Adjusted Income -20 points

The purpose of this indicator is to determine whether the housing agency has verified and correctly determined adjusted annual income for each assisted family at the time of admission; and at annual reexamination.

Verification Process

This indicator will be rated by HUD on the SEMAP certification. HACD can earn a maximum of 20 points for this indicator if the review confirms that based on a random sample in at least 90 percent of the families:

- . HACD obtains third-party verification of reported family income, the value of assets totaling more than \$5000, expenses related to deductions from annual income and other factors that affect the determination of adjusted income, and/or HACD documents in tenant files why third party verification was not available;
- . HACD properly attributes and calculates allowances for any medical, child care, and/or disability assistance expenses; and
- . HACD uses the appropriate utility allowance to determine gross rent for the unit leased.

Fifteen points can be earned if the review confirms that the above criteria are met in 80-89 percent of the files sampled for the review. Zero points are earned if adjusted income determinations are correct and properly documented in less than 80 percent of the random sample files reviewed.

Indicator #4: Utility Allowance Schedule 5 points

The objective of this indicator is to determine whether HACD maintains an up-to-date utility allowance schedule in accordance with HUD program regulations, (24 CFR 982.517.)

Verification Process

This indicator will be rated by HUD on the SEMAP certification. The agency can earn a maximum of five points for this indicator if the review confirms that HACD reviewed utility rate data within the last 12 months, and adjusted its utility allowance schedule if there has been a change of 10 percent or more in a utility rate since the last time the utility allowance schedule was revised.

Indicator #5: HQS Quality Control Inspections

The purpose of this indicator is to determine whether a HACD manager or other qualified person re-inspects a sample of the units under contract during the last completed HACD fiscal year. The quality control inspection process tests consistency in adherence to the HQS and also helps to determine if inspectors require additional training.

Verification Process

This indicator will be rated by HUD on the HACD's SEMAP certification. The agency can earn a maximum of five points for this indicator, if the review confirms that:

- . A sample of assisted units were quality control inspected based on the sample size required by 24CFR 985.2 for the number of units under contract.
- . The sample represents units recently inspected (HQS inspections perform during the three months preceding the quality control inspection).
- . The sample represents cross-section of inspectors and neighborhoods.

Indicator #6: HQS Enforcement

The purpose of this indicator is to test the HACD's ability to insure that life- threatening HQS deficiencies are corrected within 24 hours from the date of inspection and that all other HQS deficiencies are corrected within no more than 30 calendar days from the date of the inspection or any HA-approved extension. The indicator also tests whether the agency's has appropriately abated the rent to owner no later than the first of the month following the specified correction period, and if not corrected termination of the HAP contract. This indicator also measures the response of HACD for family caused defects, and whether or not the agency takes prompt and vigorous action to enforce the family obligations.

Verification Process

This indicator will be rated by HUD on the HACD's SEMAP certification. The agency can earn a maximum of 10 points for this indicator if the review confirms that based on a random sample:

- . 100 percent of life threatening emergencies were completed within 24 hours;
- . 98 percent of all other cited HQS deficiencies were corrected within no more than 30 days or any HACD approved extension;
- . If deficiencies were not corrected within required time frame, the HAP was abated no later than the first of the month following the correction period or the HAP contract was terminated or for family-caused defects took prompt and vigorous action to enforce the family obligations.

Indicator #7: Expanding Housing Opportunities

The purpose of this indicator is to determine whether the housing agency has adopted and implemented a written policy to encourage participation by owners with units located outside areas of poverty or minority concentration; informs rental voucher and certificate holders of the full range of areas where they may lease units both inside and outside of HACD's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.

Verification Process

This indicator will be rated by HUD on the HACD's SEMAP certification. The agency can earn a maximum of five points for this indicator if the review confirms that:

- HACD has a written policy to encourage participation by owners of units outside areas of poverty minority concentration; HACD clearly delineates areas in its jurisdiction that the agency considers areas of poverty or minority concentration, and which includes actions the
- HACD will take to encourage owner participation.
- HACD encouraged participation by owners outside areas of poverty and minority participation.
- HACD has prepared maps that show various areas, both within and outside of its jurisdiction.
- HACD's information packet for certificate and voucher holders contains either a list of owners who are willing to lease, or properties available for lease, under the rental voucher or certificate programs, or a list of other organizations that will help families find units and the list includes properties or organizations that operate outside areas of poverty or minority concentration
- HACD's information packet includes an explanation of how portability works and includes a list of neighboring PHAs with the name, address and telephone number of a portability contact person at each.
- HACD has analyzed whether rental voucher and certificate holders have experienced difficulties in finding housing outside areas of poverty or minority concentration and, if such difficulties have been found,
- HACD documentation shows that the agency has analyzed whether it is appropriate to seek approval of area exception rents in any part of its jurisdiction and has sought HUD approval of exception rents when necessary.

Indicator #8: Payment Standards

The purpose of this indicator is to determine whether the housing agency has verified and correctly determined adjusted annual income for each assisted family at the time of admission; and annual reexamination.

Verification Process

This indicator will be verified by HUD through the use of payment standard information submitted to HUD on the SEMAP certification form and MTCS gross rents and FMR data. An agency can earn a maximum of five points for this indicator if:

- At least 98 percent of the families newly leased in the certificate program, excluding over FMR families, have initial gross rents at or below the applicable FMR or approved exception rent limit, and
- That HACD has adopted payments standards which do not exceed the applicable FMR or approved exception rent limit and which are not less than 80 percent of the current FMR, unless approved by HUD.

Zero points are earned if the random sample demonstrates that more than two percent of the sample files have gross rents that exceed the applicable FMR, or HUD-approved exception rent limits, or HACD's rental voucher program payment.

Indicator #9: Annual Re-Certifications

The purpose of this indicator is to determine whether the HACD completes an annual reexamination for each participating family at least every 12 months.

Verification Process

This indicator will be verified by MTCS reports showing the percent of reexaminations that are more than two months overdue. An agency can earn a maximum of 10 points for this indicator if the MTCS report confirms that fewer than five percent of all HACD reexaminations are more than two months overdue. Five points can be earned if the report confirms that five to 10 percent of all HACD reexaminations are more than two months overdue. Zero points are earned if more than 10 percent of all HACD reexaminations are more than two months overdue.

Indicator #10: Correct Tenant Rent Calculations

The purpose of this indicator is to determine whether HACD correctly calculates tenant rent in the rental certificate program, and the family's share of the rent to owner in the rental voucher program.

Verification Process

This indicator will be verified by MTCS reports. The reports will demonstrate the percent of tenant rent and family's share of the rent to owner calculations that are incorrect based on data sent to HUD on the HUD-50058 form.

HACD can earn a maximum of five points for this indicator if the MTCS report confirms that two percent or fewer of all HACD tenant rent and family's share of rent to owner calculations are incorrect. Zero points will be awarded if more than two percent of all HACD tenant rent and family's share of rent to owner calculations are incorrect.

Indicator #11: Pre-contract HQS Inspections

The purpose of this indicator is to determine whether newly leased units passed HQS inspection on or before the beginning date of the assisted lease and HAP contract.

Verification Process

This indicator will be verified by the MTCS report which shows the percent of newly leased units where the beginning date of the assistance contract is before the date the unit passed HQS inspection. If 98-99 percent of newly leased units passed HQS inspection before the beginning of the HAP contract, the HACD will receive five points. If fewer than 98 percent passed inspection prior to execution of the contract, HACD will receive zero points.

Indicator #12: Annual HQS Inspections

The purpose of this indicator is to determine whether the housing agency inspects each unit under contract at least annually. This indicator will be verified by the MTCS report, which shows the percent of HQS inspections that are more than two months passed due. It should be noted that the two-month allowance is provided to accommodate a possible lag in the housing agency's electronic submission and not in the completion of the inspection.

Verification Process

This indicator will be verified by the MTCS report, which shows the percent of HQS inspections that are more than two months passed due. It should be noted that the two-month allowance is provided to accommodate a possible lag in the housing agency's electronic submission and not in the completion of the inspection. HACD will receive 10 points if fewer than five percent of the annual inspections are more than two months late, five points if five to 10 percent are more than two months late and, zero points if more than 10 percent of annual inspections are more than two months late.

Indicator #13: Lease-Up

The purpose of this indicator is to determine whether HACD entered into HAP contracts for the number of units under budget for the last fiscal year.

Verification Process

This indicator will be verified by the percent of units leased during the last completed HACD fiscal year as determined by taking unit-months under HAP contract as shown on the HACD's

latest approved year-end operating statement, dividing that result by 12, and then dividing that result by the number of units budgeted as shown on the HACD's approved budget for the same fiscal year. An agency can earn a maximum of 20 points for this indicator if the percent of units leased during the last fiscal year was 98 percent or more. Fifteen points will be awarded if 95-98 percent of the units were leased during the last fiscal year. Zero points will be awarded if less than 95 percent of the units were leased during the last fiscal year.

Indicator #14: Family Self-Sufficiency (FSS)

The purpose of this indicator is to determine whether the HACD has enrolled families in the FSS program as required, and the extent of the HACD progress in supporting FSS by measuring the percent of current FSS participants with FSS progress reports entered in MTCS that have had increases in earned income which resulted in escrow account balances.

Verification Process

HUD will verify this indicator through the MTCS report that shows the number of families currently enrolled in FSS. This number is divided by the number of mandatory FSS slots based on funding reserved for the HACD through the second to last completed Federal Fiscal Year, or based on a reduced number of mandatory slots under a HUD-approved exception. An MTCS report also shows the percent of FSS families with FSS progress reports who have escrow account balances. HUD also uses information reported on the SEMAP certification by initial PHAs concerning FSS families enrolled in their FSS programs but who have moved.

Indicator #15: De-concentration

The purpose of this indicator is to determine what percentage of Section 8 families with children who live in and who have moved during the reporting period, moved to low-poverty census tracts in the HACD's principal operating area.

Verification Process

This indicator will be verified by HACD data submitted for the de-concentration bonus and the latest independent auditor annual audit report.

Required Action Plan

An operational improvement plan is required for any HACD deemed substandard under the Section 8 Management Assessment Program. Upon HUD's confirmation of a substandard score HACD must prepare a detailed action plan identifying the tasks necessary to improve each failed indicator. HUD may also require an action plan for any individual indicator that does not reach a passing score even if the overall rating of HACD is standard.

Chapter 22

PROGRAM INTEGRITY

General [24 CFR 792.101 to 792.204, 982.54]

HUD conservatively estimates that over \$200 million is paid annually to program participants who falsify or omit material facts in order to gain more rental assistance than they are entitled to under the law. HUD further estimates that over 12% of all HUD-assisted families are either totally ineligible, or are receiving benefits which exceed their legal entitlement.

HACD is committed to assuring that the proper level of benefits are paid for all participating families, and that housing resources reach only income-eligible families so that program integrity can be maintained. HACD will take all steps necessary to prevent fraud, waste, and mismanagement so that program resources are utilized judiciously. This chapter outlines HACD's policies for the prevention, detection and investigation of program abuse and fraud.

Criteria for Investigation of Suspected Abuse and Fraud

Under no circumstances will HACD undertake an inquiry or an audit of a participating family arbitrarily. HACD's expectation is that participating families will comply with HUD requirements, provisions of the voucher, and other program rules. HACD staff will make every effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, HACD has a responsibility to HUD, to the Community, and to eligible families in need of housing assistance, to monitor participants and owners for compliance and, when indicators of possible abuse come to HACD's attention, to investigate such claims. HACD will initiate an investigation of a participating family only in the event of one or more of the following circumstances:

Referrals, Complaints, or Tips - HACD will follow up on referrals from other agencies, companies or persons which are received by mail, by telephone or in person, which allege that a family is in non-compliance with, or otherwise violating the family obligations or any other program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A copy of the allegation and HACD's response will be retained in the family's file.

Internal File Review - A follow-up will be made if HACD staff discovers (as a function of a certification or re-certification, an interim re-determination, or a quality control review), information or facts which conflict with previous file data, HACD's knowledge of the family, or is discrepant with statements made by the family.

Verification of Documentation - A follow-up will be made if HACD receives independent verification or documentation, which conflicts with representations in the family's file (such as public record information or credit bureau reports, reports from other agencies).

Steps to Prevent Program Abuse and Fraud - HACD management and staff will utilize various methods and practices (listed below) to prevent program abuse, non-compliance, and willful violations of program rules by applicants and participating families. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by families.

Program Orientation Briefing - Mandatory orientation sessions will be conducted by HACD staff for all program applicants, either prior to or upon issuance of a voucher. At the conclusion of all Program Orientation Briefing, the family representative will be required to sign their voucher to confirm that all rules and pertinent regulations were explained to them.

Continued Occupancy Training - HACD will annually provide participant training as part of every re-certification interview in order to clarify any confusion pertaining to program rules and requirements.

Review and explanation of Forms - Staff will explain all required forms and review the contents of all (re)certification documents prior to signature.

Use of Instructive Signs and Warnings - Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse.

Participant Certification - All family representatives will be required to sign a "Participant Certification" form, as contained in HUD's Participant Integrity Program Manual.

Steps to Detect Program Abuse and Fraud - HACD personnel will maintain a high level of awareness to indicators of possible abuse and fraud by assisted families.

Quality Control File Reviews - Prior to initial certification, and at the completion of all subsequent recertifications, participant files will be reviewed by a Quality Control staff member. Such reviews shall include, but are not limited to:

- Assurance that verification of all income and deductions is present;
- Changes in reported Social Security Numbers or dates of birth;
- Authenticity of file documents;
- Ratio between reported income and expenditures;
- Review of signatures for consistency with previously signed file documents;
- All forms are correctly dated and signed;
- Appropriate selection from the waiting list.

Observation - HACD personnel and representatives will maintain high awareness of circumstances which may indicate program abuse or fraud, such as unauthorized persons residing in household and unreported income.

Public Record Bulletins - May be reviewed by HACD personnel.

Up-Front Income Verification (UIV) - The verification of income, before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form.

Credit Bureau Inquiries - Credit Bureau inquiries may be made (with proper authorization by the applicant/participant) in the following circumstances At the time of final eligibility determination; When HACD receives an allegation wherein unreported income sources are disclosed; When a participant's expenditures exceed his /her reported income and no plausible explanation is given; If a family is at minimum rent or is claiming zero income.

Handling of Allegations of Possible Abuse and Fraud - HACD staff will encourage all participating families to report suspected abuse to their assigned caseworker. The caseworker will be responsible for conducting a preliminary review of Allegation to determine their validity. All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented and placed in the participant's file.

All allegations, complaints and tips will be carefully evaluated in order to determine if they warrant follow-up. HACD will not follow up on allegations, which are vague or otherwise nonspecific.

Caseworkers will be responsible for referring cases to their assigned supervisor if it is determined to be a valid allegation and supervisors will be responsible for following up or referring the case to the agency's designee. They will only review allegations, which contain one or more independently verifiable facts.

File Review - An internal file review will be conducted to determine: If the subject of the allegation is a client of HACD and, if so, to determine whether or not the information reported has been previously disclosed by the family. It will then be determined if HACD is the most appropriate authority to do a follow-up (more so than police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

Conclusion of Preliminary Review - If at the conclusion of the preliminary file review there are facts contained in the allegation which conflict with file data, and the facts are independently verifiable, the agency's designee will initiate an investigation to determine if the allegation is true or false.

Investigation of Allegations of Abuse and Fraud

If HACD determines that an allegation should be referred, the agency's designee or a person designated to monitor the program compliance will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below. In all cases, HACD will secure the written authorization from the program participant for the release of information.

- **Credit Bureau Inquiries.** In cases involving previously unreported income sources, a CBI inquiry may be made to determine if there is financial activity that conflicts with the reported income of the family.
- **Verification of Credit.** In cases where the financial activity conflicts with file data, a Verification of Credit form may be mailed to the creditor in order to determine the unreported income source.
- **Employers and Ex-Employers.** Employers or ex-employers may be contacted to verify wages which may have been previously undisclosed or misreported.
- **Neighbors/Witnesses.** Neighbors and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to HACD's review.
- **Other Agencies.** Investigators, caseworkers or representatives of other benefit agencies may be contacted.
- **Public Records.** If relevant, HACD will review public records kept in any jurisdictional courthouse. Examples of public records which may be checked are: real estate, marriage, divorce, uniform commercial code financing statements, voter registration, judgments, court or police records, state wage records, utility records and postal records.
- **Interviews with Head of Household or Family Members.** HACD will discuss the allegation (or details thereof) with the Head of Household or family member by scheduling an appointment at the appropriate HACD office. HACD staff person who conducts such interviews will maintain a high standard of courtesy and professionalism. Under no circumstances will management tolerate inflammatory language, accusation, or any unprofessional conduct or language. If possible, an additional staff person will attend such interviews.

Documents, Evidence and Statements Obtained by HACD

Documents and other evidence obtained by HACD during the course of an investigation will be considered "work product" and will either be kept in a separate "work file." In either case, the participant's file or work file shall be kept in a locked file cabinet. Such cases under review will not be discussed among HACD personnel unless they are involved in the process, or have information, which may assist in the investigation.

Conclusion of the Investigative Review

At the conclusion of the investigative review, the reviewer will report the findings to the Section 8 Program Director. It will then be determined whether a violation has occurred, a violation has not occurred, or if the facts are inconclusive.

Evaluation of the Findings

If it is determined that a program violation has occurred, HACD will review the facts to determine:

- The type of violation (procedural, non-compliance, fraud);
- Whether the violation was intentional or unintentional.
- What amount of money (if any) is owed by the family.
- If the family is eligible for continued occupancy.

Action Procedures for Violations Which Have Been Documented

Once a program violation has been documented, HACD will propose the most appropriate remedy based upon the type and severity of the violation.

1. Procedural Non-compliance - This category applies when the family "fails to" observe a procedure or requirement of HACD, but does not misrepresent a material fact, and there is no retroactive assistance payments owed by the family.

Warning Notice to the Family - In such cases a notice will be sent to the family, which contains the following:

- A description of the non-compliance and the procedure, policy or obligation which was violated;
- The date by which the violation must be corrected, or the procedure complied with;
- The action which will be taken by HACD if the procedure or obligation is not complied with by the date specified by the PH; and,
- The consequences of repeated (similar) violations.

2. Procedural Non-compliance: Overpaid Assistance - When the family owes money to HACD for failure to report changes in income or assets, HACD will issue a Notification of Overpayment of Assistance. This Notice will contain the following:

- A description of the violation and the date(s);
- Any amounts owed to HACD;
- A ten day response period; and,
- The right to disagree and to request an informal hearing with instructions for
- The request of such hearing.

Participant Fails to Comply with HACD's Notice. If the Participant fails to comply with HACD's notice, and a family obligation has been violated, HACD will initiate termination of assistance.

Participant Complies with HACD's Notice. When a family complies HACD's notice, the staff person responsible will meet with him/her to discuss and explain the Family Obligation or program rule which was violated. The staff person will complete a Participant Counseling Report, give one copy to the family and retain a copy in the family's file.

3. Intentional Misrepresentations. When a participant falsifies, misstates, omits or otherwise misrepresents a material fact which results (or would have resulted) in an overpayment of housing assistance by HACD, HACD will evaluate whether or not: the participant had knowledge that his/her actions were wrong, and the participant willfully violated the family obligations or the law.

Knowledge that the action or inaction was wrong. This will be evaluated by determining if the participant was made aware of program requirements and prohibitions. The participant's signature on various certifications, {briefing certificate}, personal declaration are adequate to establish knowledge of wrong-doing. The participant willfully violated the law. Any of the following circumstances will be considered adequate to demonstrate willful intent:

- (a) An admission by the participant of the misrepresentation;
- (b) That the act was done repeatedly;
- (c) If a false name or Social Security Number was used;
- (d) If there were admissions to others of the illegal action or omission;
- (e) That the participant omitted material facts which were known to him/her (employment of any household member, including head of household);
- (f) That the participant falsified, forged or altered documents;
- (g) That the participant uttered and certified to statements at a interim (re)determination which were later independently verified to be false.

Disposition of Cases Involving Misrepresentations

In all cases of misrepresentations involving efforts to recover monies owed, HACD may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

- (a) Criminal Prosecution: If HACD has established criminal intent, and the case meets the criteria for prosecution, HACD will notify HUD's Regional Inspector General and terminate rental assistance.
- (b) Administrative Remedies: HACD will terminate assistance and execute an administrative repayment agreement in accordance with HACD's Repayment Policy.

Case Conference for Serious Violations and Misrepresentations

When HACD has established that material misrepresentation(s) have occurred, a Case Conference will be scheduled with the family representative, the HUD Inspector General and HACD staff person who is most knowledgeable about the circumstances of the case. This conference will take place prior to any proposed action by HACD. The purpose of such conference is to review the information and evidence obtained by HACD with the participant, and to provide the participant an opportunity to explain any document findings which conflict with representations in the family's file. Any documents or mitigating circumstances presented by the family will be taken into consideration by HACD. The family will be given 10 days from the date of the conference to furnish any mitigating evidence.

A secondary purpose of the Participant Conference is to assist HACD in determining the course of action most appropriate for the case. Prior to the final determination of the proposed action,

HACD will consider:

- The duration of the violation and number of false statements.
- The family's ability to understand the rules.
- The family's willingness to cooperate, and to accept responsibility for his/her actions
- The amount of money involved.
- The family's past history
- Whether or not criminal intent has been established.
- The number of false statements.

Notification to Participant of Proposed Action

HACD will notify the family of the proposed action no later than 15 days after the case conference by certified mail.

Overpayments to Owners

If a landlord has been overpaid as a result of fraud, misrepresentation or violation of the HAP contract, HACD may terminate the contract and will make every effort to recover any overpayments. Payments otherwise due to the owner may be deducted from other contracts in order to repay HACD or the tenant, as applicable.