and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.

(d) *Annualization of income.* If it is not feasible to anticipate a level of income over a 12-month period (*e.g.*, seasonal or cyclic income), or the PHA believes that past income is the best available indicator of expected future income, the PHA may annualize the income anticipated for a shorter period, subject to a redetermination at the end of the shorter period.

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

[61 FR 54498, Oct. 18, 1996, as amended at 65 FR 16716, Mar. 29, 2000]

EFFECTIVE DATE NOTE: At 65 FR 16716, Mar. 29, 2000, § 5.609 was amended by removing and reserving paragraph (c)(13), by revising paragraphs (c)(8)(iv) and (d), and by removing paragraph (e), effective Apr. 28, 2000. For the convenience of the user, the superseded text is set forth as follows:

§ 5.609 Annual income.

* * * * *

(c) * * *

(8) * * *

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident initiatives coordination. No resident may receive more than one such stipend during the same period of time;

* * * * *

(d) *For public housing only.* In addition to the exclusions from annual income covered in paragraph (c) of this section, a PHA may adopt additional exclusions for earned income pursuant to an established written policy.

(1) In establishing such a policy, a PHA must adopt one or more of the following types of earned income exclusions, including variations thereof:

(i) Exclude all or part of the family's earned income;

(ii) Apply the exclusion only to new sources of earned income or only to increases in earned income;

(iii) Apply the exclusion to the earned income of the head, the spouse, or any other family member age 18 or older;

(iv) Apply the exclusion only to the earned income of persons other than the primary earner;

(v) Apply the exclusion to applicants, newly admitted families, existing tenants, or persons joining the family;

(vi) Make the exclusion temporary or permanent, for the PHA, the family, or the affected family member;

(vii) Make the exclusion graduated, so that more earned income is excluded at first and less earned income is excluded after a period of time;

(viii) Exclude any or all of the costs that are incurred in order to go to work but are not compensated, such as the cost of special tools, equipment, or clothing;

(ix) Exclude any or all of the costs that result from earning income, such as social security taxes or other items that are withheld in payroll deductions;

(x) Exclude any portion of the earned income that is not available to meet the family's own needs, such as amounts that are paid to someone outside the family for alimony or child support; and

(xi) Exclude any portion of the earned income that is necessary to replace benefits lost because a family member becomes employed, such as amounts that the family pays for medical costs or to obtain medical insurance.

(2) Any amounts that are excluded from annual income under this paragraph (d) may not also be deducted in determining adjusted income, as defined in § 5.611.

(3) Housing agencies do not need HUD approval to adopt optional earned income exclusions.

(4) In the calculation of Performance Funding System operating subsidy eligibility, housing agencies will have to absorb any loss in rental income that results from the adoption of any of the optional earned income exclusions discussed in paragraph (d)(1) of this section, including any variations of the listed options.

* * * * *

§ 5.611 Adjusted income.

Adjusted income means annual income (as determined by the responsible entity) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

Exhibit A

(a) *Mandatory deductions.* In determining adjusted income, the responsible entity must deduct the following amounts from annual income:

(1) $480 for each dependent;

(2) $400 for any elderly family or disabled family;

(3) The sum of the following, to the extent the sum exceeds three percent of annual income:

(i) Unreimbursed medical expenses of any elderly family or disabled family; and

(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed, but this allowance may not exceed the earned income received by family members who are 18 years of age or older who are able to work because of such attendant care or auxiliary apparatus; and

(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

(b) *Permissive deductions—for public housing only.* For public housing only, a PHA may adopt additional deductions from annual income. The PHA must establish a written policy for such deductions.

[65 FR 16717, Mar. 29, 2000]

EFFECTIVE DATE NOTE: At 65 FR 16717, Mar. 29, 2000, §5.611 was revised, effective Apr. 28, 2000. For the convenience of the user, the superseded text is set forth as follows:

§5.611 Adjusted income.

Adjusted income means annual income less the following deductions:

(a) $480 for each dependent;

(b) $400 for any elderly family or disabled family;

(c) For any family that is not an elderly family or disabled family but has a member (other than the head of household or spouse) who is a person with a disability, disability assistance expenses in excess of three percent of annual income, but this allowance may not exceed the employment income received by family members who are 18 years of age or older as a result of the assistance to the person with disabilities;

(d) For any elderly family or disabled family:

(1) That has no disability assistance expenses, an allowance for medical expenses equal to the amount by which the medical expenses exceed three percent of annual income;

(2) That has disability assistance expenses greater than or equal to three percent of annual income, an allowance for disability assistance expenses computed in accordance with paragraph (c) of this section, plus an allowance for medical expenses that is equal to the family's medical expenses;

(3) That has disability assistance expenses that are less than three percent of annual income, an allowance for combined disability assistance expenses and medical expenses that is equal to the amount by which the sum of these expenses exceeds three percent of annual income; and

(e) Child care expenses.

§5.613 Public housing program and Section 8 tenant-based assistance program: PHA cooperation with welfare agency.

(a) This section applies to the public housing program and the Section 8 tenant-based assistance program.

(b) The PHA must make best efforts to enter into cooperation agreements with welfare agencies under which such agencies agree:

(1) To target public assistance, benefits and services to families receiving assistance in the public housing program and the Section 8 tenant-based assistance program to achieve self-sufficiency;

(2) To provide written verification to the PHA concerning welfare benefits for families applying for or receiving assistance in these housing assistance programs.

[65 FR 16717, Mar. 29, 2000]

EFFECTIVE DATE NOTE: At 65 FR 16717, Mar. 29, 2000, §5.613 was revised, effective Apr. 28, 2000. For the convenience of the user, the superseded text is set forth as follows:

§5.613 Total tenant payment.

(a) *Total tenant payment for families whose initial lease is effective on or after August 1, 1982.* (1) Total tenant payment is the amount calculated under section 3(a)(1) of the 1937 Act (42 U.S.C. 1437a(a)(1)). If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under paragraph (C) of section 3(a)(1) of the 1937 Act (42 U.S.C. 1437a(a)(1)(C)) shall be the amount resulting from one application of the percentage.

"Annual Income (24 CFR §5.609)" Exhibit B

project because there is an insufficient number of potential applicants who are very low-income families;

(iv) Commitment of an owner to attaining occupancy by families with a broad range of incomes, as evidenced in the application for development. An application citing this basis should be supported by evidence that the owner is pursuing this goal throughout its assisted projects in the community; and

(v) Project supervision by a State Housing Finance Agency having a policy of occupancy by families with a broad range of incomes, supported by evidence that the Agency is pursuing this goal throughout its assisted projects in the community or a project with financing through Section 11(b) of the 1937 Act (42 U.S.C. 1437i) or under Section 103 of the Internal Revenue Code (26 U.S.C. 103).

(2) *For public housing only.* (i) Need for admission of a broader range of tenants to obtain full occupancy;

(ii) Local commitment to attaining occupancy by families with a broad range of incomes. An application citing this basis should be supported by evidence that the PHA is pursuing this goal throughout its housing program in the community;

(iii) Need for higher incomes to sustain homeownership eligibility in a homeownership project; and

(iv) Need to avoid displacing low-income families from a project acquired by the PHA for rehabilitation.

(c) *Action on request for exception.* Whether to grant any request for exception is a matter committed by law to HUD's sole discretion, and no implication is intended to be created that HUD will seek to grant approvals up to the maximum limits permitted by statute, nor is any presumption of an entitlement to an exception created by the specification of certain grounds for exception that HUD may consider. HUD will review exceptions granted to owners and PHAs at regular intervals. HUD may withdraw permission to exercise those exceptions for program applicants at any time that exceptions are not being used or after a periodic review, based on the findings of the review.

(d) *Reporting.* PHAs and owners shall comply with HUD-prescribed reporting requirements that will permit HUD to maintain the reasonably current data necessary to monitor compliance with the income eligibility restrictions described in paragraph (a) of this section.

(e) *Inapplicability to certain scattered site housing.* The income eligibility restrictions described in paragraph (a) of this section do not apply to scattered site public housing dwelling units sold or intended to be sold to public housing tenants under section 5(h) of the 1937 Act (42 U.S.C. 1437c(h)).

(f) *Inapplicability to the Section 8 Rental Voucher and Rental Certificate Programs.* The provisions of this section do not apply to the Section 8 Rental Voucher and Section 8 Rental Certificate Programs.

(Approved by the Office of Management and Budget under Control number 2502-0204)

EFFECTIVE DATE NOTE: At 65 FR 16716, Mar. 29, 2000, §5.607 was removed, effective Apr. 28, 2000.

FAMILY INCOME

§5.609 Annual income.

(a) *Annual income* means all amounts, monetary or not, which:

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this section.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) Annual income includes, but is not limited to:

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a

2409

Exhibit B

business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) *Welfare assistance.* If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(i) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(ii) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph (b)(6)(ii) shall be the amount resulting from one application of the percentage;

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section).

(c) Annual income does not include the following:

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in § 5.403;

(6) The full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8)(i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

Exhibit B

(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) *For public housing only:* (i) The earnings and benefits to any family member resulting from the participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, section 22 of the 1937 Act (42 U.S.C. 1437t), or any comparable Federal, State, or local law during the exclusion period.

(ii) For purposes of this paragraph, the following definitions apply:

(A) *Comparable Federal, State or local law* means a program providing employment training and supportive services that—

(*1*) Is authorized by a Federal, State or local law;

(*2*) Is funded by the Federal, State or local government;

(*3*) Is operated or administered by a public agency; and

(*4*) Has as its objective to assist participants in acquiring employment skills.

(B) *Exclusion period* means the period during which the family member participates in a program described in this section, plus 18 months from the date the family member begins the first job acquired by the family member after completion of such program that is not funded by public housing assistance under the 1937 Act. If the family member is terminated from employment with good cause, the exclusion period shall end.

(C) *Earnings and benefits* means the incremental earnings and benefits resulting from a qualifying employment training program or subsequent job;

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the FEDERAL REGISTER

Exhibit B

and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.

(d) *Annualization of income.* If it is not feasible to anticipate a level of income over a 12-month period (*e.g.*, seasonal or cyclic income), or the PHA believes that past income is the best available indicator of expected future income, the PHA may annualize the income anticipated for a shorter period, subject to a redetermination at the end of the shorter period.

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

[61 FR 54498, Oct. 18, 1996, as amended at 65 FR 16716, Mar. 29, 2000]

EFFECTIVE DATE NOTE: At 65 FR 16716, Mar. 29, 2000, §5.609 was amended by removing and reserving paragraph (c)(13), by revising paragraphs (c)(8)(iv) and (d), and by removing paragraph (e), effective Apr. 28, 2000. For the convenience of the user, the superseded text is set forth as follows:

§5.609 Annual income.

* * * * *

(c) * * *

(8) * * *

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident initiatives coordination. No resident may receive more than one such stipend during the same period of time;

* * * * *

(d) *For public housing only.* In addition to the exclusions from annual income covered in paragraph (c) of this section, a PHA may adopt additional exclusions for earned income pursuant to an established written policy.

(1) In establishing such a policy, a PHA must adopt one or more of the following types of earned income exclusions, including variations thereof:

(i) Exclude all or part of the family's earned income;

(ii) Apply the exclusion only to new sources of earned income or only to increases in earned income;

(iii) Apply the exclusion to the earned income of the head, the spouse, or any other family member age 18 or older;

(iv) Apply the exclusion only to the earned income of persons other than the primary earner;

(v) Apply the exclusion to applicants, newly admitted families, existing tenants, or persons joining the family;

(vi) Make the exclusion temporary or permanent, for the PHA, the family, or the affected family member;

(vii) Make the exclusion graduated, so that more earned income is excluded at first and less earned income is excluded after a period of time;

(viii) Exclude any or all of the costs that are incurred in order to go to work but are not compensated, such as the cost of special tools, equipment, or clothing;

(ix) Exclude any or all of the costs that result from earning income, such as social security taxes or other items that are withheld in payroll deductions;

(x) Exclude any portion of the earned income that is not available to meet the family's own needs, such as amounts that are paid to someone outside the family for alimony or child support; and

(xi) Exclude any portion of the earned income that is necessary to replace benefits lost because a family member becomes employed, such as amounts that the family pays for medical costs or to obtain medical insurance.

(2) Any amounts that are excluded from annual income under this paragraph (d) may not also be deducted in determining adjusted income, as defined in §5.611.

(3) Housing agencies do not need HUD approval to adopt optional earned income exclusions.

(4) In the calculation of Performance Funding System operating subsidy eligibility, housing agencies will have to absorb any loss in rental income that results from the adoption of any of the optional earned income exclusions discussed in paragraph (d)(1) of this section, including any variations of the listed options.

* * * * *

§5.611 Adjusted income.

Adjusted income means annual income (as determined by the responsible entity) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

"Assets or net family assets (24 CFR §5.603)"

Exhibit C

§ 5.601 Purpose and applicability.

(a) This subpart establishes definitions and requirements concerning income limits for admission, annual income, adjusted income, total tenant payment, utility allowances and reimbursements, and reexamination of income and family composition for:

(1) HUD's public housing programs, including its public housing homeownership programs.

(2) Housing assisted under section 8 of the United States Housing Act of 1937 (the 1937 Act) (42 U.S.C. 1437f).

(i) Section 5.613 (Total tenant payment) and the definitions of "*tenant rent*" and "*total tenant payment*" found in §5.603 do not apply to the Section 8 Rental Voucher Program.

(ii) Section 5.615 (Utility reimbursement) and the definition of *utility reimbursement* found in §5.603 also do not apply to the Section 8 Rental Voucher Program. For the Voucher Program, in cases where the amount of the HAP payment exceeds the rent to owner, the excess will be paid to the family.

(iii) Section 5.607 (Income limits for admission) does not apply to the Section 8 Rental Voucher and Rental Certificate Programs.

(3) Applicants and tenants assisted under sections 10(c) and 23 of the 1937 Act as in effect before amendment by the Housing and Community Development Act of 1974 (42 U.S.C. 1410 and 1421b (1970 ed.)).

(b) This subpart does not apply to HUD's Indian housing programs. The analogous rule that applies to Indian housing is located at 24 CFR part 950.

[illegible]

As used in this subpart:

(a) *Terms found elsewhere in part 5*—(1) *Subpart A.* The terms *1937 Act, elderly person, public housing, public housing agency* (PHA), and *Section 8* are defined in §5.100.

(2) *Subpart D.* The terms "disabled family", "elderly family", "family", "live-in aide", and "person with disabilities" are defined in §5.403.

(b) The following terms shall have the meanings set forth below:

Adjusted income. See §5.611.

Annual income. See §5.609.

Child care expenses. Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Dependent. A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Economic self-sufficiency program. Any program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include programs for job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including a substance abuse or mental health treatment program), or other work activities.

Extremely low income family. A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30 percent of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Full-time student. A person who is attending school or vocational training on a full-time basis.

Imputed welfare income. See §5.615.

Low income family. A family whose annual income does not exceed 80 percent of the median income for the area,

2 4 0 9

as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80 percent of the median income for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family incomes.

Medical expenses. Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

Net family assets. (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under § 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Owner has the meaning provided in the relevant program regulations. As used in this subpart, where appropriate, the term "owner" shall also include a "borrower" as defined in part 891 of this title.

Tenant rent. The amount payable monthly by the family as rent to the unit owner (Section 8 owner or PHA in public housing). (This term is not used in the Section 8 voucher program.)

Total tenant payment. See § 5.613.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. The amount, if any, by which the utility allowance for a unit, if applicable, exceeds the total tenant payment for the family occupying the unit. (This definition is not used in the Section 8 voucher program, or for a public housing family that is paying a flat rent.)

Very low income family. A family whose annual income does not exceed 50 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50 percent of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Welfare assistance. Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, State or local governments.

Work activities. See definition at section 407(d) of the Social Security Act (42 U.S.C. 607(d)).

[61 FR 54498, Oct. 18, 1996, as amended at 65 FR 16716, Mar. 29, 2000]

EFFECTIVE DATE NOTE: At 65 FR 16716, Mar. 29, 2000, § 5.603 was amended by revising paragraph (a), by removing paragraphs (b) and (c), and by redesignating paragraph (d) as paragraph (b); newly designated paragraph (b) was amended by revising the definitions

of "full-time student", "tenant rent", and "utility reimbursement", and by adding definitions of "economic self-sufficiency program", "extremely low income family", "imputed welfare income", "low income family", "very low income family", and "work activities", and in the definition of "owner", by removing the phrase "24 CFR part 885" and replacing it with "part 891 of this title", effective Apr. 28, 2000. For the convenience of the user, the superseded text is set forth as follows:

* * * * *

(a) The terms *elderly person, low-income family, person with disabilities, State,* and *very low-income family* are defined in section 3(b) of the 1937 Act (42 U.S.C. 1437a(b)).

(b) The terms *1937 Act* and *public housing agency (PHA)* are defined in § 5.100.

(c) The terms *disabled family, elderly family, family,* and *live-in aide* are defined in § 5.403.

* * * * *

Full-time student. A person who is carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. An educational institution includes a vocational school with a diploma or certificate program, as well as an institution offering a college degree.

* * * * *

Tenant rent. The amount payable monthly by the family as rent to the PHA or owner, as applicable. Where all utilities (except telephone) and other essential housing services are supplied by the PHA or owner, tenant rent equals total tenant payment. Where some or all utilities (except telephone) and other essential housing services are supplied by the PHA or owner and the cost thereof is not included in the amount paid as rent, tenant rent equals total tenant payment less the utility allowance.

* * * * *

Utility reimbursement. The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the total tenant payment for the family occupying the unit.

[illegible]

No family other than a low-income family shall be eligible for admission to a program covered by this part.

EFFECTIVE DATE NOTE: At 65 FR 16716, Mar. 29, 2000, § 5.605 was removed, effective Apr. 28, 2000.

[illegible]

(a) *General*—(1) *Admission to units available before October 1, 1981.* Not more than 25 percent of the dwelling units that were available for occupancy under Annual Contributions Contracts (ACC) and Section 8 Housing Assistance Payments (HAP) Contracts taking effect before October 1, 1981 and that are leased on or after that date shall be available for leasing by low-income families other than very low-income families. HUD reserves the right to limit the admission of low-income families other than very low-income families to these units.

(2) *Admission to units available on or after October 1, 1981.* Not more than 15 percent of the dwelling units that initially become available for occupancy under Annual Contributions Contracts (ACC) and Section 8 Housing Assistance Payments (HAP) Contracts on or after October 1, 1981 shall be available for leasing by low-income families other than very low-income families. Except with the prior approval of HUD under paragraphs (b) and (c) of this section, no low-income family, other than a very low-income family shall be admitted to these units.

(b) *Request for exception.* A request by a PHA or owner for approval of admission of low-income families other than very low-income families to units described in paragraph (a)(2) of this section must state the basis for requesting the exception and provide supporting data. Bases for exceptions that may be considered include the following:

(1) *For Section 8 Programs.* (i) Low-income families that would otherwise be displaced from Section 8 Substantial Rehabilitation or Moderate Rehabilitation projects;

(ii) Low-income families that are displaced as a result of Rental Rehabilitation or Development activities assisted under section 17 of the 1937 Act (42 U.S.C. 1437o), or as a result of activities under the Rental Rehabilitation Demonstration Program;

(iii) Need for admission of a broader range of tenants to preserve the financial or management viability of a

INCOME LIMITS

Income Limits for Admission

(Effective OCT 18 2004, 2004)

Very Low Income

County	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
Honolulu	$23,000	$26,300	$29,550	$32,850	$35,500	$38,100	$40,750	$43,350
Hawaii	$19,400	$22,150	$24,950	$27,700	$29,900	$32,150	$34,350	$36,550
Kauai	$22,600	$25,850	$29,050	$32,300	$34,900	$37,450	$40,050	$42,650
Maui	$23,750	$27,150	$30,550	$33,950	$36,650	$39,400	$42,100	$44,800

Low-Income

County	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
Honolulu	$36,800	$42,050	$47,300	$52,550	$56,750	$60,950	$65,150	$69,400
Hawaii	$31,000	$35,450	$39,900	$44,300	$47,850	$51,400	$54,950	$58,500
Kauai	$36,200	$41,350	$46,500	$51,700	$55,800	$59,950	$64,100	$68,200
Maui	$38,000	$43,450	$48,900	$54,300	$58,650	$63,000	$67,350	$71,700

EXHIBIT E

"Subsidy Standards"

In determining the appropriate dwelling unit size to be entered on the voucher, the following criteria shall be applied:

1. The smallest unit suitable for the family size shall be assigned.
2. Each bedroom shall be occupied by at least one person and no more than two persons shall be assigned to a bedroom.
3. Every member of the family, regardless of age, shall be counted as a person; except that a child not yet born by a pregnant household member shall not be counted as a person in determining unit size.
4. Persons of the opposite sex (other than spouses) over the age of three, and unrelated adults shall be allocated separate bedrooms;
5. A foster child shall be included in determining unit size only if the child shall remain in the unit for more than six months.
6. A live-in aide shall be provided a separate bedroom; however, no additional bedrooms shall be provided for a live-in aide's family.
7. Exceptions are allowed for verifiable health and safety reasons.

Application of the above criteria results in the following subsidy standards:

Voucher Size	Minimum Number of Persons in Household	Maximum Number of Persons in Household
0	1	1
1	1*	2
2	2	4
3	4	6
4	6	8
5	8	10

*A voucher for a 1 bedroom unit would be issued to a single person household only when there are no (0/studio) bedroom dwellings available in the area.

EXHIBIT E

In the inspection of a unit before leasing, the unit must meet the Occupancy Standards set by the respective county. See Exhibit F, "HCDCH OCCUPANCY STANDARDS", which shall be incorporated as part of this subsection.

EXHIBIT F

HCDCH OCCUPANCY STANDARDS
Building Code Guidelines for Determining Occupancy

I. City and County of Honolulu (Oahu)

A. One (1) or more bedrooms

1. Living Room (minimum size is 150 sq. ft.)
Measure living room area (do not include kitchen area, but may include dining space if in one area)

1st 70 sq. ft.	2 persons
each additional 50 sq. ft.	1 person per 50 sq. ft.

2. Bedrooms
Measure bedroom area (do not include closet, halls, bathrooms)

1st 70 sq. ft.	2 persons
each additional 50 sq. ft.	1 person per 50 sq. ft.

B. Efficiency Units (Studios)
Measure living room area (do not include kitchen area, but may include dining space if in one area)

1st 70 sq. ft.	2 persons
each additional 100 sq. ft.	1 person per 100 sq. ft.

II. County of Maui (Maui, Lanai and Molokai)

A. One (1) or more bedrooms

1. Living Room - Cannot be used as a sleeping area

2. Bedrooms
Measure bedroom area (do not include closet, halls, bathrooms)

1st 70 sq. ft.	2 persons
each additional 50 sq. ft.	1 person per 50 sq. ft.

EXHIBIT F

B. Efficiency Units (studios)
Measure living room area (do not include kitchen area, but may include dining space if in one area)

1st 70 sq. ft.	2 persons
each additional 100 sq. ft.	1 person per 100 sq. ft.

III. County of Kauai

A. One (1) or more bedrooms

1. Living Room - Cannot be used as a sleeping area

2. Bedroom #1
Measure bedroom area (do not include closet, halls, bathrooms)

1st 120 sq. ft.	2 persons
each additional 50 sq. ft.	1 person per 50 sq. ft.

3. Bedroom #2
Measure bedroom area (do not include closet, halls, bathrooms)

1st 70 sq. ft.	2 persons
each additional 50 sq. ft.	1 person per 50 sq. ft.

4. Bedroom #3 and on
Measure bedroom area (do not include closet, halls, bathrooms)

1st 80 sq. ft.	2 persons
each additional 50 sq. ft.	1 person per 50 sq. ft.

B. Efficiency Units (studios)
Measure living room area (do not include kitchen area, but may include dining space if in one area)

1st 70 sq. ft.	2 persons
each additional 100 sq. ft.	1 person per 100 sq. ft.

EXHIBIT F

B. Efficiency Units (studios)
Measure living room area (do not include kitchen area, but may include dining space if in one area)

1st 70 sq. ft.	2 persons
each additional 100 sq. ft.	1 person per 100 sq. ft.

III. County of Kauai

A. One (1) or more bedrooms

1. Living Room - Cannot be used as a sleeping area
2. Bedroom #1
Measure bedroom area (do not include closet, halls, bathrooms)

1st 120 sq. ft.	2 persons
each additional 50 sq. ft.	1 person per 50 sq. ft.

3. Bedroom #2
Measure bedroom area (do not include closet, halls, bathrooms)

1st 70 sq. ft.	2 persons
each additional 50 sq. ft.	1 person per 50 sq. ft.

4. Bedroom #3 and on
Measure bedroom area (do not include closet, halls, bathrooms)

1st 80 sq. ft.	2 persons
each additional 50 sq. ft.	1 person per 50 sq. ft.

B. Efficiency Units (studios)
Measure living room area (do not include kitchen area, but may include dining space if in one area)

1st 70 sq. ft.	2 persons
each additional 100 sq. ft.	1 person per 100 sq. ft.

IV. County of Hawaii

A. One (1) or more bedrooms (Housing Code states that overcrowding is prohibited)

1. Living Room - (must be 120 sq. ft. minimum)
2. Bedroom #1 - (must be 120 sq. ft. minimum)
3. Bedroom #2 - (must be 80 sq. ft. minimum)

B. Efficiency Units (studios)
Measure living room area (do not include kitchen area, but may include dining space if in one area)

1st 70 sq. ft.	2 persons
each additional 100 sq. ft.	1 person per 100 sq. ft.

UTILITY TABLES

HOUSING AND COMMUNITY DEVELOPMENT CORP OF HAWAII
SECTION 8 HOUSING ALLOWANCES FOR
TENANT FURNISHED UTILITIES AND OTHER SERVICES
REPORTING ON JANUARY 9, 2001 AT 10:24AM

Locality **HAWAII**			**Unit Type** **ALL UNITS**				
Utility Or Service	**Monthly Dollar Allowances** **Number of Bedrooms**						
	0	**1**	**2**	**3**	**4**	**5**	**6**
ELECTRIC							
BASIC ELECTRIC (LIGHT)	19.00	27.00	50.00	60.00	66.00	72.00	
ELECTRIC COOKING	5.00	5.00	10.00	12.00	13.00	14.00	
ELECTRIC WATER HEATER	15.00	22.00	40.00	48.00	53.00	58.00	
GAS							
GAS STOVE ONLY	4.00	5.00	6.00	8.00	10.00	12.00	
GAS WATER HEATER ONLY	27.00	30.00	35.00	40.00	46.00	51.00	
SEWER							
N/A	25.00	25.00	25.00	25.00	25.00	25.00	
SOLAR WATER HEATING							
APARTMENT BUILDING	1.00	2.00	3.00	3.00	4.00	5.00	
SINGLE FAMILY UNIT	2.00	2.00	4.00	5.00	5.00	6.00	
TENANT PROVIDED							
TENANT PROVIDES REF	8.00	8.00	10.00	10.00	11.00	11.00	
TENANT PROVIDES STOVE	8.00	8.00	9.00	11.00	11.00	11.00	
WATER							
N/A	11.00	13.00	15.00	18.00	26.00	32.00	

EXHIBIT G

UTILITY TABLES

HOUSING AND COMMUNITY DEVELOPMENT CORP OF HAWAII
SECTION 8 HOUSING ALLOWANCES FOR
TENANT FURNISHED UTILITIES AND OTHER SERVICES
REPORTING ON JANUARY 9, 2001 AT 10:24AM

Locality **KAUAI**				**Unit Type** **ALL UNITS**			
Utility Or Service	**Monthly Dollar Allowances** **Number of Bedrooms**						
	0	**1**	**2**	**3**	**4**	**5**	**6**
ELECTRIC							
ALL ELECTRIC	90.00	104.0	142.0	174.0	208.0	226.0	245.0
BASIC ELECTRIC (LIGHT)	43.00	50.00	62.00	68.00	74.00	79.00	85.00
ELECTRIC COOKING	10.00	11.00	16.00	21.00	27.00	30.00	32.00
ELECTRIC WATER HEATER	37.00	43.00	64.00	85.00	107.0	117.0	128.0
GAS							
GAS STOVE AND WATER	46.00	56.00	65.00	75.00	88.00	99.00	110.0
GAS STOVE ONLY	22.00	25.00	29.00	33.00	40.00	44.00	48.00
GAS WATER HEATER ONLY	33.00	41.00	47.00	54.00	61.00	69.00	77.00
SEWER							
N/A	34.00	34.00	34.00	34.00	34.00	34.00	34.00
TENANT PROVIDED							
TENANT PROVIDES REF	12.00	12.00	12.00	12.00	12.00	12.00	12.00
TENANT PROVIDES STOVE	10.00	10.00	10.00	10.00	10.00	10.00	10.00
WATER							
WATER (DETACHED, SI	17.00	22.00	27.00	33.00	38.00	43.00	49.00

UTILITY TABLES

HOUSING AND COMMUNITY DEVELOPMENT CORP OF HAWAII
SECTION 8 HOUSING ALLOWANCES FOR
TENANT FURNISHED UTILITIES AND OTHER SERVICES
REPORTING ON JANUARY 9, 2001 AT 10:24AM

Locality **LANAI**			**Unit Type** **ALL UNITS**				
Utility Or Service	**Monthly Dollar Allowances** **Number of Bedrooms**						
	0	**1**	**2**	**3**	**4**	**5**	**6**
ELECTRIC							
ALL ELECTRIC	75.00	83.00	123.0	156.0	213.0	230.0	
BASIC ELECT + STOVE	46.00	52.00	74.00	90.00	117.0	123.0	
BASIC ELECT + WATER	63.00	74.00	112.0	141.0	191.0	207.0	
BASIC ELECTRIC (LIGHT)	41.00	46.00	61.00	73.00	92.00	97.00	
ELECTRIC COOKING	8.00	8.00	12.00	16.00	24.00	25.00	
GAS							
GAS STOVE AND WATER	23.00	27.00	37.00	42.00	55.00	64.00	
GAS STOVE ONLY	10.00	10.00	11.00	12.00	14.00	15.00	
GAS WATER HEATER ONLY	20.00	24.00	33.00	37.00	48.00	56.00	
SEWER							
N/A	22.00	22.00	22.00	22.00	22.00	22.00	
TENANT PROVIDED							
TENANT PROVIDES REF	8.00	8.00	8.00	8.00	8.00	8.00	
TENANT PROVIDES STOVE	8.00	8.00	8.00	8.00	8.00	8.00	
TRASH COLLECTION							
N/A	5.00	5.00	5.00	5.00	5.00	5.00	
WATER							
WATER (DETACHED, SI	16.00	20.00	24.00	32.00	38.00	43.00	
WATER (WALK-UP & HIG	12.00	15.00	18.00	24.00	29.00	32.00	

EXHIBIT G

UTILITY TABLES

HOUSING AND COMMUNITY DEVELOPMENT CORP OF HAWAII
SECTION 8 HOUSING ALLOWANCES FOR
TENANT FURNISHED UTILITIES AND OTHER SERVICES
REPORTING ON JANUARY 9, 2001 AT 10:24AM

Locality MAUI			**Unit Type** ALL UNITS				
Utility Or Service	**Monthly Dollar Allowances Number of Bedrooms**						
	0	**1**	**2**	**3**	**4**	**5**	**6**
ELECTRIC							
ALL ELECTRIC	57.00	63.00	93.00	117.0	160.0	173.0	
BASIC ELECT + STOVE	36.00	41.00	57.00	68.00	88.00	93.00	
BASIC ELECT + WATER	48.00	56.00	85.00	106.0	143.0	155.0	
BASIC ELECTRIC (LIGHT)	32.00	36.00	47.00	56.00	70.00	74.00	
ELECTRIC COOKING	6.00	6.00	9.00	12.00	18.00	19.00	
GAS							
GAS STOVE AND WATER	21.00	22.00	33.00	42.00	59.00	64.00	
GAS STOVE ONLY	9.00	9.00	11.00	12.00	14.00	15.00	
GAS WATER HEATER ONLY	19.00	20.00	30.00	37.00	57.00	68.00	
SEWER							
N/A	22.00	22.00	22.00	22.00	22.00	22.00	
TENANT PROVIDED							
TENANT PROVIDES REF	8.00	8.00	8.00	8.00	8.00	8.00	
TENANT PROVIDES STOVE	8.00	8.00	8.00	8.00	8.00	8.00	
TRASH COLLECTION							
N/A	5.00	5.00	5.00	5.00	5.00	5.00	
WATER							
WATER (DETACHED, SI	16.00	20.00	24.00	32.00	38.00	43.00	
WATER (WALK-UP & HIG	12.00	15.00	18.00	24.00	29.00	32.00	

UTILITY TABLES

HOUSING AND COMMUNITY DEVELOPMENT CORP OF HAWAII
SECTION 8 HOUSING ALLOWANCES FOR
TENANT FURNISHED UTILITIES AND OTHER SERVICES
REPORTING ON JANUARY 9, 2001 AT 10:24AM

Locality MOLOKAI			**Unit Type** ALL UNITS				
Utility Or Service	**Monthly Dollar Allowances Number of Bedrooms**						
	0	**1**	**2**	**3**	**4**	**5**	**6**
ELECTRIC							
ALL ELECTRIC	74.00	82.00	122.0	155.0	211.0	228.0	
BASIC ELECT + STOVE	46.00	52.00	73.00	89.00	116.0	122.0	
BASIC ELECT + WATER	62.00	73.00	111.0	140.0	189.0	205.0	
BASIC ELECTRIC (LIGHT)	41.00	45.00	61.00	72.00	91.00	96.00	
ELECTRIC COOKING	8.00	8.00	12.00	16.00	24.00	25.00	
GAS							
GAS STOVE AND WATER	25.00	30.00	41.00	46.00	60.00	70.00	
GAS STOVE ONLY	10.00	10.00	12.00	13.00	15.00	16.00	
GAS WATER HEATER ONLY	22.00	27.00	36.00	40.00	52.00	61.00	
SEWER							
N/A	22.00	22.00	22.00	22.00	22.00	22.00	
TENANT PROVIDED							
TENANT PROVIDES REF	8.00	8.00	8.00	8.00	8.00	8.00	
TENANT PROVIDES STOVE	8.00	8.00	8.00	8.00	8.00	8.00	
TRASH COLLECTION							
N/A	5.00	5.00	5.00	5.00	5.00	5.00	
WATER							
WATER (DETACHED, SI	16.00	20.00	24.00	32.00	38.00	43.00	
WATER (WALK-UP & HIG	12.00	15.00	18.00	24.00	29.00	32.00	

UTILITY TABLES

HOUSING AND COMMUNITY DEVELOPMENT CORP OF HAWAII
SECTION 8 HOUSING ALLOWANCES FOR
TENANT FURNISHED UTILITIES AND OTHER SERVICES
REPORTING ON JANUARY 9, 2001 AT 10:24AM

Locality **OAHU**			**Unit Type** **ALL UNITS**				
Utility Or Service	**Monthly Dollar Allowances** **Number of Bedrooms**						
	0	**1**	**2**	**3**	**4**	**5**	**6**
ELECTRIC							
ALL ELECTRIC	41.00	60.00	77.00	95.00	113.0	131.0	
BASIC ELECT + STOVE	31.00	41.00	49.00	57.00	65.00	73.00	
BASIC ELECT + WATER	37.00	54.00	69.00	85.00	101.0	117.0	
BASIC ELECTRIC (LIGHT)	29.00	35.00	41.00	47.00	53.00	59.00	
ELECTRIC COOKING	4.00	6.00	8.00	10.00	12.00	14.00	
ELECTRIC WATER HEATER	8.00	19.00	28.00	38.00	48.00	58.00	
GAS							
GAS STOVE AND WATER	21.00	25.00	37.00	49.00	61.00	73.00	
GAS STOVE ONLY	8.00	9.00	11.00	13.00	14.00	16.00	
GAS WATER HEATER ONLY	13.00	16.00	26.00	36.00	47.00	57.00	
SEWER							
N/A	26.00	31.00	31.00	40.00	46.00	51.00	
TENANT PROVIDED							
TENANT PROVIDES REF	8.00	8.00	8.00	10.00	11.00	11.00	
TENANT PROVIDES STOVE	6.00	6.00	6.00	10.00	10.00	10.00	
WATER							
N/A	9.00	16.00	27.00	38.00	50.00	61.00	
WATER (WALK-UP & HIG	9.00	16.00	27.00	38.00	50.00	61.00	

UTILITY TABLES

HOUSING AND COMMUNITY DEVELOPMENT CORP OF HAWAII
SECTION 8 HOUSING ALLOWANCES FOR
TENANT FURNISHED UTILITIES AND OTHER SERVICES
REPORTING ON JANUARY 9, 2001 AT 10:24AM

Locality **OTHER-PORT OUTS**			**Unit Type** **ALL UNITS**				
Utility Or Service	**Monthly Dollar Allowances** **Number of Bedrooms**						
	0	**1**	**2**	**3**	**4**	**5**	**6**
ELECTRIC							
BASIC ELECTRIC (LIGHT)	19.00	27.00	50.00	60.00	66.00	72.00	
ELECTRIC COOKING	5.00	5.00	10.00	12.00	13.00	14.00	
ELECTRIC WATER HEATER	15.00	22.00	40.00	48.00	53.00	58.00	
GAS							
GAS STOVE ONLY	4.00	5.00	6.00	8.00	10.00	12.00	
GAS WATER HEATER ONLY	27.00	30.00	35.00	40.00	46.00	51.00	
N/A							
TENANT PROVIDES REF	8.00	8.00	10.00	10.00	11.00	11.00	
TENANT PROVIDES STOVE	8.00	8.00	9.00	11.00	11.00	11.00	
SEWER							
N/A	25.00	25.00	25.00	25.00	25.00	25.00	
SOLAR WATER HEATING							
APARTMENT BUILDING	1.00	2.00	3.00	3.00	4.00	5.00	
SINGLE FAMILY UNIT	2.00	2.00	4.00	5.00	5.00	6.00	
WATER							
N/A	11.00	13.00	15.00	18.00	26.00	32.00	

[Laws in effect as of January 6, 1999] [Document not affected by Public Laws enacted between January 6, 1999 and October 26, 2000] [**CITE: 42USC13661**]

TITLE 42--THE PUBLIC HEALTH AND WELFARE

CHAPTER 135--RESIDENCY AND SERVICE REQUIREMENTS IN FEDERALLY ASSISTED HOUSING

SUBCHAPTER V--SAFETY AND SECURITY IN PUBLIC AND ASSISTED HOUSING

Sec. 13661. Screening of applicants for federally assisted housing

(a) Ineligibility because of eviction for drug crimes

Any tenant evicted from federally assisted housing by reason of drug-related criminal activity (as such term is defined in section 1437a(b) of this title) shall not be eligible for federally assisted housing during the 3-year period beginning on the date of such eviction, unless the evicted tenant successfully completes a rehabilitation program approved by the public housing agency (which shall include a waiver of this subsection if the circumstances leading to eviction no longer exist).

(b) Ineligibility of illegal drug users and alcohol abusers

(1) In general

Notwithstanding any other provision of law, a public housing agency or an owner of federally assisted housing, as determined by the Secretary, shall establish standards that prohibit admission to the program or admission to federally assisted housing for any household with a member--

(A) who the public housing agency or owner determines is illegally using a controlled substance; or

(B) with respect to whom the public housing agency or owner determines that it has reasonable cause to believe that such household member's illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol, may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(2) Consideration of rehabilitation

In determining whether, pursuant to paragraph (1)(B), to deny admission to the program or federally assisted housing to any household based on a pattern of illegal use of a controlled substance or a pattern of abuse of alcohol by a household member, a public housing agency or an owner may consider whether such household member--

(A) 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 (as applicable);

(B) has otherwise been rehabilitated successfully and is no

longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable); or

(C) is participating in 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 (as applicable).

(c) Authority to deny admission to criminal offenders

Except as provided in subsections (a) and (b) of this section and in addition to any other authority to screen applicants, in selecting among applicants for admission to the program or to federally assisted housing, if the public housing agency or owner of such housing (as applicable) determines that an applicant or any member of the applicant's household is or was, during a reasonable time preceding the date when the applicant household would otherwise be selected for admission, engaged in any drug-related or violent criminal activity or other criminal activity which would adversely affect the health, safety, or right to peaceful enjoyment of the premises by other residents, the owner, or public housing agency employees, the public housing agency or owner may--

(1) deny such applicant admission to the program or to federally assisted housing; and

(2) after the expiration of the reasonable period beginning upon such activity, require the applicant, as a condition of admission to the program or to federally assisted housing, to submit to the public housing agency or owner evidence sufficient (as the Secretary shall by regulation provide) to ensure that the individual or individuals in the applicant's household who engaged in criminal activity for which denial was made under paragraph (1) have not engaged in any criminal activity during such reasonable period.

(Pub. L. 105-276, title V, Sec. 576, Oct. 21, 1998, 112 Stat. 2639.)

Codification

Section was enacted as part of the Quality Housing and Work Responsibility Act of 1998, and not as part of subtitles C to F of title VI of Pub. L. 102-550 which comprise this chapter.

Section is comprised of section 576 of Pub. L. 105-276. Subsec. (d) of section 576 of Pub. L. 105-276 amended sections 1437d and 1437n of this title.

Effective Date

Subchapter effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement any provision of subchapter before such date, except to extent otherwise provided, see section 503 of Pub. L. 105-276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

Section Referred to in Other Sections

This section is referred to in section 1437d of this title.

Exhibit I

"Evidence of Citizenship or Eligible Immigrant Status (24 CFR §5.508)"

family residing in the unit is determined to have eligible status, as described in paragraph (a) of this section, or unless the family meets the conditions set forth in paragraph (b)(2) of this section.

(2) Despite the ineligibility of one or more family members, a mixed family may be eligible for one of the three types of assistance provided in §§ 5.516 and 5.518. A family without any eligible members and receiving assistance on June 19, 1995 may be eligible for temporary deferral of termination of assistance as provided in §§ 5.516 and 5.518.

§ 5.508 Submission of evidence of citizenship or eligible immigration status.

(a) *General.* Eligibility for assistance or continued assistance under a Section 214 covered program is contingent upon a family's submission to the responsible entity of the documents described in paragraph (b) of this section for each family member. If one or more family members do not have citizenship or eligible immigration status, the family members may exercise the election not to contend to have eligible immigration status as provided in paragraph (e) of this section, and the provisions of §§ 5.516 and 5.518 shall apply.

(b) *Evidence of citizenship or eligible immigration status.* Each family member, regardless of age, must submit the following evidence to the responsible entity.

(1) For U.S. citizens or U.S. nationals, the evidence consists of a signed declaration of U.S. citizenship or U.S. nationality. The responsible entity may request verification of the declaration by requiring presentation of a United States passport or other appropriate documentation, as specified in HUD guidance.

(2) For noncitizens who are 62 years of age or older or who will be 62 years of age or older and receiving assistance under a Section 214 covered program on September 30, 1996 or applying for assistance on or after that date, the evidence consists of:

(i) A signed declaration of eligible immigration status; and

(ii) Proof of age document.

(3) For all other noncitizens, the evidence consists of:

(i) A signed declaration of eligible immigration status;

(ii) One of the INS documents referred to in § 5.510; and

(iii) A signed verification consent form.

(c) *Declaration.* (1) For each family member who contends that he or she is a U.S. citizen or a noncitizen with eligible immigration status, the family must submit to the responsible entity a written declaration, signed under penalty of perjury, by which the family member declares whether he or she is a U.S. citizen or a noncitizen with eligible immigration status.

(i) For each adult, the declaration must be signed by the adult.

(ii) For each child, the declaration must be signed by an adult residing in the assisted dwelling unit who is responsible for the child.

(2) *For Housing covered programs:* The written declaration may be incorporated as part of the application for housing assistance or may constitute a separate document.

(d) *Verification consent form*—(1) *Who signs.* Each noncitizen who declares eligible immigration status (except certain noncitizens who are 62 years of age or older as described in paragraph (b)(2) of this section) must sign a verification consent form as follows.

(i) For each adult, the form must be signed by the adult.

(ii) For each child, the form must be signed by an adult residing in the assisted dwelling unit who is responsible for the child.

(2) *Notice of release of evidence by responsible entity.* The verification consent form shall provide that evidence of eligible immigration status may be released by the responsible entity without responsibility for the further use or transmission of the evidence by the entity receiving it, to:

(i) HUD, as required by HUD; and

(ii) The INS for purposes of verification of the immigration status of the individual.

(3) *Notice of release of evidence by HUD.* The verification consent form also shall notify the individual of the possible release of evidence of eligible immigration status by HUD. Evidence of eligible immigration status shall

only be released to the INS for purposes of establishing eligibility for financial assistance and not for any other purpose. HUD is not responsible for the further use or transmission of the evidence or other information by the INS.

(e) *Individuals who do not contend that they have eligible status.* If one or more members of a family elect not to contend that they have eligible immigration status, and other members of the family establish their citizenship or eligible immigration status, the family may be eligible for assistance under §§5.516 and 5.518, or §5.520, despite the fact that no declaration or documentation of eligible status is submitted for one or more members of the family. The family, however, must identify in writing to the responsible entity, the family member (or members) who will elect not to contend that he or she has eligible immigration status.

(f) *Notification of requirements of Section 214*—(1) *When notice is to be issued.* Notification of the requirement to submit evidence of citizenship or eligible immigration status, as required by this section, or to elect not to contend that one has eligible status as provided by paragraph (e) of this section, shall be given by the responsible entity as follows:

(i) *Applicant's notice.* The notification described in paragraph (f)(1) of this section shall be given to each applicant at the time of application for assistance. Applicants whose applications are pending on June 19, 1995, shall be notified of the requirement to submit evidence of eligible status as soon as possible after June 19, 1995.

(ii) *Notice to tenants.* The notification described in paragraph (f)(1) of this section shall be given to each tenant at the time of, and together with, the responsible entity's notice of regular reexamination of income, but not later than one year following June 19, 1995.

(iii) *Timing of mortgagor's notice.* A mortgagor receiving Section 235 assistance must be provided the notification described in paragraph (f)(1) of this section and any additional requirements imposed under the Section 235 Program.

(2) *Form and content of notice.* The notice shall:

(i) State that financial assistance is contingent upon the submission and verification, as appropriate, of evidence of citizenship or eligible immigration status as required by paragraph (a) of this section;

(ii) Describe the type of evidence that must be submitted, and state the time period in which that evidence must be submitted (see paragraph (g) of this section concerning when evidence must be submitted); and

(iii) State that assistance will be prorated, denied or terminated, as appropriate, upon a final determination of ineligibility after all appeals have been exhausted (see §5.514 concerning INS appeal, and informal hearing process) or, if appeals are not pursued, at a time to be specified in accordance with HUD requirements. Tenants also shall be informed of how to obtain assistance under the preservation of families provisions of §§5.516 and 5.518.

(g) *When evidence of eligible status is required to be submitted.* The responsible entity shall require evidence of eligible status to be submitted at the times specified in paragraph (g) of this section, subject to any extension granted in accordance with paragraph (h) of this section.

(1) *Applicants.* For applicants, responsible entities must ensure that evidence of eligible status is submitted not later than the date the responsible entity anticipates or has knowledge that verification of other aspects of eligibility for assistance will occur (see §5.512(a)).

(2) *Tenants.* For tenants, evidence of eligible status is required to be submitted as follows:

(i) For financial assistance under a Section 214 covered program, with the exception of Section 235 assistance payments, the required evidence shall be submitted at the first regular reexamination after June 19, 1995, in accordance with program requirements.

(ii) For financial assistance in the form of Section 235 assistance payments, the mortgagor shall submit the required evidence in accordance with requirements imposed under the Section 235 Program.

(3) *New occupants of assisted units.* For any new occupant of an assisted unit (e.g., a new family member comes to

reside in the assisted unit), the required evidence shall be submitted at the first interim or regular reexamination following the person's occupancy.

(4) *Changing participation in a HUD program.* Whenever a family applies for admission to a Section 214 covered program, evidence of eligible status is required to be submitted in accordance with the requirements of this subpart unless the family already has submitted the evidence to the responsible entity for a Section 214 covered program.

(5) *One-time evidence requirement for continuous occupancy.* For each family member, the family is required to submit evidence of eligible status only one time during continuously assisted occupancy under any Section 214 covered program.

(h) *Extensions of time to submit evidence of eligible status*—(1) *When extension must be granted.* The responsible entity shall extend the time, provided in paragraph (g) of this section, to submit evidence of eligible immigration status if the family member:

(i) Submits the declaration required under § 5.508(a) certifying that any person for whom required evidence has not been submitted is a noncitizen with eligible immigration status; and

(ii) Certifies that the evidence needed to support a claim of eligible immigration status is temporarily unavailable, additional time is needed to obtain and submit the evidence, and prompt and diligent efforts will be undertaken to obtain the evidence.

(2) *Thirty-day extension period.* Any extension of time, if granted, shall not exceed thirty (30) days. The additional time provided should be sufficient to allow the individual the time to obtain the evidence needed. The responsible entity's determination of the length of the extension needed shall be based on the circumstances of the individual case.

(3) *Grant or denial of extension to be in writing.* The responsible entity's decision to grant or deny an extension as provided in paragraph (h)(1) of this section shall be issued to the family by written notice. If the extension is granted, the notice shall specify the extension period granted (which shall not exceed thirty (30) days). If the extension is denied, the notice shall explain the reasons for denial of the extension.

(i) *Failure to submit evidence or to establish eligible status.* If the family fails to submit required evidence of eligible immigration status within the time period specified in the notice, or any extension granted in accordance with paragraph (h) of this section, or if the evidence is timely submitted but fails to establish eligible immigration status, the responsible entity shall proceed to deny, prorate or terminate assistance, or provide continued assistance or temporary deferral of termination of assistance, as appropriate, in accordance with the provisions of §§ 5.514, 5.516, and 5.518.

(ii) [Reserved]

[61 FR 13616, Mar. 27, 1996, as amended at 61 FR 60538, Nov. 29, 1996; 64 FR 25731, May 12, 1999]

§ 5.510 Documents of eligible immigration status.

(a) *General.* A responsible entity shall request and review original documents of eligible immigration status. The responsible entity shall retain photocopies of the documents for its own records and return the original documents to the family.

(b) *Acceptable evidence of eligible immigration status.* Acceptable evidence of eligible immigration status shall be the original of a document designated by INS as acceptable evidence of immigration status in one of the six categories mentioned in § 5.506(a) for the specific immigration status claimed by the individual.

[61 FR 13616, Mar. 27, 1996, as amended at 61 FR 60539, Nov. 29, 1996; 64 FR 25731, May 12, 1999]

§ 5.512 Verification of eligible immigration status.

(a) *General.* Except as described in paragraph (b) of this section and § 5.514, no individual or family applying for assistance may receive such assistance prior to the verification of the eligibility of at least the individual or one family member. Verification of eligibility consistent with § 5.514 occurs when the individual or family members have submitted documentation to the responsible entity in accordance with § 5.508.

Exhibit J

Tenancy Addendum
Section 8 Tenant-Based Assistance
Housing Choice Voucher Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

(To be attached to Tenant Lease)

1. Section 8 Voucher Program

a. The owner is leasing the contract unit to the tenant for occupancy by the tenant's family with assistance for a tenancy under the Section 8 housing choice voucher program (voucher program) of the United States Department of Housing and Urban Development (HUD).

b. The owner has entered into a Housing Assistance Payments Contract (HAP contract) with the PHA under the voucher program. Under the HAP contract, the PHA will make housing assistance payments to the owner to assist the tenant in leasing the unit from the owner.

2. Lease

a. The owner has given the PHA a copy of the lease, including any revisions agreed by the owner and the tenant. The owner certifies that the terms of the lease are in accordance with all provisions of the HAP contract and that the lease includes the tenancy addendum.

b. The tenant shall have the right to enforce the tenancy addendum against the owner. If there is any conflict between the tenancy addendum and any other provisions of the lease, the language of the tenancy addendum shall control.

3. Use of Contract Unit

a. During the lease term, the family will reside in the contract unit with assistance under the voucher program.

b. The composition of the household must be approved by the PHA. The family must promptly inform the PHA of the birth, adoption or court-awarded custody of a child. Other persons may not be added to the household without prior written approval of the owner and the PHA.

c. The contract unit may only be used for residence by the PHA-approved household members. The unit must be the family's only residence. Members of the household may engage in legal profitmaking activities incidental to primary use of the unit for residence by members of the family.

d. The tenant may not sublease or let the unit.

e. The tenant may not assign the lease or transfer the unit.

4. Rent to Owner

a. The initial rent to owner may not exceed the amount approved by the PHA in accordance with HUD requirements.

b. Changes in the rent to owner shall be determined by the provisions of the lease. However, the owner may not raise the rent during the initial term of the lease.

c. During the term of the lease (including the initial term of the lease and any extension term), the rent to owner may at no time exceed:

(1) The reasonable rent for the unit as most recently determined or redetermined by the PHA in accordance with HUD requirements, or

(2) Rent charged by the owner for comparable unassisted units in the premises.

5. Family Payment to Owner

a. The family is responsible for paying the owner any portion of the rent to owner that is not covered by the PHA housing assistance payment.

b. Each month, the PHA will make a housing assistance payment to the owner on behalf of the family in accordance with the HAP contract. The amount of the monthly housing assistance payment will be determined by the PHA in accordance with HUD requirements for a tenancy under the Section 8 voucher program.

c. The monthly housing assistance payment shall be credited against the monthly rent to owner for the contract unit.

d. The tenant is not responsible for paying the portion of rent to owner covered by the PHA housing assistance payment under the HAP contract between the owner and the PHA. A PHA failure to pay the housing assistance payment to the owner is not a violation of the lease. The owner may not terminate the tenancy for nonpayment of the PHA housing assistance payment.

e. The owner may not charge or accept, from the family or from any other source, any payment for rent of the unit in addition to the rent to owner. Rent to owner includes all housing services, maintenance, utilities and appliances to be provided and paid by the owner in accordance with the lease.

f. The owner must immediately return any excess rent payment to the tenant.

6. Other Fees and Charges

a. Rent to owner does not include cost of any meals or supportive services or furniture which may be provided by the owner.

b. The owner may not require the tenant or family members to pay charges for any meals or supportive services or furniture which may be provided by the owner. Nonpayment of any such charges is not grounds for termination of tenancy.

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

7. Maintenance, Utilities, and Other Services

a. Maintenance

(1) The owner must maintain the unit and premises in accordance with the HQS.

(2) Maintenance and replacement (including redecoration) must be in accordance with the standard practice for the building concerned as established by the owner.

b. Utilities and appliances

(1) The owner must provide all utilities needed to comply with the HQS.

(2) The owner is not responsible for a breach of the HQS caused by the tenant's failure to:

(a) Pay for any utilities that are to be paid by the tenant.

(b) Provide and maintain any appliances that are to be provided by the tenant.

c. **Family damage**. The owner is not responsible for a breach of the HQS because of damages beyond normal wear and tear caused by any member of the household or by a guest.

d. **Housing services**. The owner must provide all housing services as agreed to in the lease.

8. Termination of Tenancy by Owner

a. **Requirements**. The owner may only terminate the tenancy in accordance with the lease and HUD requirements.

b. **Grounds**. During the term of the lease (the initial term of the lease or any extension term), the owner may only terminate the tenancy because of:

(1) Serious or repeated violation of the lease;

(2) Violation of Federal, State, or local law that imposes obligations on the tenant in connection with the occupancy or use of the unit and the premises;

(3) Criminal activity or alcohol abuse (as provided in paragraph c); or

(4) Other good cause (as provided in paragraph d).

c. **Criminal activity or alcohol abuse.**

(1) The owner may terminate the tenancy during the term of the lease if any member of the household, a guest or another person under a resident's control commits any of the following types of criminal activity:

(a) Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);

(b) Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;

(c) Any violent criminal activity on or near the premises; or

(d) Any drug-related criminal activity on or near the premises.

(2) The owner may terminate the tenancy during the term of the lease if any member of the household is:

(a) 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

(b) Violating a condition of probation or parole under Federal or State law.

(3) The owner may terminate the tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

(4) The owner may terminate the tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety or right to peaceful enjoyment of the premises by other residents.

d. **Other good cause for termination of tenancy**

(1) During the initial lease term, other good cause for termination of tenancy must be something the family did or failed to do.

(2) During the initial lease term or during any extension term, other good cause includes:

(a) Disturbance of neighbors,

(b) Destruction of property, or

(c) Living or housekeeping habits that cause damage to the unit or premises.

(3) After the initial lease term, such good cause includes:

(a) The tenant's failure to accept the owner's offer of a new lease or revision;

(b) The owner's desire to use the unit for personal or family use or for a purpose other than use as a residential rental unit; or

(c) A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, the owner's desire to rent the unit for a higher rent).

e. **Eviction by court action.** The owner may only evict the tenant by a court action.

f. **Owner notice of grounds**

(1) At or before the beginning of a court action to evict the tenant, the owner must give the tenant a notice that specifies the grounds for termination of tenancy. The notice may be included in or combined with any owner eviction notice.

(2) The owner must give the PHA a copy of any owner eviction notice at the same time the owner notifies the tenant.

(3) Eviction notice means a notice to vacate, or a complaint or other initial pleading used to begin an eviction action under State or local law.

9. Lease: Relation to HAP Contract

If the HAP contract terminates for any reason, the lease terminates automatically.

10. PHA Termination of Assistance

The PHA may terminate program assistance for the family for any grounds authorized in accordance with HUD requirements. If the PHA terminates program assistance for the family, the lease terminates automatically.

11. Family Move Out

The tenant must notify the PHA and the owner before the family moves out of the unit.

12. Security Deposit

a. The owner may collect a security deposit from the tenant. (However, the PHA may prohibit the owner from collecting a security deposit in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. Any such PHA-required restriction must be specified in the HAP contract.)

b. When the family moves out of the contract unit, the owner, subject to State and local law, may use the security deposit, including any interest on the deposit, as reimbursement for any unpaid rent payable by the tenant, any damages to the unit or any other amounts that the tenant owes under the lease.

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

d. If the security deposit is not sufficient to cover amounts the tenant owes under the lease, the owner may collect the balance from the tenant.

13. Prohibition of Discrimination

In accordance with applicable equal opportunity statutes, Executive Orders, and regulations, the owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status or disability in connection with the lease.

14. Conflict with Other Provisions of Lease

a. The terms of the tenancy addendum are prescribed by HUD in accordance with Federal law and regulation, as a condition for Federal assistance to the tenant and tenant's family under the Section 8 voucher program.

b. In case of any conflict between the provisions of the tenancy addendum as required by HUD, and any other provisions of the lease or any other agreement between the owner and the tenant, the requirements of the HUD-required tenancy addendum shall control.

15. **Changes in Lease or Rent**

a. The tenant and the owner may not make any change in the tenancy addendum. However, if the tenant and the owner agree to any other changes in the lease, such changes must be in writing, and the owner must immediately give the PHA a copy of such changes. The lease, including any changes, must be in accordance with the requirements of the tenancy addendum.

b. In the following cases, tenant-based assistance shall not be continued unless the PHA has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner:

(1) If there are any changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;

(2) If there are any changes in lease provisions governing the term of the lease;

(3) If the family moves to a new unit, even if the unit is in the same building or complex.

c. PHA approval of the tenancy, and execution of a new HAP contract, are not required for agreed changes in the lease other than as specified in paragraph b.

d. The owner must notify the PHA of any changes in the amount of the rent to owner at least sixty days before any such changes go into effect, and the amount of the rent to owner following any such agreed change may not exceed the reasonable rent for the unit as most recently determined or redetermined by the PHA in accordance with HUD requirements.

16. Notices

Any notice under the lease by the tenant to the owner or by the owner to the tenant must be in writing.

17. Definitions

Contract unit. The housing unit rented by the tenant with assistance under the program.

Family. The persons who may reside in the unit with assistance under the program.

HAP contract. The housing assistance payments contract between the PHA and the owner. The PHA pays housing assistance payments to the owner in accordance with the HAP contract.

Household. The persons who may reside in the contract unit. The household consists of the family and any PHA-approved live-in aide. (A live-in aide is a person who resides in the unit to provide necessary supportive services for a member of the family who is a person with disabilities.)

Housing quality standards (HQS). The HUD minimum quality standards for housing assisted under the Section 8 tenant-based programs.

HUD. The U.S. Department of Housing and Urban Development.

HUD requirements. HUD requirements for the Section 8 program. HUD requirements are issued by HUD headquarters, as regulations, Federal Register notices or other binding program directives.

Lease. The written agreement between the owner and the tenant for the lease of the contract unit to the tenant. The lease includes the tenancy addendum prescribed by HUD.

PHA. Public Housing Agency.

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

Program. The Section 8 housing choice voucher program.

Rent to owner. The total monthly rent payable to the owner for the contract unit. The rent to owner is the sum of the portion of rent payable by the tenant plus the PHA housing assistance payment to the owner.

Section 8. Section 8 of the United States Housing Act of 1937 (42 United States Code 1437f).

Tenant. The family member (or members) who leases the unit from the owner.

Voucher program. The Section 8 housing choice voucher program. Under this program, HUD provides funds to an PHA for rent subsidy on behalf of eligible families. The tenancy under the lease will be assisted with rent subsidy for a tenancy under the voucher program.

Fair Market Rents (24 C.F.R. §888)

(Effective OCT 18 2004, 2004)

County	Studio	1 BR	2 BR	3 BR	4 BR
Honolulu	$642	$769	$905	$1,225	$1,325
Hawaii	$474	$618	$711	$944	$1,164
Maui	$765	$950	$1,159	$1,496	$1,695
Kauai	$605	$904	$1,102	$1,458	$1,577

the owner application, its possible impact on the person (e.g., the person may be displaced, temporarily relocated, or suffer a rent increase) and the fact that the person would not qualify as a "displaced person" (or for any assistance provided under this section) if the owner application is approved;

(iii) The person is ineligible under 49 CFR 24.2(g)(2); or

(iv) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(3) The HA may request, at any time, HUD's determination of whether a displacement is or would be covered by this section.

(h) *Definition of initiation of negotiations.* For purposes of determining the formula for computing a replacement housing payment to be provided to a residential tenant displaced as a direct result of privately undertaken rehabilitation or demolition of the real property, the term "initiation of negotiations" means the execution of the Agreement between the owner and the HA.

[60 FR 34717, July 3, 1995, as amended at 63 FR 23871, Apr. 30, 1998]

§ 983.11 Other Federal requirements.

(a) *Equal Opportunity and related requirements.* Participation in this program requires compliance with the Equal Opportunity requirements specified in § 982.53 of this chapter including Section 504 of the Rehabilitation Act of 1973 (24 CFR part 8) and the Fair Housing Amendments Act of 1988 (24 CFR part 100).

(b) *Environmental requirements.* Activities under this part 983 are subject to HUD environmental regulations at 24 CFR part 58. An HA may not attach assistance to a unit unless, before the HA enters into an Agreement to provide project-based assistance for the unit:

(1) The unit of general local government within which the project is located that exercises land use responsibility or, as determined by HUD, the county or State has completed the environmental review required by 24 CFR part 58 and provided to the HA for submission to HUD the completed request for release of funds and certification; and

(2) HUD has approved the request for release of funds.

(c) *Other Federal requirements.* The following requirements must be met, if applicable:

(1) Clean Air Act and Federal Water Pollution Control Act;

(2) Flood Disaster Protection Act of 1973;

(3) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the regulations in 24 CFR part 135;

(4) Executive Order 11246, Equal Employment Opportunity (for all construction contracts of over $10,000);

(5) Executive Order 11625, Prescribing Additional Arrangements for Developing and Coordinating a National Program for Minority Business Enterprises;

(6) Executive Orders 12432, Minority Business Enterprise Development, and 12138, Creating a National Women's Business Enterprise Policy; and

(7) Payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act, to all laborers and mechanics employed in the construction or rehabilitation of the project under an Agreement covering nine or more assisted units, and compliance with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other Federal laws and regulations pertaining to labor standards applicable to such an Agreement.

(8) The provisions of part 24 of this title relating to the employment, engagement of services, awarding contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status.

§ 983.12 Program accounts and records.

(a) During the term of each assisted lease, and for at least three years thereafter, the HA must keep:

(1) A copy of the executed lease; and

(2) The application from the family.

(b) During the HAP contract term, and for at least three years thereafter, the HA must keep a copy of:

the owner application, its possible impact on the person (e.g., the person may be displaced, temporarily relocated, or suffer a rent increase) and the fact that the person would not qualify as a "displaced person" (or for any assistance provided under this section) if the owner application is approved;

(iii) The person is ineligible under 49 CFR 24.2(g)(2); or

(iv) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(3) The HA may request, at any time, HUD's determination of whether a displacement is or would be covered by this section.

(h) *Definition of initiation of negotiations.* For purposes of determining the formula for computing a replacement housing payment to be provided to a residential tenant displaced as a direct result of privately undertaken rehabilitation or demolition of the real property, the term "initiation of negotiations" means the execution of the Agreement between the owner and the HA.

[60 FR 34717, July 3, 1995, as amended at 63 FR 23871, Apr. 30, 1998]

§983.11 Other Federal requirements.

(a) *Equal Opportunity and related requirements.* Participation in this program requires compliance with the Equal Opportunity requirements specified in §982.53 of this chapter including Section 504 of the Rehabilitation Act of 1973 (24 CFR part 8) and the Fair Housing Amendments Act of 1988 (24 CFR part 100).

(b) *Environmental requirements.* Activities under this part 983 are subject to HUD environmental regulations at 24 CFR part 58. An HA may not attach assistance to a unit unless, before the HA enters into an Agreement to provide project-based assistance for the unit:

(1) The unit of general local government within which the project is located that exercises land use responsibility or, as determined by HUD, the county or State has completed the environmental review required by 24 CFR part 58 and provided to the HA for submission to HUD the completed request for release of funds and certification; and

(2) HUD has approved the request for release of funds.

(c) *Other Federal requirements.* The following requirements must be met, if applicable:

(1) Clean Air Act and Federal Water Pollution Control Act;

(2) Flood Disaster Protection Act of 1973;

(3) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the regulations in 24 CFR part 135;

(4) Executive Order 11246, Equal Employment Opportunity (for all construction contracts of over $10,000);

(5) Executive Order 11625, Prescribing Additional Arrangements for Developing and Coordinating a National Program for Minority Business Enterprises;

(6) Executive Orders 12432, Minority Business Enterprise Development, and 12138, Creating a National Women's Business Enterprise Policy; and

(7) Payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act, to all laborers and mechanics employed in the construction or rehabilitation of the project under an Agreement covering nine or more assisted units, and compliance with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other Federal laws and regulations pertaining to labor standards applicable to such an Agreement.

(8) The provisions of part 24 of this title relating to the employment, engagement of services, awarding contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status.

§983.12 Program accounts and records.

(a) During the term of each assisted lease, and for at least three years thereafter, the HA must keep:

(1) A copy of the executed lease; and

(2) The application from the family.

(b) During the HAP contract term, and for at least three years thereafter, the HA must keep a copy of: