

### **12.3 HOUSING QUALITY STANDARDS (HQS) 24 CFR 982.401**

This Section states performance and acceptability criteria for these key aspects of the following housing quality standards:

#### **A. Sanitary Facilities**

##### **1. Performance Requirement**

The dwelling unit must include sanitary facilities located in the unit. The sanitary facilities must be in proper operating condition and adequate for personal cleanliness and the disposal of human waste. The sanitary facilities must be usable in privacy.

##### **2. Acceptability Criteria**

- a. The bathroom must be located in a separate private room and have a flush toilet in proper operating condition.
- b. The dwelling unit must have a fixed basin in proper operating condition, with a sink trap and hot and cold running water.
- c. The dwelling unit must have a shower or a tub in proper operating condition with hot and cold running water.
- d. The facilities must utilize an approvable public or private disposal system (including a locally approvable septic system).

#### **B. Food Preparation and Refuse Disposal**

##### **1. Performance Requirements**

- a. The dwelling unit must have suitable space and equipment to store, prepare, and serve foods in a sanitary manner.
- b. There must be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).

##### **2. Acceptability Criteria**

- a. The dwelling unit must have an oven, a stove or range, and a refrigerator of appropriate size for the family. All of the equipment must be in proper operating condition. Either the owner or the family may supply the equipment. A microwave oven may be substituted for a tenant-supplied oven and stove or range. A microwave oven may be substituted for an owner-supplied oven and stove or range if the resident agrees and microwave ovens are furnished instead of an oven and stove or range to both subsidized and unsubsidized tenants in the building or premises.
- b. The dwelling unit must have a kitchen sink in proper operating condition, with a sink trap and hot and cold running water. The sink must drain into an approvable public or private system.

- c. The dwelling unit must have space for the storage, preparation, and serving of food.
- d. There must be facilities and services for the sanitary disposal of food waste and refuse, including temporary storage facilities where necessary (e.g., garbage cans).

C. Space and Security

1. Performance Requirement

The dwelling unit must provide adequate space and security for the family.

2. Acceptability Criteria

- a. At a minimum, the dwelling unit must have a living room, a kitchen area, and a bathroom.
- b. The dwelling unit must have at least one bedroom or living/ sleeping room for each two persons. Children of opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room.
- c. Dwelling unit windows that are accessible from the outside, such as basement, first floor, and fire escape windows, must be lockable (such as window units with sash pins or sash locks, and combination windows with latches). Windows that are nailed shut are acceptable only if these windows are not needed for ventilation or as an alternate exit in case of fire.
- d. The exterior doors of the dwelling unit must be lockable. Exterior doors are doors by which someone can enter or exit the dwelling unit.

D. Thermal Environment

1. Performance Requirement

The dwelling unit must have and be capable of maintaining a thermal environment healthy for the human body.

2. Acceptability Criteria

- a. There must be a safe system for heating the dwelling unit (and a safe cooling system, where present). The system must be in proper operating condition. The system must be able to provide adequate heat (and cooling, if applicable), either directly or indirectly, to each room, in order to assure a healthy living environment appropriate to the climate.
- b. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Electric heaters are acceptable.

E. Illumination and Electricity

1. Performance Requirement

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. The electrical fixtures and wiring must ensure safety from fire.

2. Acceptability Criteria

- a. There must be at least one window in the living room and in each sleeping room.
- b. The kitchen area and the bathroom must have a permanent ceiling or wall light fixture in proper operating condition. The kitchen area must also have at least one electrical outlet in proper operating condition.
- c. The living room and each bedroom must have at least two electrical outlets in proper operating condition. Permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets.

F. Structure and Materials

1. Performance Requirement

The dwelling unit must be structurally sound. The structure must not present any threat to the health and safety of the occupants and must protect the occupants from the environment.

2. Acceptability Criteria

- a. Ceilings, walls, and floors must not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling, missing parts, or other serious damage.
- b. The roof must be structurally sound and weather tight.
- c. The exterior wall structure and surface must not have any serious defects such as serious leaning, buckling, sagging, large holes, or defects that may result in air infiltration or vermin infestation.
- d. The condition and equipment of interior and exterior stairs, halls, porches, walkways, etc., must not present a danger of tripping and falling. For example, broken or missing steps or loose boards are unacceptable.
- e. Elevators must be working and safe.

G. Interior Air Quality

1. Performance Requirement

The dwelling unit must be free of pollutants in the air at levels that threaten the health of the occupants.

2. Acceptability Criteria

- a. The dwelling unit must be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful pollutants.
- b. There must be adequate air circulation in the dwelling unit.
- c. Bathroom areas must have one window that can be opened or other adequate exhaust ventilation.
- d. Any room used for sleeping must have at least one window. If the window is designed to be opened, the window must work.

H. Water Supply

1. Performance Requirement

The water supply must be free from contamination.

2. Acceptability Criteria

The dwelling unit must be served by an approvable public or private water supply that is sanitary and free from contamination.

I. Lead-based Paint

1. Performance Requirement

The Lead-Based Paint Poisoning Prevention Act, the Residential Lead-Based Paint Hazard Reduction Act of 1992, and implementing regulations at part 35, subparts A, B, M, and R of this title apply to units assisted under this part.

2. Acceptability Criteria

The requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero bedroom dwellings.

During initial and annual inspections of pre-1978 units that are occupied or will be occupied by families with children under 6 years of age, the inspector must conduct a visual assessment for deteriorated paint surfaces and the owner must stabilize deteriorated surfaces. Applicable areas include painted surfaces within the dwelling unit, exterior painted surfaces associated with the dwelling unit, and common areas of the building through which residents must pass to gain access to the unit and areas frequented by resident children under six years of age, including play areas and child care facilities.

For units occupied by environmental intervention blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by the PHA), and the owner must complete hazard reduction activities if lead hazards are identified during the risk assessment.

J. Access

1. Performance Requirement

The dwelling unit must be able to be used and maintained without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire (such as fire stairs or egress through windows).

K. Site and Neighborhood

1. Performance Requirement

The site and neighborhood must be reasonably free from disturbing noises and reverberations and other dangers to the health, safety, and general welfare of the occupants.

2. Acceptability Criteria

The site and neighborhood may not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks or steps; instability; flooding, poor drainage, septic tank back-ups or sewage hazards; mudslides; abnormal air pollution, smoke or dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; vermin or rodent infestation; or fire hazards.

L. Sanitary Condition

1. Performance Requirement

The dwelling unit and its equipment must be in sanitary condition.

2. Acceptability Criteria

The dwelling unit and its equipment must be free of vermin and rodent infestation.

M. Smoke Detectors

1. Performance Requirements

a. Except as provided in paragraph b below of this Section, each dwelling unit must have at least one battery-operated or hard-wired smoke detector, in proper operating condition, on each level of the dwelling unit, including basements but excepting crawl spaces and unfinished attics. Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any hearing-impaired person, smoke detectors must have an alarm system, designed for hearing-impaired persons as specified in NFPA 74 (or successor standards).

b. For units assisted prior to April 24, 1993, owners who installed battery-operated or hard-wired smoke detectors prior to April 24, 1993, in compliance with HUD's smoke detector requirements, including the regulations published on July 30, 1992 (57 FR 33846), will not be required subsequently to comply with any additional requirements

mandated by NFPA 74 (i.e., the owner would not be required to install a smoke detector in a basement not used for living purposes, nor would the owner be required to change the location of the smoke detectors that have already been installed on the other floors of the unit).

#### **12.4 LEAD-BASED PAINT REQUIREMENTS AND RESPONSIBILITIES**

##### **A. Exempt Units**

The following units are exempt from this policy as it relates to lead-based paint requirements:

1. Units built after December 31, 1977;
2. Zero (0) bedroom and Single Room Occupancy (SRO) units;
3. Housing built for the elderly or persons with disabilities, unless a child of under age six (6) resides or is expected to reside in such housing;
4. Properties for which a paint inspection was completed in accordance with the new regulations that became effective on September 15, 2000, and are certified to have no lead-based paint;
5. Properties in which all lead-based paint was identified, was removed, and that received clearance in accordance with the new regulations which became effective on September 15, 2000.

##### **B. Non-Exempt or Covered Units**

For dwellings built before January 1, 1978, and occupied or to be occupied by assisted families with one or more children under age six (6), lead-based paint requirements apply to:

1. The unit interior and exterior paint surfaces associated with the assisted unit: and
2. The common areas servicing the unit, including those areas through which residents must pass to gain access to the unit, and other areas frequented by resident children less than six (6) such as play areas, and child care facilities. Common areas also include garages and fences on the assisted property.

##### **C. Responsibilities of the Housing Authority and the Owner**

The Authority is responsible for the following activities:

1. The visual assessment for deteriorated paint (i.e., peeling, chipping, flaking) surfaces at initial and annual inspections;
2. Assuring that clearance examinations are conducted when required;
3. Carrying out special requirements for children under age six who have environmental intervention blood lead levels as verified by a medical health care provider;
4. Collecting data from the local health department on program participants under age six who have identified environmental intervention blood lead levels; and
5. Record keeping.

Owners of units to be or that are assisted have the responsibility to:

1. Disclose known lead-based paint hazards to all potential residents prior to execution of a lease;
2. Provide all prospective families with a copy of Protect Your Family From Lead in Your Home or other EPA approved document;
3. When necessary, perform paint stabilization to correct deteriorated paint;
4. Each time paint stabilization is performed, notify the resident about the conduct of lead hazard reduction activities and clearance (if required);
5. Conduct lead hazard reduction activities when required by the Authority;
6. Perform all work in accordance with HUD prescribed safe work practices and conduct clearance activities when required; and
7. Perform ongoing maintenance. As part of ongoing maintenance, the owner must provide written notice to each assisted family asking the occupants to report deteriorated paint. The notice must include the name, address, and phone number of the person responsible for accepting the occupant's complaint.

Before the execution of the lease the owner is required to disclose any knowledge of lead-based paint or lead-based paint hazards in housing built prior to 1978 to all prospective residents. The Authority will keep a copy of the disclosure notice executed by the owner and resident in the participant's file. The owner will keep the original disclosure notice and forward a copy of the notice to the Authority.

D. Qualified Inspector

An HQS inspector may conduct the inspection or other party designated by the Authority. All inspectors must have been trained in visual assessment in accordance with procedures established by HUD.

E. Visual Assessment for Deteriorated Paint

The Authority during the conduct of initial, annual and any special inspections of pre-1978 units that are occupied or will be occupied by families with children under 6 years of age. The Authority will conduct a visual inspection for deteriorated paint surfaces at these locations:

1. All unit interior and exterior painted surfaces associated with the assisted unit; and
2. Common areas such as common hallways, access and egress areas, playgrounds, child-care facilities, or other areas including fences and garages frequented by children under age six.

F. Stabilization of Deteriorated Paint Surfaces

When the HQS Inspector or other designated party identifies deteriorated paint surfaces (defined as interior or exterior paint or other coating that is peeling, chipping, flaking, cracking, is otherwise damaged or has separated from the substrate of the surface or fixture), the Authority will notify and require the owner to perform stabilization of the surfaces within thirty (30)

calendar days of the notification by the Authority's inspection for occupied units and before commencement of any assisted tenancy.

Owner requirements for compliance with the Authority's paint stabilization differ, depending upon the amount of deteriorated paint surface to be corrected. The use of lead-safe work practices during paint stabilization activities are differentiated characterized as above or below de minimis levels.

De minimis deteriorated paint surfaces are exceeded when one of the following occurs:

1. 20 square feet on exterior surfaces;
2. 2 square feet on an interior surface in a single room or interior space; or
3. 10 percent of individual small components (e.g., windowsills) on the interior or exterior.

Owners must perform paint stabilization on all deteriorated paint surfaces. Paint stabilization is defined as:

1. Repair of any physical defect in the substrate of the painted surface or building component. Examples of defective substrate conditions include dry-rot, rust, moisture-related defects, crumbling plaster, missing siding, or other components not securely fastened;
2. Removal of all loose paint and other loose material from the surface being treated; and
3. Application of a new protective coat of paint to the stabilized surface.

In no instance may an owner employ any paint stabilization methods that are strictly prohibited by federal, state, or local law such as:

1. Open flame burning and torching;
2. Machine-sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control;
3. Heat guns operating above 1,100 degrees Fahrenheit;
4. Abrasive blasting or sandblasting with HEPA exhaust control;
5. Dry sanding and scraping except limited conditions stated above for limited areas; and
6. Paint stripping in poorly ventilated space using a volatile stripper or a hazardous chemical as defined by Occupational Safety and Health Administration (OSHA).

Failure to comply with paint stabilization requirements, regardless of the amount of deteriorated surface, will result in the disapproval of the tenancy, abatement of payment to the owner, and/or termination of the HAP contract.

In addition, in order to be in compliance with HUD lead-based paint requirements if the deteriorated paint surface exceeds the de minimis level, the owner must:

1. Conduct all stabilization activities with trained staff;

2. Employ acceptable methods for preparing the surface to be treated, including wet scraping, wet sanding, and power sanding performed in conjunction with a HEPA filtered local exhaust attachment operated according to manufacturer's instruction;
3. Not dry sand or dry scrape within one (1) square foot of electrical outlets;
4. Protect the occupants and their belongings from contamination;
5. Notify the occupants within fifteen (15) calendar days of stabilization activity and provide the results of the clearance examination.

Clearance Activities:

The Authority will be responsible for clearance activities. All clearance activities will be performed by persons who have EPA or state-approved training and are licensed or certified to perform clearance examinations.

The Authority will pay for the costs of the first clearance examination. If further clearance examinations are required, the owner is responsible to cover the costs of subsequent tests.

The owner must provide the Authority with an executed copy of the Lead-Based Paint Owner's Certification for the HQS violation for paint stabilization to be considered closed.

Below de minimis deteriorated paint surfaces:

If the amount of deteriorated paint is below the de minimis level, owners will not be required to perform lead-safe work practices and clearance, but owners must perform paint stabilization as follows:

1. Repair of any physical defect in the substrate of the painted surface or building component. Examples of defective substrate conditions include dry-rot, rust, moisture-related defects, crumbling plaster, missing siding, or other components not securely fastened;
2. Removal of all loose paint and other loose material from the surface being treated; and
3. Application of a new protective coat of paint to the stabilized surface.

In no instance may an owner employ any paint stabilization methods that are strictly prohibited by federal, state, or local law such as:

1. Open flame burning and torching;
2. Machine-sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control;
3. Heat guns operating above 1,100 degrees Fahrenheit;
4. Abrasive blasting or sandblasting with HEPA exhaust control;
5. Dry sanding and scraping except limited conditions stated above for limited areas; and
6. Paint stripping in poorly ventilated space using a volatile stripper or a hazardous chemical as defined by Occupational Safety and Health Administration (OSHA).

Failure to comply with paint stabilization requirements, regardless of the amount of deteriorated surface, results in disapproval of the tenancy, abatement of payment to the owner, and/or termination of the HAP contract.

Clearance Activities:

The owner must provide the Authority with an executed copy of the Lead-Based Paint Owner's Certification for the HQS violation for paint stabilization to be considered closed.

G. Requirements for Children with Environmental Intervention Blood Lead Level

Should the Authority receive information regarding an environmental intervention blood lead level child under age six from the family, owner, or other sources not associated with the medical health community, the Authority will immediately verify the information with a public health department or other medical health care provider.

If either the public health department or private medical health agency provides verification that the child has an environmental intervention blood lead level, the Authority will proceed to complete a risk assessment of the unit, common areas and exterior surfaces as outlined in Subsection H below. This requirement does not apply if the public health department has already conducted an evaluation between the date the child's blood was last sampled and the receipt of notification of the child's condition.

If the Authority receives a report of an environmental intervention blood lead level child from any source other than the public health department, the Authority will notify the public health department with five (5) working days.

HUD has defined environmental intervention blood lead level as a confirmed concentration of lead in whole blood equal or greater than 20 ug/dL (micrograms of lead per deciliter) for a single test or 15-19 ug/dL in two tests taken at least three (3) months apart in children under age six.

H. Risk Assessment

Within fifteen (15) calendar days of the notification to the Authority by a public health department or medical health care provider, the Authority will complete a risk assessment of the dwelling unit, including common areas servicing the dwelling unit, if the child lived in the unit at the time the child's blood was sampled. If the public health department has already conducted an evaluation between the date the child's blood was last sample and the receipt of notification of the child's condition, the risk assessment by the Authority is not required.

The Authority will only utilize persons trained and certified by an EPA or state-approved agency to perform risk assessments. The risk assessment will identify the appropriate method of correction if correction is required.

The risk assessment will involve an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards. The investigation will include dust and soil sampling, visual evaluation, and may include paint inspections (tests for lead in paint). The assessor will issue a report to the housing authority explaining the results of the investigation, as well as option and requirements for reducing lead-based paint hazards. Upon receipt of the risk assessment, the Authority shall immediately notify the owner of its results.

The owner must notify the building residents of the results of the risk assessment within fifteen (15) calendar days of receipt of the risk assessment results from the Authority.

## I. Hazard Reduction

The owner must complete reduction of identified lead-based paint hazards as identified in the risk assessment as outlined in Subsection H of this Section within thirty (30) calendar days (or date specified by the Authority if an extension is granted for exterior surfaces).

Hazard reduction activities may include paint stabilization, abatement, interim controls, or dust and soil contamination control. The appropriate method of correction will be identified in the risk assessment.

Hazard reduction will be considered complete by the Authority when a clearance examination has been completed and the report indicates that all identified hazards have been treated and clearance has been achieved, or when the public health department certifies that the hazard reduction is complete.

The owner must notify all building residents of any hazard reduction activities within fifteen (15) calendar days of completion of activities.

Like paint stabilization compliance, when the Authority receives the owner's certification, this will signal compliance with lead hazard reduction activities.

Failure by the owner to complete hazard reduction activities (including clearance) within thirty (30) calendar days (or later if the Authority grants an extension for exterior surfaces) of notification constitutes a violation of HQS, and appropriate action against the owner will be taken if a program family occupies the unit. If the unit is vacant when the Authority notifies the owner, the unit may not be reoccupied by another assisted family, regardless of the ages of children in the family, until compliance with the lead-based paint requirement is completed.

## J. Authority Data Collection and Record Keeping

Quarterly, the Authority will attempt to obtain from the public health department having jurisdiction in the same area as the Authority, the names and addresses of children under age six with an identified environmental intervention blood lead level.

The Authority will match information received from the health department with information about program families. If a match occurs, the Authority will follow all procedures for notifying owners and conducting risk assessments as stated above.

Quarterly, the Authority will report a list of addresses of units occupied by children under age six, receiving assistance to the public health department, unless the health department indicates in writing that such a report is not necessary.

The Authority will inform owners of lead-based paint regulations especially those related to prohibited and safe work practices, resident protection during lead-based paint activities, and notification requirements. This will be accomplished through written material provided by the Authority.

The Authority is responsible for issuing and maintaining in the file the notification to the owner of any needed corrections and appropriate methods to correct lead hazards, and of the deadline for completing the corrections.

The Authority will track all known environmental intervention blood lead level children (of program families) until the child reaches age six. This will assure that all Authority required

activities are being addressed in a timely manner and that inspections conducted on behalf of the family will include the inspection for deteriorated paint.

### **12.5 EXCEPTIONS TO THE HQS ACCEPTABILITY CRITERIA**

The Authority will utilize the acceptability criteria as outlined above with applicable State and local codes. Additionally, the Authority has received HUD approval to require the following additional criteria:

### **12.6 TIME FRAMES AND CORRECTIONS OF HQS FAIL ITEMS**

#### **A. Correcting Initial HQS Fail Items**

The Authority will schedule a timely inspection of the unit on the date the owner indicates that the unit will be ready for inspection, or as soon as possible thereafter (within 14 calendar days) upon receipt of a Request for Tenancy Approval, or when the owner indicates that the unit will be ready for inspection. The owner and participant will be notified in writing of the results of the inspection. If the unit fails HQS, the owner and the participant will be advised to notify the Authority to reschedule a re-inspection when the repairs have been properly completed.

On an initial inspection, the owner will be given up to 30 calendar days to correct the items noted as failed, depending on the extent of the repairs that are required to be made. No unit will be placed in the program until the unit meets the HQS requirements.

The owner will be allowed up to two reinspections for repair work to be completed.

If the time period given by the Inspector to correct the repairs has elapsed, or the maximum number of failed reinspections has occurred, the family must select another unit.

#### **B. HQS Fail Items for Units under Contract**

The owner or participant will be given time to correct the failed items cited on the inspection report for a unit already under contract. If the failed items endanger the family's health or safety (using the emergency item in Section 12.7), the owner or participant will be given 24 hours to correct the violations. For less serious failures, the owner or participant will be given up to 30 calendar days to correct the failed item(s).

If the owner fails to correct the HQS failed items after proper notification has been given, the Authority will abate payment and terminate the contract in accordance with Sections 12.8 and 17.0.

If the participant fails to correct the HQS failed items that are family-caused after proper notification has been given, the Authority will terminate assistance for the family in accordance with Sections 12.2(B) and 17.0.

#### **C. Time Frames for Corrections**

1. Emergency repair items must be abated within 24 hours. The Authority may give a short extension whenever the responsible party cannot be notified or it is impossible to effect the repair within the 24-hour period. In those cases where there is leaking gas or

potential of fire or other threat to public safety, and the responsible party cannot be notified, proper authorities will be notified by the Authority.

2. Repair of refrigerators, range and oven, or a major plumbing fixture supplied by the owner must be abated within 72 hours.
  3. Non-emergency items must be completed within 30 calendar days of the initial inspection.
  4. For major repairs, the owner may request an extension up to 30 days to complete.
- D. Extensions

At the sole discretion of the Authority, extensions of up to 30 calendar days may be granted to permit an owner to complete repairs if the owner has made a good faith effort to initiate repairs. If repairs are not completed within 60 calendar days after the initial inspection date, the Authority will abate the rent and cancel the HAP contract for owner noncompliance. An extension until the following May 31<sup>st</sup> will be granted if a severe weather condition exists during the winter months for such items as exterior painting and outside concrete work for porches, steps, and sidewalks.

#### **12.7 EMERGENCY FAIL ITEMS**

The following items are to be considered examples of emergency items that need to be abated within 24 hours:

- A. No hot or cold water
- B. No electricity
- C. No heat
- D. Major plumbing leak
- E. Natural gas, propane, or LP gas leak
- F. Broken windows that unduly allow weather elements into the unit
- G. Electrical outlet smoking or sparking
- H. Exposed electrical wires which could result in shock or fire
- I. Unusable toilet when only one toilet is present in the unit
- J. Security risks such as broken doors, windows or locks that would allow intrusion
- K. Major roof leak.
- L. Ceiling or other structural component in imminent danger of collapse.
- M. Obstacle that prevents tenant's entrance or exit.
- N. Other conditions which pose an immediate threat to health or safety

## **12.8 ABATEMENT**

When a unit fails to meet HQS and the owner has been given an opportunity to correct the deficiencies, but has failed to do so within the required timeframe, the rent for the dwelling unit will be abated as of the first day of the next month.

If the corrections of deficiencies are not made the abatement will continue until the HAP contract is terminated. When the deficiencies are corrected, the Housing Authority will end the abatement the day the unit passes inspection. Rent will resume the day the unit passes inspection and be paid the first day of the next month.

For participant caused HQS deficiencies, the owner will not be held accountable and the rent will not be abated. The participant is held to the same standard and timeframes for correction of deficiencies as owners. If repairs are not completed by the deadline, the Authority will send a notice of termination to both the participant and the owner. The participant will be given the opportunity to request an informal hearing.

HAP contracts will be terminated after giving the owner thirty (30) calendar days notice from the first day of a month. It will be sent with the Notice of Abatement. Termination will end any abatement action.

## **12.9 GENERAL INSPECTION POLICIES**

### **A. INITIAL AND MOVE INSPECTIONS**

1. All utilities must be on for inspection. If utilities are not in service when the unit is inspected, a re-inspection will be scheduled to check out those items which could not be checked because of water, electric, gas, oil, or propane not being on or connected.
2. In units where the resident must pay for utilities, each unit (on the Program) must have separate metering devices(s) for measuring utility consumption.
3. The stove is the owner's responsibility and must be present when the unit is inspected in order to "pass." The knobs must indicate correct burners and "off/on." Oven knob must indicate correct temperature. If the stove is "gas," it must not need a match to light the burners or the oven.
4. The owner or tenant may supply the refrigerator. If owner supplied, it must be present when the unit is inspected in order to "pass." If tenant supplied, the Authority will allow the refrigerator to be placed in the unit **after** the inspection if the tenant or owner certifies that the appliance is present, working properly (both freezer and refrigerator), that there is some freezer space, and that refrigerator is a proper size for the family. An "Inconclusive" letter will be sent to both the owner and tenant to sign, date and return to the office to continue our assistance payments. If the letter is not returned within two weeks of move-in, the Authority will hold the payment until we receive the letter. "Inconclusive" inspections will be effective as of move-in, or day after pass date, whichever is later, and signed letter received.
5. The Housing Authority requires a copy of deed, most recent property tax invoice, or other proof of ownership; a copy of use/occupancy/rental permit or certificate from local municipality (if required by that municipality); and a copy of annual service record posted on or near heating unit or a copy sent to us. For manufactured homes, the Authority requires a certificate stating that tie-downs have been installed if the unit is not mounted on a

foundation. For units with well water and/or septic tanks, the Authority needs documentation that they have been inspected and are safe. If the Authority does not have these documents, the unit will "fail." The unit will be "passed" as of the date the Authority receives the documents required. No contract will be activated and no rent paid until copies of the required documents are received.

*B. CLARIFICATIONS OF INSPECTION ITEMS*

1. All openable windows must stay up or in place when opened.
2. Missing globes and light shields will be a "pass with comment" item.
3. Any unit where the inspector cannot gain access by knocking, ringing bell, or being seen, must have a doorbell, intercom or other suitable means of notification.
4. All appliances must work properly no matter who supplies them, and be repaired or replaced by the person supplying them when needed.
5. All appliances such as refrigerator, dishwasher, garbage disposal, washer, dryer, etc. that the owner furnishes and for which we gave credit as an amenity, must be repaired or replaced by owner. If the owner "gives" an appliance to the tenant and does not intend to repair or replace it, the owner will receive no credit for this item as an amenity and if tenant does not wish to repair or replace it, the owner must remove it. A refrigerator "given" to the tenant, must be repaired or replaced by the tenant.
6. Disputes over water or other utility bills because of owner's failure to take "timely" corrective action after notification by tenant should be determined by court action.
7. A  $\frac{3}{4}$ " overflow pipe or discharge line must be present on the hot water heater safety valve and installed down to within 6 inches of the floor.
8. Lockable storm doors and windows cannot replace the locks for primary doors and windows (which are accessible from outside).
9. Storm doors must catch and have a door closer. If the door does not catch, the wind can pull it off. The first repair for a storm door is the owner's responsibility. The second repair is the tenant's responsibility. The third time it is in disrepair, it may be removed, rather than repaired or replaced.
10. Extermination is generally the owner's responsibility. However, when a tenant's poor housekeeping is judged to be the cause of the problem, the owner will be responsible for the first treatment, or series of treatments (verified with a copy of the invoice). The tenant, if the housekeeping is still judged to be the cause of the problem, will be responsible for the next treatment or series of treatments (verified with a copy of the invoice). On the third observation that extermination is needed and poor housekeeping is judged to be the problem, the tenant will be terminated.
11. A handrail is required for 4 or more risers inside or outside.
12. Porches, balconies or other platforms more than 30" higher than the adjacent area need a railing 36" high.

13. The surface of every interior wall, ceiling, floor, window, door, and trim, shall be finished with paint, wallpaper, carpet, vinyl, or equivalent and proper material, so as to be reasonably smooth, clean, tight, and easily cleaned.
14. A unit may contain a situation where the occupants must go through one bedroom to get to the second bedroom. The occupants cannot go through more than one bedroom to get to another. In units with two or more bedrooms, the occupants cannot go through a bathroom to get to a bedroom, nor through a bedroom to get to a bathroom (if there is no other full bathroom in the unit).
15. Rooming units or single room occupancy (SRO) units must have a common kitchen and living room in the building that meet HQS except that it not be in the unit. No one should have to go through someone else's unit, nor someone else through the client's unit to enter or leave the building, kitchen, bath, or living room. The bathroom must be private for one person at a time.
16. The living room, kitchen, primary bathroom, and bedrooms must be more than 50% above the average grade of the adjoining ground.
17. Units with a livable space on the third floor such as a bedroom or sitting room must have a portable chain ladder (or permanent means) for egress and the window (or door) should be of such size to accommodate the occupants for escape.
18. All appliances and facilities, including the heating and hot water units shall be in place and capable of meeting the requirements even when the heating facilities, etc. required are not in operation, for example, a furnace not in use in the summer.
19. If there is no record of annual service posted on or near heating unit, the owner is to have unit serviced by a professional, then record date, service performed, and name of technician and post on or near unit. If unit is Forced Air, supply at least two additional filters and instruct tenant how to change them during heavy winter usage.
20. Temperature should be able to reach at least 70 degrees at three feet above floor of all rooms used for living from September 1, to June 1, according to the Chester County Health Department.
21. If infestation is present in unit or building, the owner is to have a professional Vector or Extermination company treat the unit and/or building and set up a program for monthly treatment. A copy of the Invoice and treatment schedule should be sent to the Inspection Department.
22. If poison ivy is present on the grounds of the unit, the owner must have it treated and removed.

### **13.0 RESERVED**

### **14.0 RECERTIFICATION**

#### ***14.0.1 CHANGES IN LEASE OR RENT***

If the participant and owner agree to any changes in the lease, all changes must be in writing, and the owner must immediately give the Housing Authority a copy of the changes. The lease, including any changes, must be in accordance with this Administrative Plan.

Owners must notify the Housing Authority of any changes in the amount of the rent at least sixty (60) calendar days before the changes go into effect. Any such changes are subject to the Authority determining them to be reasonable.

Assistance shall not be continued unless the Authority has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner if any of the following changes are made:

- A. Requirements governing participant or owner responsibilities for utilities or appliances;
- B. In the lease terms reducing the length of the lease;
- C. If the participant moves to a new unit, even if the unit is in the same building or complex.

The approval of the Housing Authority is not required for changes other than those specified in A, B, or C above.

However, owners wishing to change ownership must receive the written permission of the Housing Authority prior to assigning a HAP contract. The owner shall inform the Authority of the impending change and give the Authority five (5) calendar days to review the prospective owner to make sure they are appropriate. The new owner shall meet the same criteria as the existing owner. Approval shall not be unreasonably withheld.

#### **14.1 ANNUAL REEXAMINATION**

At least annually (within 365 calendar days of the anniversary date of the HAP contract) the Housing Authority will conduct a reexamination of family income and circumstances. The results of the reexamination determine (1) the rent the family will pay, and (2) whether the family subsidy is correct based on the family unit size.

The Authority will send a notification letter to the family letting them know that it is time for their annual reexamination and scheduling an appointment. The letter includes forms for the family to complete in preparation for the interview. The letter includes instructions permitting the family to reschedule the interview if necessary. The letter tells families who may need to make alternate arrangements due to a disability that they may contact staff to request an accommodation of their needs.

During the interview, the family will provide all information regarding income, assets, deductions (eligible expenses), and other information necessary to determine the family's share of rent. The family will sign the HUD consent form and other consent forms that later will be mailed to the sources that will verify the family circumstances.

Upon receipt of verification, the Housing Authority will determine the family's annual income and will calculate their family share.

##### **14.1.1 Effective Date of Rent Changes for Annual Reexaminations**

The new family share will generally be effective upon the anniversary date with 30 calendar days notice of any rent increase to the family.

If the rent determination is delayed due to a reason beyond the control of the family, then any rent increase will be effective the first of the month after the month in which the family receives a 30-day notice of the amount. If the new rent is a reduction and the delay is beyond the control of the family, the reduction will be effective as scheduled on the anniversary date.

If the family caused the delay, then any increase will be effective on the anniversary date. Any reduction will be effective the first of the month after the rent amount is determined.

#### **14.1.2 Missed Appointments**

If the family fails to respond to the letter and fails to attend the interview, a second letter will be mailed. The second letter will advise of a new time and date for the interview, allowing for the same considerations for rescheduling and accommodation as above. The letter will also advise that failure by the family to attend the second scheduled interview will result in the Housing Authority taking action to terminate the family's assistance. If there is no response to the second letter, a termination notice will be issued to both the family and the owner. The termination notice will inform the family of its right to request an informal hearing.

#### **14.2 INTERIM REEXAMINATIONS**

During an interim reexamination only the information affected by the changes being reported will be reviewed and verified.

Families are required to report the following changes to the Housing Authority within ten (10) business days between regular reexaminations. These changes will trigger an interim reexamination.

- A. A member has been added to the family through birth or adoption or court-awarded custody.
- B. A household member is leaving or has left the family unit.
- C. Family break-up

In circumstances of a family break-up, the Authority will make a determination of which family member will retain the housing choice voucher, taking into consideration the following factors:

1. To whom the housing choice voucher was issued.
2. The interest of minor children or of ill, elderly, or disabled family members.
3. Whether the assistance should remain with the family members remaining in the unit.
4. Whether family members were forced to leave the unit as a result of actual or threatened physical violence by a spouse or other member(s) of the household.

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

Because of the number of possible different circumstances in which a determination will have to be made, the Housing Authority will make determinations on a case by case basis.

The Housing Authority will issue a determination within 10 business days of the request for a determination. The family member requesting the determination may request an informal hearing in compliance with the informal hearings in Section 16.2.

In order to add a household member other than through birth, adoption, or court-awarded custody the family must request that the new member be added to the lease. Before adding the new member to the lease, the individual must complete an application form stating their income, assets, and all other information required of an applicant. The individual must provide their Social Security Number if they have one, and must verify their citizenship/eligible immigrant status (Their housing will not be delayed due to delays in verifying eligible immigrant status other than delays caused by the family). The new family member will go through the screening process similar to the process for applicants. The Authority will determine the eligibility of the individual before allowing them to be added to the lease. If the individual is found to be ineligible or does not pass the screening criteria, they will be advised in writing and given the opportunity for an informal review. If they are found to be eligible and do pass the screening criteria, the Authority will grant approval to add their name to the lease. At the same time, the family's annual income will be recalculated taking into account the income and circumstances of the new family member. The effective date of the new rent will be in accordance with paragraph below 14.2.2.

A family requesting a live-in-aide will be required to provide verification of the need for a live-in-aide. In addition, before approval of the live-in-aide, the individual (live-in-aide) must complete an application form for purposes of determining citizenship/eligible immigrant status and the live-in-aide will go through the screening process similar to the process for applicants. The Authority will determine the eligibility of the live-in-aide before approval can be granted. If the individual is found to be ineligible or does not pass the screening criteria, the resident will be advised in writing and given the opportunity for an informal review. Under no circumstances will the live-in-aide be added to the lease or be considered the last remaining member of a tenant family.

Families are not required to, but may at any time, request an interim reexamination based on a decrease in income, an increase in allowable expenses, or other changes in family circumstances. Upon such request, the Housing Authority will take timely action to process the interim reexamination and recalculate the family share.

#### **14.2.1 Special Reexaminations**

If a family's income is too unstable to project for 12 months, including families that temporarily have no income or have a temporary decrease in income, the Authority may schedule special reexaminations every thirty (30) calendar days until the income stabilizes and an annual income can be determined.

#### **14.2.2 Effective Date of Rent Changes Due to Interim or Special Reexaminations**

Any rent increase will be effective the first of the month following the month in which the family receives notice of the new rent amount. There will always be a minimum of 30 calendar days notice. If the family causes a delay in the reexamination process, then the rent increase will be effective on the date it would have been effective had the process not been delayed (even if this means a retroactive increase).

If the new rent is a reduction and any delay is beyond the control of the family, the reduction will be effective the first of the month after the interim reexamination should have been completed.

If the new rent is a reduction and the family caused the delay or did not report the change in a timely manner, the change will be effective the first of the month after the rent amount is

determined.

## **15.0 TERMINATION OF ASSISTANCE TO THE FAMILY BY THE HOUSING AUTHORITY**

The Authority may at any time terminate program assistance for a participant because of any of the following actions or inactions by the household:

- A. If the family violates any family obligations under the program;
- B. If the family was evicted from housing assisted under the Section 8 program for serious violations of the lease;
- C. If a family member fails to sign and submit consent forms;
- D. If a family fails to establish citizenship or eligible immigrant status and is not eligible for or does not elect continuation of assistance, pro-ration of assistance, or temporary deferral of assistance. If the Authority determines that a family member has knowingly permitted an ineligible noncitizen (other than any ineligible noncitizens listed on the lease) to permanently reside in their Section 8 unit, the family's assistance will be terminated. Such family will not be eligible to be readmitted to Section 8 for a period of 24 months from the date of termination;
- E. Have a household member who is currently engaging in illegal use of a drug;
- F. Have a household member whose pattern of illegal drug use interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents;
- G. Have a household member who has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing;
- H. Have a household member who is subject to a lifetime registration requirement under a State sex offender registration program;
- I. If any member of the family commits drug-related or violent criminal activity in violation of Section 2.3 of this Administrative Plan and 24 CFR 982.551;
- J. Have a household member whose abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;
- K. Have a household member who is a fugitive felon, parole violator or person 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;
- L. Have a family member who violates any family obligations under the program;
- M. Have a family member who has been evicted from federally assisted housing in the last five years;
- N. Have a family member that Authority has ever terminated assistance for under the program;

- O. Have a family member that has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program;
- P. Currently owes rent or other amounts to the Authority or to another Housing Authority in connection with Section 8 or public housing assistance under the 1937 Act;
- Q. Have not reimbursed any Housing Authority 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;
- R. Have breached an agreement with the Authority to pay amounts owed to a Housing Authority, or amounts paid to an owner by a Housing Authority;
- S. Have engaged in or threatened abusive or violent behavior towards any Authority staff member or resident;

For purposes of this section, the Authority may terminate assistance for criminal activity by a household member as authorized in this section if the Authority determines, based on a preponderance of the evidence, that the household member has engaged in the activity, regardless of whether the household member has been arrested or convicted of such activity.

If the Authority proposes to terminate assistance for criminal activity as shown by a criminal record, the Authority will notify the household of the proposed action to be based on the information and must provide the person with the criminal record (i.e., the family member) and the head of household with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record, in accordance with the procedures established for the Informal Hearing for Participants. The household will have ten (10) business days to dispute the accuracy and relevance of the record in writing.

#### CONSIDERATION OF CIRCUMSTANCES:

In determining whether to terminate assistance because of action or failure to act by members of the family related to paragraphs L through S above, the Authority may consider all relevant circumstances, such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of termination of assistance on other family members who were not involved in the action or failure to act.

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

Any family absent from the assisted unit for more than 180 consecutive calendar days (180 is the maximum) must be terminated from the program.

In circumstances of a family break-up, the Authority will make a determination of which family member will retain the housing choice voucher, taking into consideration the following factors:

- A. To whom the housing choice voucher was issued.

- B. The interest of minor children or of ill, elderly, or disabled family members.
- C. Whether the assistance should remain with the family members remaining in the unit.
- D. Whether family members were forced to leave the unit as a result of actual or threatened physical violence by a spouse or other member(s) of the household.

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

## **16.0 COMPLAINTS, INFORMAL REVIEWS FOR APPLICANTS, INFORMAL HEARINGS FOR PARTICIPANTS**

### **16.1 COMPLAINTS**

The Authority will investigate and respond to complaints by participant families, owners, and the general public. The Authority may require that complaints other than HQS violations be put in writing. Anonymous complaints are investigated whenever possible.

### **16.2 INFORMAL REVIEW FOR THE APPLICANT**

#### **A. Informal Review for the Applicant**

The Authority will give an applicant for participation in the Section 8 Existing Program prompt notice of a decision denying assistance to the applicant. The notice will contain a brief statement of the reasons for the Authority decision. The notice will state that the applicant may request an informal review within 10 business days of the denial and will describe how to obtain the informal review.

#### **B. When an Informal Review is not Required**

The Authority will not provide the applicant an opportunity for an informal review for any of the following reasons:

1. A determination of the family unit size under the Authority subsidy standards.
2. A Housing Authority determination not to approve an extension or suspension of a housing choice voucher term.
3. A Housing Authority determination not to grant approval to lease a unit under the program or to approve a proposed lease.
4. A Housing Authority determination that a unit selected by the applicant is not in compliance with HQS.
5. A Housing Authority determination that the unit is not in accordance with HQS because of family size or composition.
6. General policy issues or class grievances.
7. Discretionary administrative determinations by the Authority.

C. Informal Review Process

The Housing Authority will give an applicant an opportunity for an informal review of the Authority decision denying assistance to the applicant. The procedure is as follows:

1. The review will be conducted by any person or persons designated by the Authority other than the person who made or approved the decision under review or a subordinate of this person.
2. The applicant will be given an opportunity to present written or oral objections to the Authority decision.
3. The Housing Authority will notify the applicant of the Authority decision after the informal review within 14 calendar days. The notification will include a brief statement of the reasons for the final decision.

D. Considering Circumstances

In deciding whether to deny assistance to an applicant because of action or inaction by members of the family, the Housing Authority may consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial of assistance on other family members who were not involved in the action or failure.

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

If the Housing Authority seeks to deny assistance because of illegal use, or possession for personal use, of a controlled substance, or pattern of abuse of alcohol, such use or possession or pattern of abuse must have occurred within one year before the date that the Housing Authority provides notice to the family of the Housing Authority determination to deny assistance. In determining whether to deny assistance for these reasons the Authority will consider evidence of whether the household member:

1. Has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol;
2. Has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol; or
3. Is participating in a supervised drug or alcohol rehabilitation program and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.

E. Informal Review Procedures for Denial of Assistance on the Basis of Ineligible Immigration Status

The applicant family may request that the Authority provide for an informal review after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. The applicant family must make this request within 30 calendar days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 calendar days of receipt of the INS appeal decision.

For applicant families, the Informal Review Process above will be utilized with the exception that the applicant family will have up to 30 calendar days of receipt of the *Notice of Denial or Termination of Assistance*, or of the INS appeal decision to request the review.

### **16.3 INFORMAL HEARINGS FOR PARTICIPANTS**

#### **A. When a Hearing is Required**

1. The Authority will give a participant family an opportunity for an informal hearing to consider whether the following Authority decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations, and Authority policies:
  - a. A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.
  - b. A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the Authority utility allowance schedule.
  - c. A determination of the family unit size under the Authority subsidy standards.
  - d. A determination to terminate assistance for a participant family because of the family's action or failure to act.
  - e. A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under the XYZ Housing Authority policy and HUD rules.
  - f. Denial of a hardship exemption to the minimum rent requirement.
2. In cases described in paragraphs 16.3(A)(1)(d), (e), and (f) of this Section, the Authority will give the opportunity for an informal hearing before the Authority terminates housing assistance payments for the family under an outstanding HAP contract.

#### **B. When a Hearing is not Required**

The Authority will not provide a participant family an opportunity for an informal hearing for any of the following reasons:

1. Discretionary administrative determinations by the Authority.
2. General policy issues or class grievances.
3. Establishment of the Housing Authority schedule of utility allowances for families in the program.
4. A Housing Authority determination not to approve an extension or suspension of a housing choice voucher term.
5. A Housing Authority determination not to approve a unit or lease.

6. A Housing Authority determination that an assisted unit is not in compliance with HQS. (However, the Authority will provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family.)
7. A Housing Authority determination that the unit is not in accordance with HQS because of the family size.
8. A determination by the Authority to exercise or not exercise any right or remedy against the owner under a HAP contract.

C. Notice to the Family

1. In the cases described in paragraphs 16.3(A)(1)(a), (b), and (c) of this Section, the Authority will notify the family that the family may ask for an explanation of the basis of the Authority's determination, and that if the family does not agree with the determination, the family may request an informal hearing on the decision.
2. In the cases described in paragraphs 16.3(A)(1)(d), (e), and (f) of this Section, the Authority will give the family prompt written notice that the family may request a hearing within 10 business days of the notification. The notice will:
  - a. Contain a brief statement of the reasons for the decision; and
  - b. State if the family does not agree with the decision, the family may request an informal hearing on the decision within 10 business days of the notification.

D. Hearing Procedures

The Authority and participants will adhere to the following procedures:

1. Discovery
  - a. The family will be given the opportunity to examine before the hearing any Authority documents that are directly relevant to the hearing. The family will be allowed to copy any such document at the family's expense. If the Authority does not make the document(s) available for examination on request of the family, the Authority may not rely on the document at the hearing.
  - b. The Authority will be given the opportunity to examine, at the Authority's offices before the hearing, any family documents that are directly relevant to the hearing. The Authority will be allowed to copy any such document at the Authority's expense. If the family does not make the document(s) available for examination on request of the Authority, the family may not rely on the document(s) at the hearing.

Note: The term **document** includes records and regulations.

2. Representation of the Family

At its own expense, a legal counsel or other representative may represent the family. The family must notify the Authority if they intend to be represented by legal counsel, advocate, or another party.

3. Hearing Officer

- a. The hearing will be conducted by any person or persons designated by the Authority, other than a person who made or approved the decision under review or a subordinate of this person.
- b. The person who conducts the hearing will regulate the conduct of the hearing in accordance with the Authority hearing procedures.

4. Evidence

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

5. Issuance of Decision

The person who conducts the hearing must issue a written decision within 14 calendar days from the date of the hearing, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family shall be based on a preponderance of the evidence presented at the hearing.

6. Effect of the Decision

The Authority is not bound by a hearing decision:

- a. Concerning a matter for which the Authority is not required to provide an opportunity for an informal hearing under this Section, or that otherwise exceeds the authority of the person conducting the hearing under the Authority hearing procedures.
- b. Contrary to HUD regulations or requirements, or otherwise contrary to Federal, State, or local law.
- c. If the Authority determines that it is not bound by a hearing decision, the Authority will notify the family within 14 calendar days of the determination, and of the reasons for the determination.

E. Considering Circumstances

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

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

If the Housing Authority seeks to terminate assistance because of illegal use, or possession for personal use, of a controlled substance, or pattern of abuse of alcohol, such use or possession or pattern of abuse must have occurred within one year before the date that the Housing Authority provides notice to the family of the Housing Authority

determination to deny or terminate assistance. In determining whether to terminate assistance for these reasons the Authority will consider evidence of whether the household member:

1. Has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol;
2. Has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol; or
3. Is participating in a supervised drug or alcohol rehabilitation program and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.

F. Informal Hearing Procedures for Denial of Assistance on the Basis of Ineligible Immigration Status

The participant family may request that the Authority provide for an informal hearing after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. This request must be made by the participant family within 30 calendar days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 calendar days of receipt of the INS appeal decision.

For the participant families, the Informal Hearing Process above will be utilized with the exception that the participant family will have up to 30 calendar days of receipt of the *Notice of Denial or Termination of Assistance*, or of the INS appeal decision.

## 17.0 TERMINATION OF THE LEASE AND CONTRACT

The term of the lease and the term of the HAP contract are the same. They begin on the same date and they end on the same date. The lease may be terminated by the owner, by the participant, or by the mutual agreement of both. The owner may only terminate the contract by terminating the lease. The HAP contract may be terminated by the Authority. Under some circumstances the contract automatically terminates.

A. Termination of the Lease

1. By the family

The family may terminate the lease without cause upon proper notice to the owner and to the Housing Authority after the initial lease term. The length of the notice that is required is stated in the lease (generally 30 calendar days, but no more than 60 calendar days).

2. By the owner

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person in accordance with this section if the owner determines that the covered person has engaged in a criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.

If the law and regulation permit the owner to take an action but do not require action to be taken, the owner may take or not take the action in accordance with the owner's standards for eviction. The owner may consider all of the circumstances relevant to a particular eviction case, such as:

- a. The seriousness of the offending action;
- b. The effect on the community of denial or termination or the failure of the owner to take such action;
- c. The extent of participation by the leaseholder in the offending action;
- d. The effect of denial of admission or termination of tenancy on household members not involved in the offending activity;
- e. The demand for assisted housing by families who will adhere to lease responsibilities;
- f. The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- g. The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully. For this purpose, the owner may require the participant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of assistance actions must be consistent with the fair housing and equal opportunity provision of 24 CFR 5.105.

- a. The owner may terminate the lease during its term on the following grounds:
  - i. Serious or repeated violations of the terms or conditions of the lease;
  - ii. Violation of Federal, State, or local law that imposes obligations on the participant in connection with the occupancy or use of the unit and its premises;
  - iii. Criminal activity by the household, a guest, or another person under the control of the household that threatens the health, safety, or right to peaceful enjoyment of the premises by other persons (including property management staff) residing on the premises or in the immediate vicinity of the premises;

- iv. Any drug-related or violent criminal activity engaged in on or near the premises by any resident, household member, or guest, or such activity engaged in on the premises by any other person under the tenant's control, is grounds for the owner to terminate tenancy;
- v. When the owner determines that a household member is illegally using a drug or when the owner determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- vi. If a participant 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 that, in the case of the State of New Jersey, is a high misdemeanor; or violating a condition of probation or parole imposed under Federal or State law.
- vii. If the tenant is violating a condition of probation or parole imposed under Federal or State law.
- viii. Other good cause. Other good cause may include, but is not limited to:
  - (1) Failure by the family to accept the offer of a new lease;
  - (2) Family history of disturbances of neighbors or destruction of property, or living or housekeeping habits resulting in damage to the property or unit;
  - (3) The owner's desire to utilize the unit for personal or family use or for a purpose other than use as a residential rental unit;
  - (4) A business or economic reason such as sale of the property, renovation of the unit, desire to rent at a higher rental amount.

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person in accordance with this section if the owner determines that the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.

- b. During the first year the owner may not terminate tenancy for other good cause unless the reason is because of something the household did or failed to do.
- c. The owner may only evict the participant by instituting court action after or simultaneously providing written notice to the participant specifying the grounds for termination. The owner must give the Housing Authority a copy of any owner eviction notice to the participant at the same time that the owner gives the notice to the participant.
- d. The owner may terminate the contract at the end of the initial lease term or any extension of the lease term without cause by providing notice to the family that the lease term will not be renewed.

3. By mutual agreement

The family and the owner may at any time mutually agree to terminate the lease.

B. Termination of the Contract

1. Automatic termination of the contract

- a. If the Authority terminates assistance to the family, the contract terminates automatically.
- b. If the family moves out of the unit, the contract terminates automatically.
- c. 180 calendar days after the last housing assistance payment to the owner.

2. Termination of the contract by the owner

The owner may only terminate tenancy in accordance with the lease and State and local law.

3. Termination of the HAP contract by the Housing Authority

The Housing Authority may terminate the HAP contract because:

- a. The Housing Authority has terminated assistance to the family.
- b. The unit does not meet HQS space standards because of an increase in family size or change in family composition.
- c. When the family breaks up and the Authority determines that the family members who move from the unit will continue to receive the assistance.
- d. The Authority determines that there is insufficient funding in their contract with HUD to support continued assistance for families in the program.
- e. The owner has breached the contract in any of the following ways:
  - i. If the owner has violated any obligation under the HAP contract for the dwelling unit, including the owner's obligation to maintain the unit in accordance with the HQS.
  - ii. If the owner has violated any obligation under any other housing assistance payments contract under Section 8 of the 1937 Act.
  - iii. If the owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program.
  - iv. For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable mortgage insurance or loan program, with the mortgage or mortgage note, or with the regulatory agreement.

- v. If the owner has engaged in drug-related criminal activity or any violent criminal activity.
4. Final HAP payment to owner

The HAP payment stops when the lease terminates. The owner may keep the payment for the month in which the family moves out. If the owner has begun eviction proceedings and the family continues to occupy the unit, the Housing Authority will continue to make payments until the owner obtains a judgment or the family moves out.

#### **18.0 CHARGES AGAINST THE SECTION 8 ADMINISTRATIVE FEE RESERVE**

Occasionally, it is necessary for the Housing Authority to spend money from its Section 8 Administrative Fee Reserve to meet unseen or extraordinary expenditures or for its other housing related purposes consistent with federal and State law.

The Housing Authority Board of Commissioners authorizes the Executive Director to expend without prior Board approval up to \$50,000 for authorized expenditures.

Any item(s) exceeding \$50,000 will require prior Board of Commissioner approval before any charge is made against the Section 8 Administrative Fee Reserve.

#### **19.0 INTELLECTUAL PROPERTY RIGHTS**

No program receipts may be used to indemnify contractors or subcontractors of the Housing Authority against costs associated with any judgement of infringement of intellectual property rights.

#### **20.0 HOUSING AUTHORITY OWNED HOUSING**

Units owned by the Authority and not receiving subsidy under any other program are eligible housing units for Housing Choice Voucher holders. In order to comply with Federal regulation, the Authority will do the following:

- A. The Authority will make available through the briefing process both orally and in writing the availability of Authority owned units (notification will also include other properties owned/managed by the private sector available to Housing Choice Voucher holders).
- B. The Authority will obtain the services of an independent entity to perform the following Authority functions:
  - 1. Determine rent reasonableness for the unit. The independent entity will communicate the rent reasonableness determination to the family and the Authority.
  - 2. To inspect the unit for compliance with HQS.

- C. The Authority will gain HUD approval for the independent agency/agencies utilized to perform the above functions.
- D. The Authority will compensate the independent agency/agencies from our ongoing administrative fee income.
- E. The Authority, or the independent agency/agencies, will not charge the family any fee or charge for the services provided by the independent agency.

## **21.0 QUALITY CONTROL OF SECTION 8 PROGRAM**

In order to maintain the appropriate quality standards for the Section 8 program, the Housing Authority will regularly (at least annually) review files and records to determine if the work documented in the files or records conforms to program requirements. This shall be accomplished by a supervisor or another qualified person other than the one originally responsible for the work or someone subordinate to that person. The number of files and/or records checked shall be at least equal to the number specified in the Section 8 Management Assessment Program (SEMAP) for our size housing authority.

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

- A. - The proper people were selected from the waiting list and their selection criteria were actually met by the applicants.
- B. The determination of rent reasonableness.
- C. Participants are paying the appropriate rent and their income and expenses were properly verified both upon admission and re-certification.
- D. HQS inspections were properly made.
- E. HQS deficiencies were properly followed up on and appropriate repairs were made in a timely manner.

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

## **22.0 [RESERVED]**

## **23.0 HOMEOWNERSHIP OPTION**

### **23.1 PURPOSE**

The Authority's homeownership option is designed to promote and support homeownership by a "first-time" homeowner -- a family that meets the definition in this Plan. It allows one or more members of the family to purchase a home. Section 8 payments supplement the family's own income to facilitate the transition from rental to homeownership. The initial availability of these assistance payments helps the family pay the costs of homeownership, and may provide additional assurance for a lender, so that the family can finance purchase of the home.

Section 8 homeownership assistance for a cooperative homeowner is specifically authorized for both families that are first time cooperative homeowners and families that owned its cooperative unit prior to receiving Section 8 assistance.

### **23.2 FAMILY PARTICIPATION REQUIREMENTS**

- A. The family is qualified to participate as set forth in Section 23.3 of this policy.
- B. The unit to be purchased is eligible as set forth in Section 23.4 of this policy.
- C. The family has satisfactorily completed the required pre-assistance homeownership counseling.
- D. If located in a special flood hazard area, the purchaser has obtained flood insurance on the home and agrees to maintain this insurance.

### **23.3 FAMILY ELIGIBILITY REQUIREMENTS**

- A. The family has been admitted to the Section 8 Housing Choice Voucher program and desires to participate in the homeownership program.
- B. At the commencement of homeownership assistance the family must be one of the following:
  - 1. A first-time homeowner, displaced homeowner, or not have owned a home in the past three (3) years;
  - 2. A cooperative member; or
  - 3. A family of which a family member is a person with disabilities, and the use of the homeownership option is needed as a reasonable accommodation so that the program is readily accessible to and usable by such person.
- C. At commencement of homeownership assistance for the family, the family must demonstrate that its total annual income (gross income), as determined by the Authority, of all the adult family members who will own the home at commencement of homeownership assistance is not less than the Federal minimum hourly wage multiplied by 2,000 hours. However, in the case of disabled families, the minimum income shall be equal to the monthly Federal Supplemental Security Income (SSI) for an individual living alone (or paying his or her share of food and housing costs) multiplied by twelve.

Except in the case of an elderly family or a disabled family, the Authority shall not count any welfare assistance received by the family in determining annual income under this section.

The disregard of welfare assistance income under the preceding paragraph only affects the determination of minimum annual income used to determine if a family initially qualifies for commencement of homeownership assistance in accordance with this section, but does not affect:

- 1. The determination of income-eligibility for admission to the housing choice voucher program;
- 2. Calculation of the amount of the family's total tenant payment (gross family

contribution); or

3. Calculation of the amount of homeownership assistance payments on behalf of the family.

In the case of an elderly family or a disabled family, welfare assistance shall be counted in determining annual income.

- D. The family must demonstrate that one or more adult members of the family who will own the home at commencement of homeownership assistance:
1. Is currently employed on a full-time basis (the term "full-time employment" means not less than an average of 30 hours per week); and
  2. Has been continuously so employed during the year before commencement of homeownership assistance for the family.

This requirement shall be considered fulfilled if:

1. The family member is self-employed and earning a net income (income after business expenses have been deducted) that equals the federal minimum hourly wage multiplied by 2000 hours; or
2. Any employment interruptions were for less than 45 calendar days.

The employment requirement does not apply to an elderly family or a disabled family. Furthermore, if a family other than an elderly family or a disabled family, includes a person with disabilities, an exemption from the employment requirement shall be granted if the Authority determines that an exemption is needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

- E. The Authority shall not commence homeownership assistance for a family if any family member has previously received assistance under the homeownership option while an adult, and has defaulted on a mortgage securing debt incurred to purchase the home.
- F. Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.
- G. Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale.

#### **23.4 ELIGIBLE UNITS**

- A. Any unit that is eligible under the Section 8 rental assistance program is eligible for this program. The types of units eligible are:
1. Single family dwellings;
  2. Condominiums;
  3. Cooperatives; and

4. Manufactured Housing and their pads (must have at least a permanent foundation and at least a 40-year lease).
- B. The unit must be either existing or under construction (the footers have been poured) at the time the family enters into the contract of sale.
  - C. The unit must be either a one-unit property or a single dwelling unit in a cooperative or condominium.
  - D. The unit must satisfy the housing quality standards (HQS) and have been inspected by an independent inspector designated and paid for by the family.
  - E. The seller cannot be someone who has been debarred, suspended, or is subject to a limited denial of participation by HUD.
  - F. If the unit is owned by the Authority or by an entity substantially controlled by the Housing Authority, the following additional conditions must be met:
    1. The purchasing family must verify in writing that it is purchasing the units without any housing authority steering or pressure; and
    2. An independent agency, approved by HUD must perform the following functions for this type of sale:
      - a. Inspect the units for HQS compliance;
      - b. Review the independent inspection report;
      - c. Review the sales contract; and
      - d. Determine the reasonableness of the sale price and any housing authority provided financing.

### **23.5 *SEARCHING FOR A NEW HOME***

Because the financial health of the Authority's Section 8 program depends upon having units either under lease or being purchased, it is necessary for the Authority to limit the amount of time a family can take between the time a Housing Choice Voucher is issued to the family and the time a home is identified that the family wishes to purchase. Normally, families will have up to sixty (60) calendar days to locate an appropriate property and notify the housing authority. If extraordinary difficulties are encountered, the family can request up to two (2) thirty (30) day extensions that may be granted at the sole discretion of the Authority. If an extension is requested and granted, the family will orally report to the housing authority every two weeks to update the Authority on the progress of its search.

Once a suitable property has been identified and an agreement to purchase contract entered into, the Authority will determine a maximum time in which the closing must occur and the family to take occupancy of the property. This time frame will vary depending on market conditions.

If the family is unable to locate a suitable home to purchase, it can request that the Housing Choice Voucher be converted into a rental assistance voucher. This request must be made before the housing choice voucher expires. Approval of the request will be at the sole discretion of the

Authority with the decision being based on the effort exerted by the family and the condition of the marketplace.

Additional time will be granted to a disabled family as a reasonable accommodation if justified by the family's actions and/or marketplace conditions.

### **23.6 HOMEOWNERSHIP COUNSELING**

Before the commencement of homeownership assistance for a family, the family must attend and satisfactorily complete a pre-assistance homeownership and housing counseling program required by the Authority (pre-assistance counseling). If possible, the counseling will be conducted by a HUD-approved counseling agency. If this is not available, the housing authority shall make other arrangements for the pre-assistance counseling.

Among the topics to be covered in the PHA-required pre-assistance counseling and any ongoing counseling program are:

- A. Home maintenance (including care of the grounds);
- B. Budgeting and money management;
- C. Credit counseling;
- D. How to negotiate the purchase price of a home;
- E. How to obtain homeownership financing and loan preapprovals, including a description of types of financing that may be available, and the pros and cons of different types of financing;
- F. How to find a home, including information about homeownership opportunities, schools, and transportation in the PHA jurisdiction;
- G. Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- H. Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- I. Information about the Real Estate Settlement Procedures Act (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

The Authority will also offer additional counseling after commencement of homeownership assistance (ongoing counseling). This counseling will be voluntary for all homeownership assistance recipients except those requesting their second, fourteenth and fifteenth years of assistance. The reason for this mandatory counseling is to make sure the families are either off to a good start or preparing for the termination of their assistance.

### **23.7 HOME INSPECTIONS**

The Authority will not commence homeownership assistance for a family until it has inspected the unit and has determined that the unit passes HQS.

The unit must also be inspected by an independent professional inspector selected by and paid by

the family. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components. The Authority may not require the family to use an independent inspector selected by the housing authority. The independent inspector may not be a housing authority employee or contractor, or other person under control of the housing authority. The independent inspector shall be certified by the American Society of Home Inspectors or one whose inspections are accepted by three local lenders. It shall be the responsibility of the inspector to verify that the inspector meets this certification qualification.

The independent inspector must provide a copy of the inspection report both to the family and to the Authority. The housing authority will not commence homeownership assistance for the family until it has reviewed the inspection report of the independent inspector. Even if the unit otherwise complies with the HQS (and may qualify for assistance under the Authority's tenant-based rental voucher program), the housing authority shall have discretion to disapprove the unit for assistance under the homeownership option because of information in the inspection report.

### **23.8 CONTRACT OF SALE**

Before commencement of homeownership assistance, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the Authority a copy of the contract of sale.

The contract of sale must:

- A. Specify the price and other terms of sale by the seller to the purchaser.
- B. Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser.
- C. Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser.
- D. Provide that the purchaser is not obligated to pay for any necessary repairs.
- E. Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation.
- F. Include the Authority's Addendum to the Contract of Sale.

### **23.9 FINANCING THE PURCHASE OF THE HOME**

- A. A purchasing family must invest at least three percent of the purchase price of the home they are buying in the property. This can take the form of either a down payment, closing costs, or a combination of the two. Of this sum, at least one percent of the purchase price must come from the family's personal resources.
- B. The family must qualify for the mortgage loan under a lender's normal lending criteria taking into account the fact that this is by definition a low-income family.
- C. If the home is purchased using FHA mortgage insurance, it is subject to FHA mortgage insurance requirements.

- D. If the loan is financed either by the seller or a non-traditional mortgage lending institution or individual, the loan shall be subject to the review of the Authority. The housing authority may verify that there are no unusual or onerous requirements in the loan documents and that the mortgage is affordable to the purchasing family. Also, the lender must require that an appraisal of the property is conducted and the appraiser must determine that the property is worth at least as much as the purchaser is paying.
- E. Unless the purchaser can convince the Authority of unusual circumstances, no balloon payment mortgages or variable rate mortgages shall be allowed in the program.
- F. All mortgage loans must close within the period of time established by the Authority at the time the purchaser and seller enter into their sale contract.

### **23.10 REQUIREMENTS FOR CONTINUING ASSISTANCE**

Homeownership assistance will only be paid while the family is residing in the home. If the family moves out of the home, the Authority will not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the PHA the homeownership assistance for the month when the family moves out.

The family must comply with the following obligations:

- A. The family must attend and complete ongoing homeownership and housing counseling before the end of the first, thirteenth and fourteenth years of assistance in order for assistance to continue.
- B. The family must comply with the terms of any mortgage securing debt incurred to purchase the home (or any refinancing of such debt).
- C. As long as the family is receiving homeownership assistance, use and occupancy of the home is subject to the following requirements:
  - 1. The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
  - 2. The composition of the assisted family residing in the unit must be approved by the Authority. The family must promptly inform the housing authority of the birth, adoption or court-awarded custody of a child. The family must request housing authority approval to add any other family member as an occupant of the unit. No other person (i.e., nobody but members of the assisted family) may reside in the unit (except for a foster child or live-in aide).
  - 3. The family must promptly notify the Authority if any family member no longer resides in the unit.
  - 4. If the Authority has given approval, a foster child or a live-in aide may reside in the unit.
  - 5. Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit for residence by members of the family.
  - 6. The family must not sublease or let the unit.
  - 7. The family must not assign the mortgage or transfer the unit.

8. The family must supply any information or certification requested by the housing authority to verify that the family is living in the unit, or relating to family absence from the unit, including any housing authority requested information or certification on the purposes of family absences. The family must cooperate with the housing authority for these purposes. The family must promptly notify the housing authority of their absence from the unit.
- D. The family may grant a mortgage on the home for debt incurred to finance purchase of the home or any refinancing of such debt.
- E. Upon death of a family member who holds, in whole or in part, title to the home or ownership of cooperative membership shares for the home, homeownership assistance may continue pending settlement of the decedent's estate, notwithstanding transfer of title by operation of law to the decedent's executor or legal representative, so long as the home is solely occupied by remaining family members in accordance with Paragraph C above. In the case of a divorce or family separation, the assistance shall follow what a court decrees.
- F. The family shall supply the Authority with any required information requested by the housing authority. In particular this shall include information relating to the following:
  1. Citizenship or related immigration matters;
  2. Family income and composition;
  3. Social security numbers;
  4. Any mortgage or other debt placed on the property;
  5. Any sale or other transfer of any interest in the home; and
  6. The family's homeownership expenses.
- G. The family must notify the housing authority before the family moves out of the home.
- H. The family must notify the Authority if the family defaults on a mortgage securing any debt incurred to purchase the home.
- I. During the time the family receives homeownership assistance under this program, no family member may have any ownership interest in any other residential property.
- J. Before commencement of homeownership assistance, the family must execute a statement of family obligations in the form prescribed by HUD. In the statement, the family agrees to comply with all family obligations under the homeownership option.
- K. The family must secure the written permission of the Authority before it refinances any debt secured by the home or places any additional secured debt on the property.
- L. The family must assure the Authority that all real estate taxes were paid on a timely basis. If they are not paid, assistance shall be terminated.

### **23.11 MAXIMUM TERM OF HOMEOWNERSHIP ASSISTANCE**

- A. Except in the case of a family that qualifies as an elderly or disabled family, family members shall not receive homeownership assistance for more than fifteen years if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; or ten years, in all other cases.
- B. The maximum term described in the preceding paragraph applies to any member of the family who has an ownership interest in the unit during the time the homeownership payments are made or is the spouse of any member of the household who has an ownership interest during the time the homeownership payments are made.
- C. As noted in Paragraph A of this Section, the maximum homeownership assistance term does not apply to elderly and disabled families. In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family. If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance in accordance with this program).
- D. If the family has received such assistance for different homes, or from different housing authorities, the total of such assistance terms is subject to the maximum term described in Paragraph A of this section.

### **23.12 AMOUNT AND DISTRIBUTION OF HOMEOWNERSHIP ASSISTANCE**

- A. While the family is residing in the home, the Authority shall pay a monthly homeownership assistance payment on behalf of the family that is equal to the lower of:
  - 1. The payment standard minus the total tenant payment; or
  - 2. The family's monthly homeownership expenses minus the total tenant payment.
- B. The payment standard for a family is the lower of:
  - 1. The payment standard for the family unit size; or
  - 2. The payment standard for the size of the home.

If the home is located in an exception payment standard area, the Authority will use the appropriate payment standard for the exception payment standard area.

The payment standard for a family is the greater of:

- 1. The payment standard (as determined in accordance with Paragraph A of this section) at the commencement of homeownership assistance for occupancy of the home; or
- 2. The payment standard (as determined in accordance with Paragraph A of this section) at the most recent regular reexamination of family income and

composition since the commencement of homeownership assistance for occupancy of the home.

The Authority will use the same payment standard schedule, payment standard amounts, and subsidy standards for the homeownership option as for the rental housing choice voucher program.

- C. A family's homeownership expenses shall include the following items:
1. Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;
  2. Real estate taxes and public assessments on the home;
  3. Home insurance;
  4. Maintenance expenses of **\$50** per month;
  5. An allowance of **\$100** a month for costs of major repairs and replacements;
  6. The Authority's utility allowance for the home; and
  7. Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the housing authority determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.

Total homeownership expenses, less the HAP payment, shall not exceed 50% of the family's monthly adjusted income.

- D. Homeownership expenses for a cooperative member may only include amounts to cover:
1. The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
  2. Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
  3. Home insurance;
  4. The PHA allowance for maintenance expenses;
  5. The PHA allowance for costs of major repairs and replacements;
  6. The PHA utility allowance for the home; and
  7. Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the housing authority determines that allowance of such costs as homeownership expenses is needed as

a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.

Total homeownership expenses, less the HAP payment, shall not exceed 50% of the family's monthly adjusted income.

- E. If the home is a cooperative or condominium unit, or any other type of unit with association fees, homeownership expenses may also include cooperative or condominium operating charges, maintenance fees assessed by the condominium or cooperative homeowner association, or other association fees.
- F. The Authority will pay homeownership assistance payments directly to the lender on behalf of the family unless the lender does not want the payment to be made directly to them. If there is any excess assistance, it will be paid to the family.
- G. Homeownership assistance for a family terminates automatically 180 calendar days after the last housing assistance payment on behalf of the family. However, the Authority retains the discretion to grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

### **23.13 HOMEOWNERSHIP PORTABILITY**

- A. A family may qualify to move outside the initial Authority's jurisdiction with continued homeownership assistance under the housing choice voucher program. Families determined eligible for homeownership assistance by the Authority may purchase a unit outside our jurisdiction, if:
  - 1. They meet our normal requirements for portability under the rental program;
  - 2. The receiving housing authority is administering a housing choice voucher homeownership program and the family meets the receiving housing authority's eligibility requirements; and
  - 3. The receiving housing authority is accepting new homeownership families.
- B. Conversely, if the Authority has slots open in our homeownership program we will accept homeowners exercising portability from another program and absorb such families if possible.
- C. In general, the portability procedures described previously in this Administrative Plan apply to the homeownership option. The administrative responsibilities of the initial and receiving housing authorities are not altered except that some administrative functions (e.g., issuance of a housing choice voucher or execution of a tenancy addendum) do not apply to the homeownership option.
- D. The family must attend the briefing and counseling sessions required by the receiving housing authority. The receiving housing authority will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving housing authority must promptly notify the initial housing authority if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the housing authority.
- E. Continued assistance under portability procedures is the next Section of this Administrative Plan.

#### **23.14 MOVING WITH CONTINUED TENANT-BASED ASSISTANCE**

- A. A family receiving homeownership assistance may move to a new unit with continued tenant-based assistance. The family may move either with voucher rental assistance (in accordance with rental assistance program requirements) or with voucher homeownership assistance (in accordance with homeownership option program requirements). The Authority will not commence continued tenant-based assistance for occupancy of the new unit so long as any family member owns any title or other interest in the prior home. No more than one move per year may occur in the program.
- B. The Authority must be able to determine that all initial requirements have been satisfied if a family that has received homeownership assistance wants to move to a new unit with continued homeownership assistance. However, the following requirements do not apply:
  - 1. The requirement for pre-assistance counseling is not applicable.
  - 2. The requirement that a family must be a first-time homeowner is not applicable.
- C. The Authority may deny permission to move with continued assistance in the following circumstances:
  - 1. The Authority may deny permission to move with continued rental or homeownership assistance if the housing authority determines that it does not have sufficient funding to provide continued assistance.
  - 2. At any time, the Authority may deny permission to move with continued rental or homeownership assistance in accordance with the next Section.

#### **23.15 DENIAL OR TERMINATION OF ASSISTANCE FOR FAMILIES**

- A. At any time, the Authority may deny or terminate homeownership assistance in accordance with the same rules as it utilizes for the rental program.
- B. The same restrictions on admission or continued assistance in regards to criminal activities shall apply to the homeownership program as the rental program.
- C. The Authority may deny or terminate assistance for violation of participant obligations as previously described for the rental program.
- D. The PHA shall terminate housing choice voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA-insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt. The Authority, in its discretion, may permit the family to move to a new unit with continued housing choice voucher rental assistance if the family can show that the default was for reasons beyond its control. However, the housing authority will deny such permission, if:
  - 1. The family defaulted on an FHA-insured mortgage; and
  - 2. The family fails to demonstrate that:

- a. The family has conveyed title to the home, as required by HUD, to HUD or HUD's designee; and
- b. The family has moved from the home within the period established or approved by HUD.

## **24.0 CONDUCTING BUSINESS IN ACCORDANCE WITH CORE VALUES AND ETHICAL STANDARDS**

### **24.1 PURPOSE**

This Code of Conduct establishes standards for employee and Commissioner conduct that will assure the highest level of public service. Recognizing that compliance with any ethical standards rests primarily on personal integrity and specifically in this situation with the integrity of the employees and Commissioners of the Authority, this Section sets forth those acts or omissions of acts that could be deemed injurious to the general mission of the Authority.

This Code of Conduct is not intended, nor should it be construed, as an attempt to unreasonably intrude upon the individual employee or Commissioner's right to privacy and the right to participate freely in a democratic society and economy.

### **24.2 CONFLICT OF INTEREST**

In accordance with 24 CFR 982.161, neither the Authority nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with the tenant-based programs in which any of the following classes of persons has any interest, direct or indirect, during his or her tenure with the Authority or for one year thereafter:

- A. Any present or former member or officer of the Housing Authority (except a participant commissioner);
- B. Any employee of the Housing Authority or any contractor, subcontractor or agent of the Housing Authority who formulates policy or who influences decisions with respect to the programs;
- C. Any public official, member of a governing body, or State or local legislator who exercises functions or responsibilities with respect to the Authority's programs; or
- D. Any member of the Congress of the United States.

Any member of the classes described in A, B, C, or D, must disclose their interest or prospective interest to the Housing Authority and HUD.

The Conflict of Interest prohibition under this section (24.2) may be waived by the HUD Field Office upon the request of the Authority for good cause.

### **24.3 PROHIBITION OF SOLICITATION OR ACCEPTANCE OF GIFTS**

No Commissioner or Authority employee shall solicit any gift or consideration of any kind, nor shall any Authority employee accept or receive a gift having value in excess of \$5 regardless of the form of the gift, from any person who has an interest in any matter proposed or pending before the Authority.

#### **24.4 HOUSING AUTHORITY ADMINISTRATIVE AND DISCIPLINARY REMEDIES FOR VIOLATION OF THE HOUSING AUTHORITY CODE OF CONDUCT**

Violations of this Code of Conduct Policy will result in disciplinary action as outlined in the Authority's Personnel Policy or as determined by action of the Board of Commissioners.

#### **25.0 SUPPORT FOR OUR ARMED FORCES**

A major and important component of our armed forces are the part-time military personnel that serve in various Reserve and National Guard units. The Authority is very supportive of these men and women. An unfortunate fact of service in both the Reserves and National Guard is that from time to time their personnel are activated to full-time status and asked to serve our country in a variety of ways and circumstances. Whenever the Federal Government activates Reserve and/or National Guard personnel, the Authority wants to support these brave warriors in the following manners:

- A. If a family finds it necessary for another adult to temporarily move into a unit solely to serve as a temporary guardian for children residing in the unit, the income received by the temporary guardian will not be counted in determining family income. The presence of the temporary guardian will need to be approved by the landlord.
- B. Although typically a criminal background check is required before anyone can participate in the housing choice voucher program, this requirement will be waived for a temporary guardian. Instead, the background check will occur after the person moves into the assisted unit. If the results of the check dictate that the person is ineligible for the program, the family shall be given a reasonable time to find a replacement temporary guardian.
- C. Recognizing that activation in the Reserves or National Guard can be very disruptive to a family's income, the Authority will expeditiously re-evaluate a resident's portion of the rent if requested to do so.
- D. A unit cannot be held by a family that is not residing in it as their primary residence for more than 180 consecutive calendar days because of a specific federal regulation. If all members of a military family are temporarily absent from the unit because a member of the family has been called to active duty, the family can retain control of the unit by paying the required rent and returning to the unit within 30 calendar days of the conclusion of the active duty service. If the service extends beyond 180 calendar days, the Authority will seek a waiver of the 180 calendar day limit from HUD.

#### **26.0 ANTI-FRAUD POLICY**

The Authority is fully committed to combating fraud in its Section 8 housing program. It defines fraud as a single act or pattern of actions that include false statements, the omission of information, or the concealment of a substantive fact made with the intention of deceiving or misleading the Authority. It results in the inappropriate expenditure of public funds and/or a violation of Section 8 requirements.

Although there are numerous different types of fraud that may be committed, the two most common are the failure to fully report all sources of income and the failure to accurately report who is residing in the residence. The Authority shall aggressively attempt to prevent all cases of fraud.

When a fraudulent action is discovered, the Authority shall take action. It shall do one or more of the following things depending on circumstances and what it determines appropriate:

- A. Require the resident to immediately repay the amount in question;
- B. Require the resident to enter into a satisfactory repayment agreement;
- C. Terminate the resident's rental assistance;
- D. Refer the case for criminal prosecution; or
- E. Take such other action as the Authority deems appropriate.

## **27.0 PROJECT-BASING HOUSING VOUCHERS**

### **27.1 SELECTION OF PROPERTIES TO PROJECT-BASE**

The Authority has determined that project-basing some of its housing vouchers (not to exceed 20% of the inventory) is in the community interest. This effort is an appropriate option because it will deconcentrate poverty and expand housing and economic opportunity. The specifics of what the Housing Authority is seeking will be contained in an advertisement published in the manner prescribed by HUD that varies depending upon whether the units to be brought into the program are new construction, rehabilitated, or existing units. The actual selection of the units to be project-based shall also be in full accordance with HUD requirements.

### **27.2 OPERATION OF PROJECT-BASED PROPERTIES**

Project-based vouchers shall operate the same as tenant-based vouchers with the following exceptions.

#### **A. Project-Based Waiting List**

The Authority shall use the regular Section 8 waiting list for admission to the Project-Based Section 8 Assistance Program. All applicants will be maintained by date and time of application. If an applicant rejects an offer of assistance of the Project-Based Assistance Program, the rejection will not alter the applicant's position on the list for a regular Section 8 Tenant Based Voucher.

The waiting list for the Project-Based Section 8 Assistance Program will be maintained in accordance with the following guidelines:

1. The application will be a permanent file.
  2. All applications will be maintained by bedroom size, preference and then in order of date and time of application.
  3. Substantive contacts between the Authority and the applicant will be documented in the applicant file.
- #### **B. Selection from the Waiting List**

Project-Based Property owners will be required to request the Housing Authority's regular waiting list to fill vacancies in project based units. The first qualified applicant in

sequence on the waiting list will be made an offer of project-based assistance based on the unit size available. If the unit is designated for residents of minimum age requirements, the owner will skip over applicants not meeting these minimum age requirements to reach an eligible family.

If the available unit being offered is specifically designed for persons with mobility, sight and/or hearing impairments (referred to as accessible units), the owner will skip over families not requiring the accessible unit to reach a family who does require such accommodation. Non-mobility impaired families will be offered these units if no family on the waiting list requires these features.

If more than one unit of the appropriate type and size is available, the first unit to be offered will be the first unit that is ready for occupancy.

The owner must maintain records of notices sent to applicants and the results of the applicant responses must be tracked to document proper selection to fill project-based units. Applicants who fail to respond to two mailings or who refuse two offers by the owner for the same project based development may be skipped by the owner for future notices for the same development.

The Housing Authority will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection. These records are to be provided to the Housing Authority by the owner.

Notwithstanding the above, if necessary to meet the statutory requirement that 75% of newly admitted families in any fiscal year be families who are extremely low-income (unless a different target is agreed to by HUD), the Authority retains the right to skip higher income families on the waiting list to reach extremely low-income families. This measure will only be taken if it appears the goal will not otherwise be met. To ensure this goal is met, the Housing Authority will monitor incomes of newly admitted families and the income of the families on the waiting list.

#### C. Project-Based Briefing

When the Authority selects a family from the waiting list, the family will be invited to attend a briefing explaining how the project-based program works. In order to be eligible for a vacant unit, all adult family members are required to attend the briefing. If they cannot attend the originally scheduled briefing, they may attend a later session. If the family fails to attend two briefings without good cause, they will be denied admission.

If an applicant with a disability requires auxiliary aids to gain full benefit from the briefing, the Authority will furnish such aids where doing so would not result in a fundamental alteration of the nature of the program or in an undue financial or administrative burden. In determining the most suitable auxiliary aid, the Authority will give primary consideration to the requests of the applicant. Families unable to attend a briefing due to a disability may request a reasonable accommodation such as having the briefing presented at an alternate location.

The briefing will cover at least the following subjects:

1. A description of how the program works;
2. Family and owner responsibilities;

3. The fact that the subsidy is tied to the unit. After the initial 12-month period, the family has the right to move and be issued a tenant-based voucher.

D. Project-Based Briefing Packet

During the briefing, the Housing Authority will give the family a packet covering at least the following subjects:

1. How the Housing Authority determines the housing assistance payment and total tenant payment for the family (including a copy of the utility allowances);
2. A statement of the Housing Authority's policy on providing information to prospective owners. This policy requires applicants to sign disclosure statements allowing the Housing Authority to provide prospective owners with the family's current and prior addresses and the names and addresses of the landlords for those addresses;
3. The HUD-required lead-based paint brochure;
4. Information on Federal, State, and local equal opportunity laws; the brochure "Fair Housing: It's Your Right;" and a copy of the housing discrimination complaint form;
5. The family and owner responsibilities under the lease and HAP contract;
6. The grounds upon which the Housing Authority may terminate assistance because of the family's action or inaction; and
7. Authority informal hearing procedures, including when the Housing Authority is required to provide the opportunity for an informal hearing, and information on how to request a hearing.

E. Moves with Continued Assistance

Participant families that are assisted with project-based assistance may move from the assisted building, and retain federal housing assistance if the assisted family has occupied the dwelling unit with the project-based voucher assistance for 12 months and has given the owner proper notice to vacate. The Authority must provide the family with a Housing Choice Voucher. If no such assistance is available at the time the family moves, the Authority will give the family priority to receive the next available tenant based voucher. Vouchers under funding allocations targeted by HUD for special purposes (e.g., Family Unification, Mainstream, Welfare-to-Work) are not available for this purpose, since they are required to be used only for the targeted purpose.

F. Rent Reasonableness/Comparability

The Authority will not enter an agreement to enter into a housing assistance payments contract until the Housing Authority determines that the initial rent to owner under the HAP contract is a reasonable rent.

In making a rent reasonableness determination, the Authority must determine whether the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units. To make this determination, the Housing Authority must consider:

1. The location, quality, size, unit type, and age of the contract unit; and
2. Any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

a. Initial Rent

To determine that the initial rent to the owner is reasonable, the Housing Authority must use a qualified State-certified appraiser who has no direct or indirect interest in the property or otherwise.

For each unit type, the appraiser must submit a completed comparability analysis on Form HUD-92273 (Estimates of Market Rent by Comparison) for the Authority review and approval. The appraiser must use at least three comparable units from the private unassisted market.

For units that are not HUD-insured or Housing Authority owned, the Authority approves the initial rent to owner.

For units that are insured or Housing Authority owned, HUD must approve the initial rents.

b. Annual Adjustment of Rent to Owner

The Authority at each annual anniversary date of the HAP contract will adjust the rent to owner in accordance with an owner's written request for a rent increase at least 120 calendar days before the HAP contract anniversary that includes a comparability study to determine the amount of such increase and a determination by the Authority that the owner has complied with all requirements of the HAP contract, including compliance with the HQS for all contract units.

c. Amount of Annual Adjustment

The adjusted rent to owner (for AHAP's in existence prior to January 16, 2001) equals the lesser of:

- i. The pre-adjustment rent to owner multiplied by the applicable Section 8 annual adjustment factor published by HUD in the Federal Register;
- ii. The reasonable rent as determined by the Authority in accordance with 24 CFR 983.256 as follows:
  1. In determining the annual adjustment of rent to owner, the adjusted rent to owner must not exceed a reasonable rent as determined by the Authority "comparability study."
  2. The comparability study is an analysis of rents charged for comparable units. The Housing Authority comparability study must determine the reasonable rent for the contract units as compared with rents for comparable unassisted units. The adjusted rent for a contract unit may not exceed the reasonable rent as shown by the comparability study.
  3. The comparability will include a completed comparability analysis for each unit type on Form HUD-92273 (Estimates of Market Rent by

Comparison). The comparability study may be prepared by Housing Authority staff or by another qualified appraiser. The appraiser may not have any direct or indirect interest in the property or otherwise.

4. The comparability study must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units.
5. If the owner requests a rent increase by the 120-day deadline, the Housing Authority must submit a comparability study to the owner at least 60 calendar days before the HAP contract anniversary.
  - iii. The rent requested by the owner.

For a HAP contract under an Agreement executed on or after June 1, 1998, the applicable factor is the published annual adjustment factor in effect 60 calendar days before the HAP contract anniversary. For a HAP contract under an Agreement executed before June 1, 1998, the applicable factor is the published annual adjustment factor in effect on the contract anniversary date.

In making the annual adjustment, the pre-adjustment rent to owner does not include any previously approved special adjustment.

The rent to owner may be adjusted up or down but will not be less than the initial rent to owner except as necessary to correct errors in establishing the initial rent in accordance with HUD requirements.

For Authority owned units, the Housing Authority must request HUD approval of the annual adjustment. The Housing Authority will not increase the rent at the annual anniversary until and unless HUD has reviewed the Housing Authority comparability study, and has approved the adjustment.

The adjusted rent to owner (for AHAP's after January 16, 2001) is solely equal to the reasonable rent as determined by the Authority in accordance with 24 CFR 983.256 as follows:

1. In determining the annual adjustment of rent to owner, the adjusted rent to owner must not exceed a reasonable rent as determined by the Authority "comparability study."
2. The comparability study is an analysis of rents charged for comparable units. The Housing Authority comparability study must determine the reasonable rent for the contract units as compared with rents for comparable unassisted units. The adjusted rent for a contract unit may not exceed the reasonable rent as shown by the comparability study.
3. The comparability will include a completed comparability analysis for each unit type on Form HUD-92273 (Estimates of Market Rent by Comparison). The comparability study may be prepared by Housing Authority staff or by another qualified