HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM

SUBTITLE 14

HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII

CHAPTER 185

SECTION 8 - HOUSING CHOICE VOUCHER PROGRAM

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Historical Note: Chapter 185 of Title 15, Hawaii Administrative Rules, is substantially based upon Chapter 17-511, Hawaii Administrative Rules. [Effective 2/18/82; am 10/31/88; R DEC 03 2001]

SUBCHAPTER 1

GENERAL PROVISIONS

§15-185-1 Purpose. These rules are adopted under chapter 91, HRS, and shall govern the implementation of the management requirements of the housing choice voucher program authorized by the United States Housing Act of 1937, as amended by the Housing and Community Development Act of 1974, and the Quality Housing Work Responsibility Act (QHWRA) of 1998, and establishes the role and responsibility of the participants and the housing and community development corporation of Hawaii. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; C.F.R. §982.54)

§15-185-2 Nondiscrimination. (a) The corporation shall not deny any family or individual the opportunity to apply for or receive assistance under this chapter on the basis of race, color, sex, religion, marital status, creed, national or ethnic origin, age, familial status, handicap or disability or HIV infection.

(b) The corporation shall comply with federal and state nondiscrimination laws and with rules and regulations governing fair housing and equal opportunity in the administration of the program. The corporation shall provide a family with the United States Department of Housing and Urban Development discrimination complaint form and information on how to file a fair housing complaint if the family claims that discrimination prevented them from finding or leasing a suitable unit under the program. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-5; 24 C.F.R. §§982.53, 982.304)

§15-185-3 Definitions. As used in this chapter:

"Adjusted income" means "annual income" minus any HUD allowable expenses and deductions as defined in 24 C.F.R. §5.611, which is incorporated by reference and attached as exhibit A.

"Annual income" means the gross amount of income anticipated to be received by the family during the twelve months after certification or recertification. Gross income is the amount of income prior to any HUD allowable expenses or deductions, and does not include income which has been excluded by HUD, as defined in 24 C.F.R. §5.609, which is incorporated by reference and attached as exhibit B.

"Applicant" means an individual or family that submits an application for admission to the program but is not yet a participant in the program.

"Assets" or "net family assets" means 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 as defined in 24 C.F.R. §5.603, which is incorporated by reference and attached as exhibit C.

"Board" means the board of directors of the housing and community development corporation of Hawaii.

"Certificate" means a document issued by the corporation to a family selected for admission to the certificate program.

"C.F.R." means the United States Code of Federal Regulations.

"Community wide" means inclusive of any location that is under the jurisdiction of the corporation.

"Continuously assisted" means that the applicant is currently receiving assistance under any program of the U.S. Housing Act of 1937, as amended, and there is no break in assistance to the family.

"Contract rent" means the total rent payable to the owner of a dwelling unit through a housing assistance payments contract.

"Corporation" means the housing and community development corporation of Hawaii, the successor to the Hawaii housing authority.

"Covered families" means families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance."

"Disabled family" means a family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

"Domestic violence" means the actual or threatened physical violence directed against a family member by a spouse or other household member who lives in the unit with the family.

"Drug related criminal activity" means the manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use a controlled substance as defined in 21 U.S.C. 802 and which activity is conducted on or near the premises of the assisted dwelling unit.

"Dwelling unit" means a residential unit accepted for lease in the program.

"Economic self-sufficiency program" means any program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work for such families.

"Elderly" or "elderly family" means a family whose head, spouse, or sole member is a person who is at least sixty-two years of age; or two or more persons who are at least sixty-two years of age living together; or one or more persons who are at least sixty-two years of age living with one or more live-in aides.

"Eligible family" means a family that meets the qualifications and requirements of the program.

"Executive director" means the executive director of the corporation or the executive director's designated representative.

"Extremely low income family" means a family whose annual income does not exceed thirty per cent of the median income for the area, with adjustments for smaller and larger families, except that income ceilings higher or lower than thirty per cent of the median income for the area may be established if such variations are necessary because of unusually high or low family incomes.

"Fair market rent" or "FMR" means the rent including the cost of utilities (except telephone or cable television), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities.

"Family" means:

(1) Two or more persons who live or intend to live together as a unit and whose income and resources are available to meet the family's needs and who may be related by blood, marriage, or operation of law and whose head of family has reached the age of majority. Family may include foster children and hanai children;

(2) An elderly family;

(3) A disabled family;

(4) A displaced family;

(5) The remaining member of a tenant family who is recorded as an authorized occupant on the current list of household members and who has reached the age of majority; or

(6) A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

"Family self sufficiency program" or "FSS program" means the program establish by the corporation in accordance with 24 C.F.R. Part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services.

"Gross rent" means the contract rent plus allowances for utilities and other services.

"Hanai children" means a person or persons, under eighteen years of age, for whom an applicant or participant provides food, nourishment and support for a minimum period of at least a year or has been recognized in the household for support by the Department of Human Services and who is acknowledged as the applicant's or participant's child among friends, relatives and the community.

"HAP" means the monthly housing assistance payment by the corporation as defined in 24 C.F.R. §982.4 which includes:

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

(2) Any additional payment to the family if the total assistance payment exceeds the rent to the owner.

"HAP contract" means housing assistance payments contract.

"HRS" means Hawaii Revised Statutes.

"Housing quality standards" means the HUD minimum quality standards for housing assisted under the tenant-based programs.

"HUD" means the United States Department of Housing and Urban Development.

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

"Involuntarily displaced" means an applicant who has vacated or may have to vacate the unit where the applicant lives because of one or more of the following:

(1) Displacement by disaster;

(2) Displacement by governmental action; or

(3) Displacement by action of housing owner for reasons beyond the applicant's control and despite the applicant meeting all previously imposed conditions of occupancy. The action

(4) taken by the owner is for reasons other than rent increase.

"Landlord" means either the owner of the property or his or her representative or the managing agent or his or her representative, as shall be designated by the owner.

"Live-in aide" means a person who resides with one or more elderly persons, or near elderly persons, or persons with disabilities, and who:

(1) Is determined to be essential to the care and well-being of the persons;

(2) Is not obligated for the support of the persons; and

(3) Would not be living in the unit except to provide the necessary support services.

"Owner" means any persons or entity having the legal right to lease or sublease a residential dwelling unit to a participant and includes, when applicable, a mortgagee.

"Participant" or "tenant" means a person or family that is receiving rental assistance in the program. Participation begins on the first day of the approved lease term.

"Payment standard" means the maximum monthly assistance payment for a family assisted in the voucher program before deducting the total tenant payment by the family.

"Portability" means the right to receive Section 8 tenant-based assistance outside of the jurisdiction of the initial public housing agency.

"Program" means the tenant-based Section 8 rental certificate and voucher programs.

"Resident" means a United States citizen or a permanent United States resident who is able to demonstrate his or her intent to reside in Hawaii. Intent to reside in Hawaii shall be demonstrated by the following: length of time spent in Hawaii; leasing or renting of a home in Hawaii; filing of personal Hawaii income tax returns; registering to vote in Hawaii; Hawaii driver's license; record of Hawaii residency; enrollment of minor children in Hawaii schools; establishment of bank accounts and other

accounts in Hawaii; written reference from Hawaii residents, relatives, or social agencies; and any other indicia which could substantiate a claim of an intent to reside.

"Security deposit" means the deposit required by an owner from a participant as defined in the Residential Landlord-Tenant Code, §521-44, HRS.

"Utility allowance" means the value of utilities such as electricity, gas, and water costs that are included in the gross rent of the participant. This does not include telephone or cable TV services.

"Veteran" means a person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released from active service under conditions other than dishonorable.

"Violent criminal activity" means any illegal criminal activity that has one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

"Voucher" means a document issued by the corporation to a family selected for admission to the voucher program.

"Voucher holder" means an applicant who has a valid voucher but not an approved lease.

[Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. Parts 5 and 982)

§15-185-4 Public notice to lower-income families. The corporation shall inform the public of the availability and nature of housing assistance for families within allowed income limits through publications of general circulation and shall ensure wide and appropriate coverage.

[Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.206)

§15-185-5 Participation by owners and others. The corporation shall invite eligible owners, including owners of suitable units located outside of

poverty or racially concentrated areas, to make dwelling units available for leasing by eligible families and to expand opportunities for disabled persons. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§ 982.54) and 982.306)

§15-185-6 Income limits. (a) Income limits for a family's participation in the program shall be the same income limits established by HUD for its section 8 tenant-based housing choice voucher program, which are incorporated by reference and attached as exhibit D.

(b) Applicable income limits as provided in subsection (a) shall be published once per year in a publication with wide circulation, be posted at all times in a conspicuous place at the corporation's offices that accept applications, and printed in the corporation's informational materials on eligibility for the programs. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §5.607)

§15-185-7 Assets. All assets held by each member of an eligible family shall be used to determine annual income. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §5.609)

§15-185-8 Subsidy and occupancy standards. (a) The corporation shall establish subsidy standards that shall provide for a minimum commitment of subsidy while avoiding overcrowding. The subsidy standards are incorporated by reference and attached as exhibit E.

(b) The standards determine the number of bedrooms to be entered on the voucher and not a family's actual living arrangement.

(c) The corporation's occupancy standards follow the occupancy codes of the County in which the unit is located. The occupancy standards are incorporated by

reference and attached as exhibit F. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-32; 24 C.F.R. §§982.54(d)(9), 982.401, 982.402)

§15-185-9 Allowance for utilities and other services. (a) The corporation shall maintain a utility allowance schedule for utilities and other services that shall be coordinated with the allowance schedules of the respective counties. The utility allowance schedules are incorporated by reference and attached as exhibit G.

(b) On request from a family that includes a person with disabilities, the corporation shall approve a utility allowance which is higher than the applicable amount in the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation in accordance with 24 C.F.R. part 8 to make the program accessible to and usable by the family member with a disability.

(c) A participant shall receive a utility reimbursement when the utility allowance exceeds the total tenant payment. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.517)

§15-185-10 Verification of information. (a) The corporation shall require an applicant or participant to provide documentation verifying information provided by the family relating to the program.

(b) An applicant or participant who fails to provide documentation to verify information requested by staff shall be ineligible for participation in the program.

(c) Verification documents shall be valid for the following lengths of time:

(1) For applicants, sixty days before the voucher is issued to the applicant.

(2) For participants, one hundred twenty days from the date received by the corporation.

[Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. S§982.201, 982.551; 982.552; 982.553)

SUBCHAPTER 2

ELIGIBILITY

§15-185-21 Applications. (a) A family seeking to participate in the program shall submit a completed pre-application form prepared by the corporation. The applicant is permitted to file an application in person or by mail and at any of the corporation's applications offices for any and all waiting list areas prescribed in section 15-185-26.

(b) The initial pre-application review shall not require an interview. Only applicants who are determined eligible in the initial review shall be placed on the waiting list. A final eligibility review shall be conducted when the applicant reaches the top of the waiting list.

(c) An applicant who has misrepresented material information may not be eligible to file an application with the corporation. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§982.201, 982.202)

§15-185-22 Eligibility for admission and participation. (a) To be eligible for participation in the program, an applicant and household members shall meet all of the requirements of the pre-application and final-application phases as set forth below:

(1) During the pre-application phase, the applicant and adult household members shall:
   (A) Qualify as a family;
   (B) Be income eligible as determined under section 15-185-6;

(C) Not have an outstanding debt owed to the corporation as a participant in any of its programs;

(D) Not have an outstanding liability for unpaid rent or damages incurred while previously participating in any section 8 rental subsidy program;

(E) Provide a social security number for all family members who are at least six years of age or certify that the person does not have a social security number;

(F) Not have been evicted since March 1,1985 from a public housing program administered by the corporation or its predecessor, Hawaii housing authority;

(G) Not have been terminated for assistance under the program;

(H) Not have committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;

(I) Within one year of the projected date of voucher award, not have been engaged in any drug-related or violent criminal activity or other criminal activity which would adversely affect the health, safety, right of peaceful enjoyment of the premises by other residents, the owner, or corporation employees;

(J) Not be illegally using a controlled substance or give the corporation a reasonable cause to believe that the illegal use (or pattern of illegal use) of a controlled substance or abuse of alcohol (or pattern of abuse) may interfere with the health, safety, or right to peaceful enjoyment of a rental premises by other residents;

(i) For the purposes of this subsection, "reasonable cause to

believe" means by a preponderance of the evidence;

(ii) For the purposes of this subsection, in determining whether to deny eligibility based on a pattern of illegal use of a controlled substance or a pattern of abuse of alcohol, the corporation may consider rehabilitation as provided for under 42 U.S.C. §13661(b)(2)(A)-(C) effective October 1, 1999, which is incorporated by reference and attached as exhibit H;

(K) Not be engaged in any drug-related criminal activity or violent criminal activity which would adversely affect the health, safety, right to peaceful enjoyment of the premises by other residents, the owner, or corporation employees;

(L) Not have been convicted of the manufacture, production, or distribution of methamphetamines; and

(M) Not subject to lifetime registration requirements under any State sex offender's registration program.

(2) During the final application phase the applicant and all adult household members shall meet the requirements set forth in subsection 15-185-22(a)(1), as well as the following requirements:

(A) Not engaged in or threatened abusive or violent behavior toward the corporation's personnel. For purposes of this subsection, "threatened" means an oral or written threat or physical gestures that communicate an intent to abuse or commit violence. Abusive or violent behavior may be verbal or physical and include use of expletives that are generally considered

insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate; and

(B) Furnish evidence of citizenship or eligible immigrant status as provided for in 24 C.F.R. §5.508, which is incorporated by reference and attached as exhibit I.

(b) An applicant who is continuously assisted under the U.S. Housing Act of 1937 shall be admitted to the program as though the applicant was already a program participant.

(c) A participant shall not receive a voucher at the same time as other rent supplement or housing benefits including state rent supplement payments authorized under chapter 201G-236, Hawaii Revised Statutes.

(d) Before the corporation denies or terminates assistance on the basis of a criminal record, the corporation shall provide the applicant or participant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record pursuant to section 15-185-71 or 15-185-72. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§5.216, 982.201, 982.202, 982.307, 982.551, 982.552, 982.553)

§15-185-23 Income targeting. At least seventy five per cent of families admitted to the program during the fiscal year from the waiting list shall be extremely low income families. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.201)

§15-185-24 Notification of eligibility. (a) An applicant shall be mailed a written notification after an eligibility determination is made. The notification shall specifically state the reasons for the determination.

(b) An eligible applicant shall be placed on the waiting list.

(c) An applicant determined to be ineligible for admission or participation in the program shall be accorded an opportunity to request for an informal review as set forth in section 15-185-71. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.554)

§15-185-25 Local preferences. (a) Eligible applicants shall be given preference for certification in the program in the order of the dates of their applications if, at the time they are seeking housing assistance, they fall within the following preference categories:

(1) The following preferences shall be given first priority but have equal weight within this group:
   (A) Involuntarily displaced;
   (B) Victims of domestic violence; or
   (C) Homeless.

(2) The following preferences shall be given second priority but have equal weight within this group:
   (A) Living in substandard housing; or
   (B) Paying more than fifty per cent of annual income for rent.

(3) The following are other preferences that have equal weight:
   (A) Working families and those unable to work because of age or disability;
   (B) Veterans and veterans' surviving spouse;
   (C) Residents who live or work in the jurisdiction (by county); or
   (D) Victims of reprisals or hate crimes.

(b) Each preference in each priority group is of equal weight and an applicant who qualifies for any of the preferences shall receive assistance before any other applicant who is not so qualified regardless of:

(1) Place on the waiting list; or

(2) Date or time of submission of an application.

(c) An applicant who is an elderly, disabled or displaced family with up to two members in the household shall be given preference over all other single applicants, regardless of the other single applicant's local preference.

(d) An applicant shall not receive preference if any adult member of the applicant family is a person who was evicted or terminated from any housing program operated by the corporation during the past three years because of drug-related criminal activities unless the adult member has successfully completed a rehabilitation program approved by the corporation. [Eff DEC 03 200] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§5.405, 5.410, 5.415, 5.420, 5.425, 5.430, and 982.207)

§15-185-26 Waiting list. (a) The corporation shall maintain separate waiting lists for each of the islands of Oahu, Kauai, Maui, Molokai and Lanai, and for the west Hawaii-north Kohala district to south Kona district and the east Hawaii-Ka'u district to the Hamakua district, which is community wide in scope.

(b) Applicants shall be notified of the opportunity to apply for and be placed on any and all waiting lists through notices posted in a conspicuous place at the corporation's offices that accept applications and in a printed statement in the corporation's information material on its application process.

(c) Placement of applicants on the waiting list shall be based upon the following:

(1) Applicable local preference; and

(2) Date and time of application's receipt.

(d) An applicant must notify the corporation, at least annually, of any change that may affect the applicant's place on the waiting list and the corporation's ability to contact applicant. Changes include, but are not limited to, familial status,

financial status, preference status, mailing address and current residence.

(e) An applicant may continue to be on the waiting list even though the applicant is a tenant in or receiving housing assistance from another housing program. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.204)

§15-185-27 Removal from the waiting list. An applicant shall be removed from the waiting list for any one of the following reasons:

(1) The applicant requests that applicant's name be removed;
(2) The applicant fails to notify the corporation of applicant's continued interest for housing at least once every twelve months;
(3) The applicant no longer meets the eligibility criteria set forth in section 15-185-22;
(4) The applicant fails to respond to the corporation's reasonable contact efforts. Two written notices to the last known address shall constitute reasonable effort to contact;
(5) The applicant fails without good cause to keep a scheduled interview or to provide requested information necessary to determine eligibility;
(6) The applicant refuses a voucher for housing assistance; or
(7) The applicant misrepresents any material information to the corporation on the application or otherwise. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.204(c))

§15-185-28 Closing and reopening the waiting list. (a) The corporation may suspend the acceptance of applications and close the waiting list, in whole

or in part, when it is determined that there are enough applicants on the waiting list to fill anticipated openings for the next twenty-four months.

(b) The corporation may publicly announce any closure and reopening of the application taking process pursuant to section 15-185-4. If the list is opened for only a limited time, the opening announcement shall include the closing date and not require further notice. Publicly announce may include, but is not limited to, publishing notices in a newspaper of general circulation and minority newspapers or notifying social service organizations.

(c) During periods when the waiting list is closed, the corporation is not required to maintain a list of persons to be notified when application taking is reopened. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.206)

§15-185-29 Final application process - selection and certification. (a) Selection for certification shall be from the established waiting list and shall be based on the following:

(1) Applicable local preferences; and

(2) Date and time of receipt of application.

(b) Applicants shall be provided with a briefing packet containing all required materials and shall be informed of their responsibilities prior to acceptance of a voucher. A voucher shall not be issued unless the applicant or an authorized representative attends a briefing and signs the voucher.

(c) A voucher holder shall be responsible for finding a qualified dwelling unit of appropriate size prior to the expiration of the voucher.

(d) A voucher shall expire at the end of sixty days from issuance unless within that timeframe, the family submits a request for lease approval, in which case the sixty day time limit shall be suspended while the corporation determines whether to approve the lease.

(e) An applicant may request an extension to the initial sixty day time period if the voucher is about

to expire. The request for extension shall be in writing and be received by the corporation or postmarked no later than the last day of the voucher term. The extension request shall include an explanation for the request and a progress report on efforts made to locate a suitable unit.

(f) An applicant may request an extension beyond one hundred twenty days provided there are verifiable circumstances beyond the applicant's control that hinders the applicant from locating a suitable unit. The request for extension shall be in writing and be received by the corporation or postmarked no later than the last day of the voucher term. The extension request shall include an explanation for the request and a progress report on efforts made to locate a suitable unit. If an extension is granted, the corporation shall recertify the applicant's eligibility and income.

(g) Upon request from a prospective landlord, the corporation may furnish the current address and the name and address of any current or prior landlord of the voucher holder as shown in the corporation's records. Also upon request from the prospective landlord, the corporation may furnish other information about the tenancy history of family members, or (provided that there has been a criminal conviction) about drug trafficking by family members. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§ 982.301, 982.302, 982.303, 982.305, 982.306, 982.307)

§15-185-30 Exception for designated programs. (a) The corporation may admit families not on the established waiting list that are targeted for specific funding awards from HUD, including, but not limited to:

(1) A family displaced because of modernization, demolition or disposition of a public or Indian housing project;

(2) A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;
(3) Housing covered by the Low Income Housing Preservation and Resident Homeownership Act of 1990;
(4) A family residing in a project covered by a section 8 project-based housing assistance payment contract at or near the end of the housing assistance payment contract term; or
(5) A non-purchasing family residing in a HOPE 1 or HOPE 2 project; or
(6) A family that resides or will reside in a unit covered by a project-based section 8 housing assistance payment contract.

(b) The corporation shall admit families on the established waiting list who qualify for special funding awards from HUD including, but not limited to:
(1) The Mainstream Housing Opportunities for Persons with Disabilities program and
(2) The Welfare-to-Work or similar self-sufficiency programs.

(c) This section shall also apply to a family displaced because of demolition or disposition of a corporation owned housing project that is not federally assisted.

(d) A family may be admitted under this section without qualifying for any preferences, or without being on the program waiting list. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.203)

§15-185-31 Annual income. The corporation shall determine each applicant's and participant's annual income pursuant to 24 C.F.R. §5.609, which is incorporated by reference and attached as exhibit B. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. § 5.609)

§15-185-32 Reexaminations. (a) At least once every twelve months, the corporation may reexamine a family's income, composition and any other matter necessary to determine the participant's rent and eligibility for continued housing assistance.

(b) If at the time of admission or reexamination, a family's income cannot be reasonably anticipated for the next twelve-month period, the corporation may schedule a special reexamination at any time prior to the next annual reexamination when deemed necessary.

(c) The participant and owner shall be notified in writing by the corporation of the results of any reexamination within a reasonable time. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R §§5.617, 982.516)

§15-185-33 Interim rent adjustment. (a) The corporation may adjust a participant's rent between reexaminations if a participant reports a change in income.

(b) Adjustments reflecting a lower rent shall be made effective on the first day of the month following the month the report was made. A participant who has obtained a decrease in rent under this section, shall report all income increases which occur prior to the next reexamination and rent may be readjusted accordingly.

(c) A rent adjustment shall be made between reexaminations when a participant's income increases as a result of the inclusion of additional persons with income to the family, and such adjustment shall be made effective on the first day of the second month following the inclusion.

(d) The participant and owner shall be notified in writing by the corporation of the results of any reexamination within a reasonable time. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.516)

§15-185-34 Continued assistance. (a) When one family splits into two eligible families, both families wish to continue assistance, and there is no court order, the corporation shall decide to continue assistance to one family instead of the other if that family:

(1) Retains the children or includes any disabled or elderly members. Children subject to a joint custody agreement but live with one parent for a cumulative period of at least one hundred eighty three days of the year shall be considered a member of that household;
(2) Includes the family member that applied as head of household;
(3) Includes the responsible party for domestic violence which caused the split of the family;
(4) Is subject to other factors specified by the corporation;
(5) Is recommended by social service agencies or qualified professionals to retain assistance. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.315)

SUBCHAPTER 3

LEASE

§15-185-41 Request for lease approval. Upon finding a dwelling unit that an owner is willing to lease, the family shall submit a request to have the lease approved by the corporation. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.305)

§15-185-42 Dwelling unit inspection. (a) Prior to approving a lease, the corporation shall inspect

the dwelling unit within a reasonable time after receipt of the owner's inspection request.

(b) Dwelling units approved for lease in the program shall meet minimum housing quality standards. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§982.305, 982.401)

§15-185-43 Lease requirements. (a) The corporation shall review the lease, particularly noting compliance with HUD regulations and state and local law. The participant also must have legal capacity to enter a lease under state and local law.

(b) The family and owner must submit a standard form lease used in the locality and that is generally used for other unassisted tenants in the premises by the owner. The terms and conditions of the lease must be consistent with state and local law. The lease must specify what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family. The HUD prescribed tenancy addendum must be included in the lease word-for-word before the lease is executed. The HUD tenancy addendum is incorporated by reference and attached as exhibit J. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.308)

§15-185-44 Lease approval. (a) If the corporation determines that a dwelling unit is suitable for the program and the lease meets the requirements of the program, the owner and family shall be notified, and a contract executed.

(b) The initial lease shall be for at least one year.

(c) If the corporation determines that a lease cannot be approved for any reason, the owner and family shall be notified in writing. [Eff DEC 03 2001 (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§982.308(b), 982.309(b)(1))

SUBCHAPTER 4

HOUSING ASSISTANCE PAYMENTS AND RENT

§15-185-51 Housing assistance payments. The corporation shall make housing assistance payments to the owner on behalf of an eligible family. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.311)

§15-185-52 Contract rents. (a) The contract rent for a dwelling unit in the program shall be determined on a case-by-case basis. The approved rent shall be reasonable in comparison to rent for other comparable unassisted units in the housing market.

(b) Contract rents may be adjusted at each annual anniversary date of the HAP contract at the request of the owner. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.507)

§15-185-53 Total tenant payment. (a) The corporation shall compute the total tenant payment.

(b) There shall be an established minimum rent of $25.00 per month. Exception to the application of the minimum monthly rental amount shall apply if the family is unable to pay because of financial hardship which is determined pursuant to 24 C.F.R. §5.630 (2000) and includes the following situations:

(1) The family has lost eligibility or is awaiting an eligibility determination for federal, state, or local assistance;
(2) The family would be evicted as a result of the imposition of the minimum rent requirement;
(3) The income of the family has decreased because of changed circumstances, including:
    (A) Loss of employment;
    (B) An income producing family member dies; and

(C) Other circumstances beyond the family's control as determined by the corporation. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§5.630, 982.518)

§15-185-54 Rent. (a) Certificate rents shall not exceed the fair market rent as determined by the corporation which may or may not be guided by the fair market rent published annually by HUD except to provide reasonable accommodation for a family that includes a person with disabilities. On request from the family that includes a person with disabilities, the corporation shall approve an exception rent of up to one hundred twenty per cent of the fair market rent if the exception rent is needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities in accordance with 24 C.F.R. Part 8 (2000).

(b) Voucher rents are based on the payment standard as set by the corporation.

(c) The fair market rent, which includes utilities and is established for dwelling units of various bedroom sizes, is incorporated by reference and attached as exhibit K. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §888.111, 982.504, 982.507)

§15-185-55 Payment standard. (a) The maximum monthly subsidy payment for a family before deducting the family contribution is set by the corporation between ninety per cent and one hundred ten per cent of the HUD determined fair market rent. The corporation may establish a payment standard amount that is higher or lower than the basic range subject to HUD approval.

(b) The corporation may approve a higher payment standard within the basic range to reasonably accommodate a family that includes a person with disabilities. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.503)

§15-185-56 Security deposits. (a) The participant shall be responsible for the payment of a security and utility deposit.

(b) The corporation shall not be responsible for the payment of security and utility deposits. [Eff DEC 03 2001] (Auth: HRS §§201G-15 and 521) (Imp: HRS §201G-15; 24 C.F.R. §982.313)

§15-185-57 Ownership change. (a) A change in ownership of a dwelling unit under a HAP contract does not require execution of a new contract or lease. The corporation may approve the assignment of the HAP contract at the previous owner's request.

(b) The owner who is selling the dwelling unit shall provide written notice to the corporation at least thirty days prior to the sale closing.

(c) The new owner shall provide documents to verify the sale and other information requested by the corporation.

(d) Housing assistance payments to the owner who is selling the dwelling unit shall be suspended effective the first of the month following the receipt of the notification of the sale of the dwelling unit and when the assignment of the HAP contract to the new owner is approved by the corporation. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§982.305, 982.306)

SUBCHAPTER 5

OPERATIONS

§15-185-61 Inspections. (a) The corporation shall annually inspect each dwelling unit leased to a participant of the program.

(b) The corporation may conduct special inspections upon notification by the participant or owner that the unit does not meet housing quality standards or based on information from third parties such as neighbors or public officials.

[Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.405(a))

§15-185-62 Overcrowded or under occupied units. A participant shall be issued a new voucher if the corporation determines that the dwelling unit does not meet the corporation's subsidy standards for occupancy. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §982.403)

§15-185-63 Portability. (a) The corporation may require applicants who were nonresidents at the time of application to live in its jurisdiction during the first twelve-month period.

(b) The corporation shall not absorb a family under portability assistance into its program unless funds are available and there is no applicant with a preference on the applicable waiting list.

[Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§982.354, 982.355)

§15-185-64 Transfers. (a) A family may terminate its lease with the landlord at any time after the first twelve months as provided by the rental agreement with the landlord and shall provide a copy of the notice to the corporation.

(b) The corporation shall deny permission to move if:

(1) There are insufficient program funds for continued assistance;

(2) The participant has violated a family obligation listed on the certificate of family participation or voucher;
(3) The participant owes the corporation money; or
(4) The participant has moved or has been issued a voucher within the last twelve months.
[Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§982.314, 982.552)

§15-185-65 Eviction - termination of tenancy by owner. (a) If the owner wishes to terminate the lease, the owner is required to provide proper notice as provided in the lease and the Hawaii Residential Landlord-Tenant Code.

(b) During the term of the lease the owner may only evict for:
(1) Serious or repeated violations of the lease, including but not limited to failure to pay rent or other amounts due under the lease, or repeated violation of the terms and conditions of the lease;
(2) Violations of federal, state or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises;
(3) Criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises or any drug-related criminal activity on or near the premises;
(4) Failure to comply with all obligations, restrictions, rules and the like which are in accordance with section 521-52, Hawaii Revised Statutes, and which the landlord can demonstrate are reasonably necessary for the

preservation of the property or protection of the persons of the landlord, other tenants, or any other person; or

(5) Other good cause.

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

(d) The owner shall provide the tenant a written notice specifying the grounds for termination of tenancy pursuant to chapter 521, Hawaii Revised Statutes, before the commencement of the eviction action. The notice may be included in, or may be combined with, any owner eviction notice to the tenant. The owner eviction notice means a notice to vacate, or a complaint, or other initial pleading used under State or local law to commence an eviction action.

(e) Housing assistance payments are paid to the owner under the terms of the HAP contract. If the owner has begun eviction and the family continues to reside in the unit, the corporation shall continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant. The corporation may continue housing assistance payments until the family moves or is evicted from the unit. If the action is finalized in court, the owner must provide the corporation with the documentation, including notice of the date of physical eviction.

(f) The corporation shall continue making housing assistance payments to the owner in accordance with the contract as long as the tenant continues to occupy the unit in accordance with the terms of the lease. By endorsing the monthly check from the corporation, the owner certifies that the tenant is still in the unit, and that the rent is reasonable and is in compliance with the contract.

(g) If an eviction is not due to a serious or repeated violation of the lease, and if the corporation has no other grounds for termination of assistance, the corporation may issue a new

certificate or voucher so that the family can move with continued assistance. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§982.310, 982.455)

§15-185-66 Termination of participation. (a) The corporation shall terminate a family's participation in the program when:

(1) The family has been evicted from housing assistance under the program for serious violation of the lease;

(2) Any member of the family fails to sign and submit consent forms for obtaining information in accordance with the program; or

(3) The family does not submit required evidence of citizenship or eligible immigration status.

(b) The corporation may terminate a family's participation in the program when:

(1) The family fails to fulfill their obligations under the program;

(2) Any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;

(3) The family is under contract and one hundred and eighty days have elapsed since the last housing assistance payment was made;

(4) The family has not reimbursed any public housing agency for amounts paid to an owner under a HAP contract on behalf of the family for rent, damages to the unit, or other amounts owed by the family under the lease;

(5) The family breaches an agreement with the corporation to pay amounts owed to the corporation, or amounts paid to an owner by the corporation;

(6) Any member of the family has engaged in or threatened abusive or violent behavior toward the corporation's personnel.

Threatened means an oral or written threat or physical gestures that communicate an intent to abuse or commit violence. Abusive or violent behavior may be verbal or physical and include use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate;

(7) Any member of the family has engaged in any drug-related criminal activity or violent criminal activity. For the purpose of this subsection, "violent criminal activity" means any illegal criminal activity that has as one of it elements the use, attempted use, or threatened use of physical force against the person or property of another;

(8) Any member of the family is illegally using a controlled substance or whose illegal use or pattern of abuse of a controlled substance, or whose abuse of alcohol or pattern of abuse of alcohol is determined by the corporation to interfere with the health, safety, or right to peaceful enjoyment of a rental premises by other residents. In determining whether to terminate assistance based on a pattern of illegal use of a controlled substance or a pattern of abuse of alcohol by a household member, the corporation may consider rehabilitation as provided for under 42 U.S.C. §13661(b)(2)(A)-(C) effective October 1, 1999, which is incorporated by reference and attached as exhibit I;

(9) A family participating in the family self-sufficiency program fails to comply, without good cause, with the family's family self-sufficiency contract of participation; or

(10) Welfare-to-work family fails, willfully and persistently, to fulfill its obligations under the welfare-to-work voucher program.

(c) A participant found to be ineligible for continued participation in the program shall be notified in writing by the corporation and be accorded an opportunity to request an informal hearing as set forth in these rules. Such notice shall state the reasons for the corporation's determination and that the participant has the opportunity to request an informal hearing. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§982.551, 982.552, 982.553)

SUBCHAPTER 6

INFORMAL REVIEWS

§15-185-71 Informal review process for applicants. (a) An applicant who has been denied assistance by the corporation shall have an opportunity for an informal review pursuant to 24 C.F.R. §982.554 (2000).

(b) The applicant shall provide the corporation with a request for an informal review within fifteen days from the date of the corporation's notification of denial of assistance.

(c) The informal review shall be scheduled within fifteen days from the date the written request is received by the corporation and shall be conducted by any person or persons designated by the corporation, but shall not be a person who made or approved the decision under review or a subordinate of this person.

(d) The applicant shall be given the opportunity to present oral or written objections to the corporation's denial of assistance. Both the corporation and the applicant may present evidence and witnesses. The applicant may be assisted by an attorney or other representative at his or her own expense.

(e) The informal review may be conducted by mail or telephone if acceptable to both parties.

(f) A written notice of the review of findings shall be provided to the applicant within thirty days after the review. The notice shall include the decision of the hearing officer and an explanation of the reasons for decision.

(g) An applicant who is denied assistance for citizen or immigrant status shall have an opportunity for an informal hearing pursuant to 24 C.F.R. 5.514 (2000). [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§982.54(d)(12), 982.554)

§15-185-72 Informal hearing process for participants. (a) The corporation shall give a participant an opportunity for an informal hearing to consider whether the following corporation decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations and corporation rules pursuant to:

(1) A determination of the family's annual or adjusted income and the use of such income to compute the housing assistance payment;
(2) A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the corporation's utility allowance schedule;
(3) A determination of the family unit size under the corporation's subsidy standards;
(4) A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the corporation's subsidy standards, or the corporation's determination to deny the family's request for an exception from the standards;
(5) A determination to terminate assistance for a participant family because of the family's action or failure to act;
(6) A determination to terminate assistance because the participant family has been absent from the assisted unit for longer

than the maximum period permitted; or

(7) A determination to terminate a family's family self-sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account.

(b) The opportunity for informal hearing shall be provided to participants prior to the termination of assistance.

(c) The participant shall provide the corporation with a request for an informal hearing within fifteen days of the corporation's notification of determination.

(d) The informal hearing shall be scheduled within fifteen days from the date the written request is received and shall be conducted by any person or persons designated by the corporation, but shall not be a person who made or approved the decision under review or a subordinate of this person.

(e) Prior to the informal hearing:

(1) The participant shall be given the opportunity to examine any corporation documents that are directly relevant to the hearing. The participant may copy any relevant document at the participant's expense.

(2) The corporation shall be given the opportunity to examine any family documents that are directly relevant to the hearing. The corporation may copy any relevant document at the corporation's expense.

(f) The participant and the corporation shall be given the opportunity to present evidence and may question witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

(g) The participant may be assisted by an attorney or other representative at the participant's expense.

(h) A written notice of the findings of the hearing officer shall be provided to the corporation and participant within ten days upon conclusion of the informal hearing. The notice shall include:

(1) A summary of the decision and reasons for the decision;
(2) The amount owed and documentation of the calculation of monies owed and
(3) The effective date of the decision.

(i) The corporation shall not be bound by the decision of the hearing officer that:
(1) Concerns matters in which the corporation is not required to provide an opportunity for a hearing or that otherwise exceeds the authority of the hearing; or
(2) Is contrary to HUD regulations or requirements, or otherwise contrary to federal, State, or local law.
(3) If the corporation determines that it is not bound by a decision of the hearing officer, the corporation shall send a letter to the participant within thirty days of its determination. The letter shall state the reasons for the determination.

(j) A participant who is determined to be ineligible for assistance due to citizen or immigration status shall have an opportunity for an informal hearing pursuant to 24 C.F.R. §5.514. [Eff DEC 03 2001] (Auth: HRS §§91, 201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§5.514, 982.54(d)(13), 982.555)

SUBCHAPTER 7

FAMILY SELF-SUFFICIENCY PROGRAM

§15-185-81 Family self-sufficiency program. The objective of the corporation's family self-sufficiency ("FSS") program is to reduce the dependency of low-income families on welfare assistance and to reduce Section 8, public housing, or any federal, state, and local rent or homeownership subsidies. Under the family self-sufficiency program, low-income families are provided opportunities for

education, job training, counseling, and other forms of social service assistance, while living in assisted housing, so that they may obtain the education, employment, and business and social skills necessary [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. Part 984)

§15-185-82 Eligibility. (a) Participants in the corporation's Section 8 tenant-based and federal public housing programs are eligible to participate in the family self-sufficiency program.

(b) Preference shall be given to applicants who already receive family self-sufficiency-related support services for fifty per cent or less of the allocations. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. Part 984)

§15-185-83 Recruitment and outreach. (a) The corporation shall conduct outreach programs to recruit family self-sufficiency participants.

(b) Outreach efforts may include the following:

(1) Sending informational brochures to each family participating in the corporation's Section 8 and federal public housing programs;

(2) Conducting orientation sessions for families who express an interest in participating in the family self-sufficiency program; and

(3) Identifying and targeting potential families in the corporation's caseloads.

[Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. Part 984)

§15-185-84 Selection. (a) Families shall be selected without regard to race, color, religion, sex, handicap, familial status, or national origin.

(b) Families may be selected by date of receipt of application.

(c) In the event there are more applicants than family self-sufficiency allocations, the corporation shall conduct a lottery to determine placement on the waiting list.

(d) Initially, up to one hundred thirty-six section 8 participants shall be selected to participate in the family self-sufficiency program. [Eff DEC 03 2001 (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. Part 984)

§15-185-85 Termination or withholding services.

(a) The corporation shall monitor and assess the family self-sufficiency participant's progress and compliance with the goals set forth in the contract of participation. When the corporation determines that the family self-sufficiency participant is not making progress or complying with the goals set forth in the contract of participation, the corporation shall notify the family self-sufficiency participant of such determination and provide the family self-sufficiency participant six months to demonstrate compliance with the plan of the contract of participation.

(b) If no progress has been made or the family self-sufficiency participant is still not complying with the contract of participation after the six-month period, the corporation shall provide the family self-sufficiency participant with a written notice of intent to terminate or withhold services and of the opportunity to request an informal hearing. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. Part 984)

SUBCHAPTER 8

SECTION 8 PROJECT-BASED VOUCHER PROGRAM

§15-185-91 Purpose. The purpose of this subchapter is to establish a procedure for the selection of units to which the corporation may attach

section 8 voucher assistance. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. Part 983)

§15-185-92 Eligible projects. (a) The corporation may attach section 8 voucher assistance to units in newly constructed and existing structures of various types including single-family housing and multifamily structures.

(b) The corporation may not attach section 8 voucher assistance to units in the following types of housing:

(1) Owner occupied units; however, cooperatives are considered to be rental housing for purposes of this subchapter;
(2) Mobile or manufactured homes;
(3) Shared housing, nursing homes, and facilities providing continual psychiatric, medical, nursing services, board and care or intermediate care;
(4) Except for existing units, housing for which the construction or rehabilitation has started prior to execution of an agreement with the corporation;
(5) Units within the grounds of penal, reformatory, medical, mental, and similar public or private institutions;
(6) Housing located in an area that has been identified by the Federal Emergency Management Agency as having special flood hazards unless the community in which the area is situated is participating in the National Flood Insurance Program;
(7) Housing located in the coastal barrier resources system designated under the Coastal Barrier Resources Act;
(8) College or other school dormitories;
(9) Units subsidized under other federal housing programs including:
    (i) Public housing;

(ii) A unit subsidized by any other form of section 8 assistance;
(iii) A unit subsidized with any local or state rent subsidy;
(iv) A section 236 project or a unit subsidized with section 236 rental assistance payments;
(v) A Rural Development Administration section 515 project;
(vi) A unit subsidized with rental assistance payments under section 521 of the Housing Act of 1949 (a Rural Development Administration Program);
(vii) Housing assisted under former section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
(viii) A section 221(d)(3) project;
(ix) A project with a section 202 loan;
(x) A section 202 project for non-elderly persons with disabilities;
(xi) Section 202 supportive housing for the elderly;
(xii) Section 811 supportive housing for persons with disabilities;
(xiii) A section 101 rent supplement project;
(xiv) A unit subsidized with tenant-based assistance under the HOME program, or any unit with any other duplicative federal, state, or local housing subsidy, as determined by the United States Department of Housing and Urban Development. [Eff DEC 03 2001 (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §983.7)

§15-185-93 Notification of project-based assistance. (a) The corporation shall publish requests for applications to participate in the

section 8 project-based voucher program in a newspaper of general circulation once a week for three consecutive weeks. The advertisement shall state the number of vouchers available for project-based assistance; whether applications will be accepted for rehabilitation, new construction, or existing units; state the selection criteria; and specify an application deadline of at least thirty days after the date the advertisement is last published.

(b) The corporation may select units to which assistance is to be attached, without advertising under paragraph (a) of this section and without applying the selection factors otherwise required under section 15-185-95, if attachment of project-based assistance would further the purposes of the sale of a public housing project to a resident management corporation under section 21 of the United States Housing Act of 1937. [Eff DEC 03 2001 Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §983.51)

§15-185-94 Applications for project-based assistance; information required. (a) Applicants desiring section 8 project-based voucher assistance shall submit to the corporation an application, on forms provided by the corporation, along with any additional information that the corporation determines to be applicable.

(b) Applicant information may include, but is not limited to the following:

(1) Name and address of the eligible owner and other project principals and officers and principal members, shareholders, investors, and other parties having a substantial interest in the ownership of the project, and evidence of the applicant's status as a corporation, partnership, joint venture or other business organization;

(2) Certification showing that the above-mentioned parties are not on the United States General Services Administration list of parties excluded from federal procurement

and non-procurement programs; a disclosure of any possible conflict of interest by any of these parties that would be a violation of the agreement or the housing assistance payments contract;

(3) To the extent available, certified copies of the applicant's organizational documents, including its articles of incorporation and bylaws, declaration of trust, partnership or limited partnership agreement, together with all amendments thereto and, in the case of nonprofit organizations, a copy of the determination letter from the Internal Revenue Service as to recognition of exemption from federal income taxation.

(4) A resume of the applicant's experience in the construction or rehabilitation of rental housing projects including a list and a brief description of the projects in which the applicant participated;

(5) A resume of the applicant's experience in the management of rental housing projects including a list and a brief description of the projects which the applicant manages;

(6) The name, title, address, and telephone number of the person to whom communications should be addressed;

(7) Evidence of the applicant's legal authority to incur obligations and to sign and deliver such documents as may be necessary to finance, construct, or rehabilitate the project;

(8) A current certificate of good standing from the State department of commerce and consumer affairs and tax clearance from the State department of taxation;

(9) Evidence of the applicant's ability to develop, own, market, manage, and provide appropriate services in connection with housing project;

(10) Evidence of the applicant's financial ability to complete the project;

(11) The applicant's ties to the community and support from local community groups;
(12) A description of any financial default, modification of terms and conditions of financing, or legal action taken or pending against the applicant or its principals;
(13) A description of the applicant's experience or involvement in the provision of supportive services;
(14) A statement of the applicant's past or current involvement with the corporation or its predecessors, the housing finance and development corporation or the Hawaii housing authority, and the assistance, if any, received from those entities.

(c) Project information may include, but is not limited to the following:
(1) A description of the proposed housing project, including the number of units by square footage, bedroom count, bathroom count, sketches of the proposed building, units plans, listing of amenities and services, and the estimated date of completion;
(2) Identification and description of the proposed site, site plan, and neighborhood characteristics;
(3) Identification of the census tract in which the project is located;
(4) Evidence of site control (such as a deed, agreement of sale, commitment letter, or development agreement);
(5) Availability of public services and facilities such as schools, sewers, parks, and fire protection, and the adequacy thereof;
(6) If applicable, evidence that the proposed new construction is permitted by current zoning ordinances or regulations or evidence to indicate that the needed re-zoning is likely and will not delay the project;

(7) The proposed contract rent per unit, including an indication of which utilities, services, and equipment are included in the rent and which are not included. For those utilities that are not included in the rent, an estimate of the average monthly cost for each unit type for the first year of occupancy;

(8) A signed certification of the owner's intention to comply with Title VI of the Civil Rights Act of 1966, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, Executive Order 11246, Section 3 of the Housing and Urban Development Act of 1968, and all applicable federal requirements listed in 24 C.F.R. §983.11, which is incorporated by reference and attached as Exhibit L;

(9) A statement from the owner certifying the number of persons, businesses, non-profit corporations occupying the property on the date of submission of the application; the number of persons displaced, temporarily relocated or moved permanently within the building complex; estimated cost of relocation payments and services; the funding source of relocation activities; and the name of the organization that will carry out the relocation activities;

(10) The owner's plan for managing and maintaining the units;

(11) Evidence of financing or lender interest and the proposed terms of financing;

(12) The proposed term of the housing assistance payments contract;

(13) If applicable, a relocation plan that includes steps that will be taken to minimize the displacement of households, businesses, nonprofit organizations, and farms as a result of the project; and

(14) Such other information as the corporation deems necessary. [Eff DEC 03 2001]

(Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §§983.3, 983.6, 983.51)

§15-185-95 Review and screening of applications.

(a) Applications shall be time and date stamped and assigned a number.

(b) Applications shall be screened for completeness (i.e., submission of information required under sections 15-185-92 and 94). Applications that do not meet the application submission deadline or information requirements shall be rejected by the executive director.

(c) The corporation shall review each application and any additional information submitted by the applicant or obtained from other sources in its review of each application. Additional information or data may be requested and the corporation may independently verify any or all information supplied by the applicant. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §983.51)

§15-185-96 Selection of project applications.

(a) Based upon the review of the applications, documents, and any additional information submitted by the applicants or obtained from other sources by the corporation, the executive director shall prepare a recommendation to the board to attach section 8 voucher assistance to specific projects.

(b) The board shall review the recommendation of the executive director and, if the board determines that the project-basing of section 8 voucher assistance for a specific project is consistent with the public housing agency plan and the goals of deconcentrating poverty and expanding housing and economic opportunities, it may approve the application and authorize the executive director to allocate an appropriate amount of section 8 voucher funding, subject to such terms and conditions as it deems necessary or appropriate to assure compliance with 24 C.F.R. part 983 and these rules.

(c) Upon the board's approval to allocate section 8 voucher funding to an applicant, the executive director shall notify the applicant of the allocation. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §983.52)

§15-185-97 Agreement to enter into housing assistance contract. (a) The corporation shall enter into an agreement with the selected project owner prior to the start of any new construction or rehabilitation.

(b) After the agreement has been executed, the owner shall promptly proceed with the construction or rehabilitation work as provided for in the agreement. If the work is not promptly commenced, diligently continued, or completed, the corporation may terminate the agreement or take other appropriate action. (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §983.101; Pub. Law 106-377, 114 Stat. 1441)

§15-185-98 Eligibility and selection of tenants.

(a) Tenants in a section 8 project-based voucher assisted unit shall meet the eligibility criteria set forth in section 15-185-22.

(b) The corporation may use the section 8 tenant-based waiting list as set forth in section 15-185-26. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15; 24 C.F.R. §983.203)

SUBCHAPTER 9

MISCELLANEOUS PROVISIONS

§15-185-201 Severability. If any part, section, sentence, clause, of phrase of this chapter, of its application to any person or transaction of other circumstances is for any reason held to be

unconstitutional or invalid, the remaining parts, sections, sentences, clauses, and phrases of this chapter, or the application of this chapter to other persons or transactions or circumstances shall not be affected. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §201G-15)

§15-185-202 Number. The use of all words used in the singular shall extend to and include the plural. [Eff DEC 03 2001] (Auth: HRS §201G-15) (Imp: HRS §1-17)

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM

The repeal of Chapter 17-511, Hawaii Administrative Rules, and the adoption of Chapter 15-185, Hawaii Administrative Rules, on the Summary page dated September 20, 2001, was adopted on September 20, 2001, following a public hearing held on August 28, 2001, after public notice was given in the Honolulu Advertiser on July 27, 2001.

The repeal and adoption shall take effect ten days after filing with the Office of the Lieutenant Governor.

WESLEY R. SEGAWA
Chairperson
Housing and Community Development Corporation of Hawaii Board of Directors

SUSAN M. CHANDLER, MSW, Ph.D.
Director of Human Services

APPROVED AS TO FORM:

Deputy Attorney General

BENJAMIN J. CAYETANO
Governor
State of Hawaii

Date: 11-21-01

NOV 23 2001

Filed

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LIEUTENANT GOVERNOR'S OFFICE

2009