HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 5

HAWAII PUBLIC HOUSING AUTHORITY

CHAPTER 2028

FEDERALLY-ASSISTED HOUSING PROJECTS

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SUBCHAPTER 1

GENERAL PROVISIONS

§17-2028-1 Purpose. These rules are adopted under chapter 91, HRS, and shall govern the admission to and the continued occupancy of federally-assisted housing projects owned or operated by the authority. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D Part II.A.; 24 C.F.R. Parts 5, 960, and 965)

§17-2028-2 Definitions. As used in these rules, except as otherwise required by context:

"Accessible dwelling unit" means an apartment that is located on an accessible route and when designed, constructed, altered, or adapted can be approached, entered, and used by individuals with physical handicaps or an apartment which meets the requirements of applicable standards that address the particular disability or impairment of an individual.

"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.

"Authority" means the Hawaii public housing authority.

"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.

"Assisted housing" means housing assisted under the United States Housing Act of 1937.

"Backcharge" means the amount of arrears in rent owed to the authority.

"Broad range of income" means attaining a tenant population in a project with a broad range of income that is generally representative of the range of income and the rent paying ability of lower income families.

"CFR" means the United States Code of Federal Regulations. "Community service" means the performance of voluntary work or duties that are a public benefit and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities.

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

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

"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.

"Designated housing" or "designated project" means a project (or projects), or a portion of a project (or projects) that has been designated for occupancy by disabled families, elderly families, or mixed populations of disabled families and elderly families.

"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 in a housing project.

"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.

"Exempt individual" means an individual who is exempt from complying with community service or self-sufficiency activities and which is further defined in 24 C.F.R. §960.601(b), which is incorporated by reference and attached as exhibit D.

"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.

"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 authority in accordance with 24 C.F.R. Part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services.

"Federally-assisted housing projects" means the low-income federal assisted public housing projects as established by the United States Housing Act of 1937, as amended.

"Foster children" means a person or persons, under eighteen years of age who is not related to the foster parent by blood, marriage, or adoption and who is in need of parenting care.

"Foster parent" means any adult person who gives parenting care and maintenance to a foster child pursuant to placement by an authorized agency.

"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.

"Handicapped" means the same as "disabled family".

"Housing projects" means those rental projects owned or operated by the authority.

"HRS" means the Hawaii Revised Statutes.

"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 will 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 taken by the owner is for reasons other than rent increase.

"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.

"Location" means any site comprising a common geographic area undivided by natural or man-made barriers (such as rivers, highways, railroads, or other major obstructions) that block or impede normal pedestrian traffic and which may contain more than one project.

"Low income family" means a family whose annual income does not exceed eighty per cent of the median income for the area, with adjustments for smaller and larger families, except that income ceilings higher or lower than eighty 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.

"Near elderly family" means a family whose head, spouse, or sole member is at least fifty years of age but below the age of sixty two, or two or more persons who are at least fifty years of age but below the age of sixty two living with one or more live-in aides.

"Part-time resident aide" or "nineteen hour tenant aide" means a tenant of a housing project, employed by the authority, who works not more than nineteen hours a week.

"PHA plan" means the authority's public housing agency plan that is prepared pursuant to 24 C.F.R. Part 903.

"Refusal of an offer" means an applicant declines an offer made by the authority for a specific unit from any waiting list or an applicant's failure to respond to a written offer from the authority for a specific unit within the time specified in the offer.

"Rental agreement" means the agreement containing the conditions of occupancy entered into by the tenant and authority.

"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 may 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 motor vehicle registration; notification of hire to work in Hawaii; records of employment in Hawaii; military records substantiating 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 of reside.

"Security deposit" means a deposit required of each tenant prior to admission for the cost of loss or damage of the authority's property (reasonable wear and tear excepted) and non-payment of rent.

"Serviceman" means a person active in the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States, and since July 29, 1945, the Commissioned Corps of the U.S. Public Health Service who has served therein at any time: (1) On or after April 6, 1917, and prior to November 11, 1918;

(2) On or after September 16, 1940, and prior to July 26, 1947;
(3) On or after June 27, 1950, and prior to February 1, 1955; or
(4) On or after August 6, 1964 and prior to May 7, 1975.

"Staff" means the employees or agents of the authority.

"Substandard housing" means a unit that:
(1) Is dilapidated;
(2) Does not have operable indoor plumbing;
(3) Does not have a usable flush toilet inside the unit for the exclusive use of a family;
(4) Does not have a usable bathtub or shower inside the unit for the exclusive use of a family;
(5) Does not have electricity, or has inadequate or unsafe electrical service;
(6) Does not have a safe or adequate source of heat;
(7) Should, but does not, have kitchen; or
(8) Has been declared unfit for habitation by an agency or unit of government.

"Tenant" means the person or persons who enter into a rental agreement with the authority for a dwelling unit.

"U.S.C." means the United States Code.

"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 television services.

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

"Very low-income family" means a family whose annual income does not exceed fifty per cent of the median income for the area, with adjustments for smaller and larger families, except that income ceilings higher or lower than fifty 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.

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

"Violent criminal activity" means any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-32; 24 C.F.R. Part 5, Subparts A, D, F, 24 C.F.R. §960.102)

§17-2028-3 Income limits. (a) Income limits for an applicant's admission to a housing project shall be as prescribed by HUD annual income limit guidelines.

(b) The authority shall adjust the income limits as established and required by HUD.

(c) Because the HUD income limits are mandatory and the Authority has no discretion to amend or change the income limits, the income limits shall be established without a public hearing as provided in Chapter 91-3, HRS. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D Part II.A; 24 C.F.R. §5.601)

§17-2028-4 Asset transfers. (a) All assets transferred or assigned to another person, within a twenty-four month period prior to submitting an application shall be included in determining an applicant's assets.

(b) The value of the assets shall be based on the fair market value. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-32; 24 C.F.R. §5.603)

§17-2028-5 Occupancy guidelines. (a) The authority shall establish occupancy guidelines to maintain the maximum usefulness of the dwelling units,

while preventing excessive wear and tear or underutilization. The occupancy guidelines are incorporated by reference and attached as exhibit F.

(b) The occupancy guidelines shall provide for minimum and maximum unit sizes depending on the number of persons in a household for purposes of determining unit size for the wait list. The occupancy guidelines are not to be confused with the authority's occupancy standards, which are based on prevailing county building codes. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-32; 24 C.F.R. §960.204).

§17-2028-6 Occupancy standards. Applicant and tenant shall abide by the occupancy standards for the admission and continued occupancy in housing projects as prescribed by the occupancy standards which are incorporated by reference and attached as exhibit G. The standards follow the occupancy codes of the county in which the units are located. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-32; 24 C.F.R. §960.204).

§17-2028-7 Utility allowances. (a) The monthly rent for a tenant residing in a federally assisted housing project shall include utility allowances established in accordance with HUD's standards for utility allowances.

(b) Utility allowances shall be calculated by determining the utility rate then multiplying it by the applicable quantity allowance. A schedule of applicable quantity allowances for lighting, electric domestic hot water heaters, miscellaneous electrical, gas domestic hot water heaters is incorporated by reference and attached as exhibit H.

(c) The authority shall conduct a review of utility rates in January of each year. Electric and gas rate schedules for all providers shall be collected and reviewed for each month from the preceding January through December of the calendar year prior to the fiscal year beginning July 1. These

monthly rates shall be averaged over the year period.

(d) The new utility allowances shall be posted and noticed to residents at least sixty (60) days prior to the implementation date, during which time residents shall have the opportunity to present written or oral comments. The applicable schedules shall be publicly posted in a conspicuous manner at the authority's project offices and shall be furnished upon request. The implementation date for new allowances shall be July 1.

(e) Implementation of all new allowances or components of allowances, by utility, shall be required when there is more than a ten per cent change in rates. In cases when a utility is granted a substantial rate increase in between the annual review, a mid-year allowance adjustment may be required.

(f) The authority may update the quantity allowances. To update the quantity allowance, units of various sizes in a sampling of different types of developments shall be surveyed to determine the types of existing equipment as well as to identify any factors affecting energy efficiency. If there is a variance in energy consumption factors among housing projects, the worst case scenario shall be identified and utilized for calculating the quantity allowances.

(1) Allowances for lighting shall be developed by conducting a field survey of various units to determine the number and type of fixtures. The following factors shall be used to determine the kilowatt hour per month allowance for each unit size:

(A) The number of fixtures;

(B) Watts per fixture; and

(C) Hours of use per day.

(2) Allowances for miscellaneous electric equipment shall be based upon usage of a television, radio, miscellaneous small appliances, and a fan.

(3) The allowance for refrigerators is based on a new, but non-energy efficient model. For 0, 1, and 2 bedroom units a 14 cubic foot

model utilizing 155 kilowatt hours per month is assumed. For a 3, 4 and 5 bedroom unit, a 16 cubic foot model utilizing 165 kilowatt hours per month is assumed.

(4) Allowances for cooking shall be 930 kilowatt hours per year for 0, 1, and 2 bedroom units, and 1140 kilowatt hours per year for 3, 4, and 5 bedroom units, respectively.

(5) Allowances for electric domestic hot water heating shall be based on engineering calculations for each bedroom size assuming a certain number of occupants. The data used in the calculations include estimated consumption per occupant per day, temperature of incoming water, temperature of hot water supply, efficiency of heater, and energy required to heat water to supply temperature.

(6) Allowance for solar domestic hot water shall be based on a cost analysis of a domestic hot water heating system.

(7) Gas consumption allowances shall be developed using the same methodology as the electric consumption allowance.

(g) The authority shall provide medical disability allowances for residents who have provided proof of medical necessity to the authority. The quantity allowances for medical equipment shall be as follows:

(1) For window air conditioners, 229 kilowatt hours per month;

(2) For oxygen concentrators, 219 kilowatt hours per month;

(3) For nebulizers, 5 kilowatt hours per month;

(4) For electric hospital beds, 1 kilowatt hour per month;

(5) For alternating pressure pads, 51 kilowatt hours per month;

(6) For low air-loss mattresses, 88 kilowatt hours per month;

(7) For power wheelchairs or scooters, 33 kilowatt hours per month;

(8) For CPAP machines, 9 kilowatt hours per month; and

(9) For any other medical equipment, the quantity allowance shall be determined by taking the equipment's average energy consumption multiplied by the normal frequency of usage.

(h) A tenant shall pay for utility usage in excess of the applicable utility allowance.

(i) A tenant shall receive a utility reimbursement when the utility allowance exceeds the total tenant payment with the exception of tenants paying a flat rent. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-32; 24 C.F.R. §§5.603, 5.632, 960.253, Part 965 Subpart E, §966.4)

§17-2028-8 Verification of information. An applicant or tenant shall provide documentation to verify information upon request of the staff. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-32; 24 C.F.R. §960.204)

§17-2028-9 Misrepresentation. An applicant may be denied admission to a housing project if the applicant has submitted false information, withheld information, or made willful misstatements. A tenant who does the same may be denied continued eligibility and have the rental agreement terminated. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-32; 24 C.F.R. §966.4)

SUBCHAPTER 2

ELIGIBILITY

§17-2028-21 Applicants. (a) A person seeking admission to a housing project shall submit a completed pre-application form prepared by the authority. The applicant may file at any of the authority's in-take offices and apply for any and all waiting list areas prescribed in 17-2028-36.

(b) An applicant who has misrepresented material information shall not be eligible to file an application with the authority for twelve months from the date of written notification from the authority. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-15; 24 C.F.R. §§960.204, 960.205)

§17-2028-22 Eligibility for admission and participation. (a) To be eligible for participation in the program, 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 17-2028-3;
   - (C) Not have an outstanding debt owed to the authority 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 authority or its predecessor, Hawaii housing authority;

(G) Not have been evicted from assisted housing by reason of drug-related criminal activity for a three-year period beginning on the date of the eviction unless the evicted tenant successfully completes a rehabilitation program approved by the authority;

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

(I) Not be illegally using a controlled substance or give the authority a reasonable cause to believe that the illegal use (or pattern of illegal use) of a controlled substance or abuse alcohol by a household member, (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 by a household member, the authority 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;

(J) Not currently or during a three year period preceding the date when the applicant household would otherwise be

selected for admission 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 authority employees;

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

(L) 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 as set forth in (1), above, as well as the following requirements:

(A) Not engaged in or threatened abusive or violent behavior toward the authority's personnel. For purposes of this subsection, "threatened" means an oral or written threat or physical gestures that communicate 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 J.

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

[Eff SEP 0 4 2007] (Auth: HRS §§356D-15) (Imp: HRS §356D-32; 24 C.F.R. §§5.216, 960.202, 960.204, 960.205)

§17-2028-23 Notification of eligibility. (a) Upon making a determination of eligibility, the authority shall mail a written notification to an applicant. The notification shall specifically state the reasons for 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 provided an opportunity for an informal hearing pursuant to section 17-2028-24. [Eff: SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-15; 24 C.F.R. §960.204)

§17-2028-24 Informal hearing for applicants determined to be ineligible for admission. (a) An applicant determined to be ineligible for admission or participation in the program may request an informal hearing by submitting a written request within fourteen working days from the date of notification of ineligibility.

(b) The informal hearing shall be scheduled within twenty-one working days from the date the written request is received and shall be conducted by any person or persons designated by the authority, but shall not be a person who made or approved the determination of ineligibility or a subordinate of this person.

(c) The applicant shall be given the opportunity to present evidence, which shall be considered by the hearing officer, along with the data compiled by the authority. (d) A written notice of the hearing officer's decision shall be mailed to the applicant within twenty-one working days after the hearing. The notice shall include an explanation of the reasons for decision. [Eff: SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: §356D-15; 24 C.F.R. §960.204)

SUBCHAPTER 3

TENANT SELECTION

§17-2028-31 Nondiscrimination. Tenant selection and assignment shall be made without regard to race, color, sex, religion, marital status, creed, national or ethnic origin, age, familial status, handicap or disability or HIV infection. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-5; 24 C.F.R. §960.103)

§17-2028-32 Income targeting. Not less than forty per cent of families admitted to the program during the fiscal year from the waiting list shall be extremely low income families. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-15; 24 C.F.R. §960.202)

§17-2028-33 Deconcentration. (a) For federally-assisted housing projects, the authority shall give priority to applicants to ensure that, to the maximum extent feasible; the housing projects will include families with a broad range of income generally representative of low income families in the authority's area of operation. The authority shall not allow dwelling units to remain vacant awaiting an applicant who meets the appropriate income range.

(b) The authority may not concentrate very low-income families in dwelling units in certain public housing projects or certain buildings within projects. Additionally, the authority may not concentrate higher income families in dwelling units in certain housing projects or certain buildings within projects. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: §356D-32; 24 C.F.R. §§5.607, 903, 960.204, 960.205)

§17-2028-34 Local preferences. (a) Eligible applicants shall be given preference for admission 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) Involuntarily displaced;
(2) Victims of domestic violence who are participating in or graduated from a program with case management in a domestic violence shelter or clearance house; or
(3) Homeless persons who are participating or graduating from a homeless program (which includes transitional shelters, supportive housing programs, and unsheltered homeless programs), and who are in compliance with a social service plan.

(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) A single applicant who is elderly, disabled or displaced 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 authority for a three-year period beginning on the date of eviction because of drug-related criminal activities unless the adult member has successfully completed a rehabilitation program approved by the authority. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-32; 24 C.F.R. §960.204)

§17-2028-35 Loss of preference. An applicant who declines one offer of a housing unit, without good

cause, or who voluntarily requests cancellation of the application after declining an offer, shall lose all preferences and priorities for a period of twelve months from the date the offer was declined or from the date of the request for cancellation.

[Eff SEP 0 4 2007] (Auth: 24 C.F.R. §960.204; HRS §356D-15) (Imp: 24 C.F.R. §960.204; HRS §356D-32)

§17-2028-36 Waiting list. (a) The authority shall maintain geographical waiting lists, which are community wide in scope and consist of all eligible applicants as follows:

(1) City and County of Honolulu
  (A) Honolulu (Red Hill to Palolo);
  (B) Central Oahu (Wahiawa to Waialua);
  (C) Windward Oahu; and
  (D) Leeward Oahu (Pearl City, Waipahu, Waianae, Nanakuli, Kapolei).
(2) County of Hawaii
  (A) East Hawaii (Hilo, Honokaa to Ka'u); and
  (B) West Hawaii (Kona, Kohala, Waimea).
(3) County of Maui
  (A) East Maui (Kahului to Wailuku);
  (B) West Maui (Lahaina); and
  (C) Molokai.
(4) County of Kauai
  (A) East Kauai (Hanamaulu to Kapaa, Kilauea); and
  (B) West Kauai (Koloa to Kekaha).

(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 authority's offices that accept applications and printed statements in the authority's informational material on its application process.

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

(1) Geographic preference;
(2) Size of dwelling unit required based on occupancy standards;

(3) Type of dwelling unit required (e.g., accessible for persons with disabilities);
(4) Local preference, and
(5) Date and time of receipt of application.

(d) Applicant cannot remain on a waiting list if they are currently the lessee in any federal public housing program.

(e) An applicant shall notify the authority of any change, which will affect applicant's place on the waiting list and the authority's ability to contact applicant. Changes include, but are not limited to, family status, financial status, preference status, mailing address, and current residence. An applicant may continue to be on the waiting list even though applicant is a tenant in or receiving housing assistance from another housing program.

[Eff SEP 0 4 2007] (Auth: 24 C.F.R. §§1.4, 960.204; HRS §356D-15) (Imp: 24 C.F.R. §960.204; HRS §356D-32)

§17-2028-37 Removal from waiting list. (a) An applicant shall not be removed from the waiting list unless:

(1) The applicant requests that applicant's name be removed;
(2) The applicant fails to notify the authority 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 17-2028-22;
(4) The applicant fails to respond to the authority's reasonable contact efforts. Correspondence to the last known address will 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; or

(6) The applicant misrepresents any material information to the authority in the application or otherwise. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-32; 24 C.F.R. §§960.204, 960.206, 960.208)

§17-2028-38 Closing the waiting list. (a) The authority, at its discretion, may restrict acceptance of applications, and close the waiting list in whole or in part, when it determines that it will be unable to assist all the applicants on the waiting list within a reasonable period of time.

(b) The authority shall announce any closure and reopening of the application process by publishing notices in a newspaper of general circulation and minority newspapers, and notifying social service organizations.

(c) During periods when application acceptance is closed and until it is reopened, the authority shall not maintain a list of persons to be notified when application acceptance is reopened. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-32; 24 C.F.R. §960.204)

§17-2028-39 Offers. (a) An applicant shall be afforded one offer to lease a suitable unit.

(b) The offer to eligible applicants shall be made in sequence based upon the following:

(1) Geographical preference;
(2) Size of dwelling unit required;
(3) Type of dwelling unit required (e.g. accessible units for the mobility, hearing or visually impaired);
(4) Factors affecting priorities and preferences as established by the authority;
(5) Broad range of income families in the area; and
(6) Date and time the application was received.

(c) Upon refusal of one offer, without good cause, the applicant's name will be cancelled from all

waiting lists on which the applicant's name has been placed.

(d) An applicant shall not be considered to have been offered a unit if an offer has been declined for good cause. Good cause may include, but is not limited to the following:

(1) The unit is not of the proper size or type and the applicant would be able to reside there only temporarily (e.g., a specially designed unit that is awaiting a person with a disability needing such a unit);

(2) The unit offered is unsuitable for health or safety reasons for the applicant;

(3) The applicant is unable to move at the time of the offer and presents clear evidence which substantiates this to the authority's satisfaction, including, but not limited to:

(A) A doctor verifies that the applicant has just undergone major surgery and needs a period to recuperate;

(B) A court verifies that the applicant is serving on a jury which has been sequestered; or

(C) A landlord verifies that the applicant has an existing lease that cannot be breached without causing undue financial hardship.

(4) The applicant's acceptance of the offer would result in undue hardship not related to consideration of race, color, national origin, or language and the applicant presents evidence which substantiates this to the authority's satisfaction (e.g., where current employment or day care facilities are inaccessible).

[Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-32; 24 C.F.R. §960.204)

§17-2028-40 <u>Occupancy of accessible dwelling units.</u> (a) The authority shall take the following nondiscriminatory steps to maximize the utilization of

accessible units by eligible individuals whose disability requires the accessibility features of the particular unit. When an accessible unit becomes vacant the authority shall, before offering such units to an applicant without a disability, offer such unit:

(1) First, to a current occupant of another unit of the same project or other projects within the same housing program, having handicaps requiring the accessibility features of the vacant unit and occupying a unit not having such features, or, if no such occupant exists, then

(2) To an eligible qualified applicant on the waiting list having a disability requiring the accessibility features of the vacant unit.

(b) When an applicant without a disability requiring the accessibility features of the unit accepts such unit, the applicant shall be required to agree to move to a non-accessible unit when one becomes available. [Eff SEP 0 4 2007] (Auth: §356D-15) (Imp: HRS §356D-32; 24 C.F.R. §§8.27, 5.410, 960.204; HRS §356D-32)

SUBCHAPTER 4

OCCUPANCY AND RENTAL AGREEMENT

§17-2028-51 Rental agreement. (a) A tenant shall enter into a rental agreement with the authority that sets forth the conditions of occupancy for the tenant including, but not limited to, the rental terms, security deposit, eligibility reexaminations and rental adjustments, and for welfare recipients, authorization for the authority to draw rental payments directly from their EBT or bank accounts.

(b) No tenant shall be permitted to remain in a housing project without a valid rental agreement. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-32; 24 C.F.R. §966.4)

§17-2028-52 Eligibility for continued occupancy. (a) To be eligible for continued occupancy in a housing project, the tenant shall:

(1) Qualify as a family;

(2) Conform to the occupancy standards;

(3) Not have a record of conduct or behavior which may be detrimental to the project, its tenants or employees; and

(4) Except for an exempt individual, conform to the following community service and economic self-sufficiency requirements:

(A) Contribute eight hours per month of community service (not including political activities);

(B) Participate in an economic self-sufficiency program for eight hours per month; or

(C) Perform eight hours per month of combined activities as described in paragraphs (A) and (B), above.

(b) Except for a newborn child, a person shall not be permitted to join or rejoin the family until it is verified that the person meets the eligibility requirements set forth in section 17-2028-22.

[Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-32; C.F.R. §§960.204, 960.603)

§17-2028-53 Reexamination. (a) For tenants who pay an income-based rent, the authority shall reexamine a tenant's annual income, assets, family composition, and any other matter necessary to determine a tenant's rent and eligibility for continued occupancy at least once every twelve months.

(b) For tenants who pay a flat rent pursuant to section 17-2028-62, the authority shall conduct reexaminations as follows:

(1) At least once every twelve months, the authority shall reexamine a tenant's family composition and any other matter necessary

to determine a tenant's eligibility for continued occupancy; and

(2) At least once every three years, the authority shall reexamine a tenant's annual income, assets and any other matter necessary to determine a tenant's eligibility for continued occupancy.

(c) For all tenant families who include non-exempt individuals, the authority shall also annually reexamine compliance with community service and economic self-sufficiency requirements.

[Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-15; 24 C.F.R. §966.4)

§17-2028-54 Reexamination results. (a) A tenant shall be given written notification within a reasonable time, after determination by the staff, of both the tenant's eligibility for continued occupancy and rent schedule.

(b) A tenant found ineligible for continued occupancy by the staff shall be required to vacate the dwelling unit.

(c) A tenant aggrieved by the reexamination results may request a hearing pursuant to the authority's grievance procedure as provided in chapter 17-2021, Hawaii administrative rules.

[Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-15; 24 C.F.R. §966.4)

§17-2028-55 Special reexamination. If at the time of admission or reexamination, a family's income cannot be reasonably anticipated for the next twelve-month period, the authority may schedule a special reexamination at any time prior to the next annual reexamination when deemed necessary.

[Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-32; 24 C.F.R. §5.609)

§17-2028-56 Interim rent adjustment. (a) The authority may adjust a tenant's rent between reexamination if a tenant reports a change in family income. However, adjustments to rent shall not be made for covered families with reduced welfare benefit payments resulting from welfare sanctions for noncompliance with welfare self-sufficiency and work activity requirements.

(b) Adjustments, reflecting a lower rent, shall be made effective on the first of the month following the month the report was made.

(c) A tenant who has obtained a decrease in rent under this section, shall report all income increases which occur prior to the next reexamination and rent shall be readjusted accordingly. Any increase in rent shall be effective on the first day of the second month following the month in which the change occurred.

(d) A tenant who fails to report any increase in income after obtaining a decrease in rent under this section shall be subject to a back rent charge retroactive to the month in which the rent increase should have been made. A tenant shall report to the authority any changes in family composition. Rent adjustment shall be made between reexaminations when a person with income is added to the family and the rent adjustment shall be effective on the first of the second month following the approved inclusion.
[Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-32; 24 C.F.R. §§5.615, 966.4)

§17-2028-57 Tenant transfers. (a) Tenant transfers shall be made without regard to race, sex, color, creed, age, religion, handicap, national origin, or familial status.

(b) The authority may transfer a tenant to another dwelling unit:

(1) To prevent overcrowding or under utilization of a dwelling unit as determined by the authority at the time of the annual or interim reexamination;

(2) To preserve the purpose for which a project or unit was specifically developed or designed such as to meet the needs of the elderly or persons with disabilities;

(3) To meet a verifiable health or safety need;

(4) For economic reasons affecting the tenant or the authority; or

(5) For administrative reasons determined by the authority including, but not limited to, permitting modernization work and transferring eligible tenants with disabilities from State-aided public housing projects to federally-assisted housing projects.

(c) Tenant transfers shall take priority over new admissions.

(d) A tenant shall be afforded one offer to transfer to a unit that meets the criteria set forth in (b) above within the same housing project in which the tenant resides. If such unit is not available, tenant may then be offered a unit in another housing project under the control of the management unit. If such a unit is not available, tenant may then be offered a suitable unit on the island on which tenant resides. Declining an offer to transfer for good cause as determined by the authority shall not be considered a refusal.

(e) A tenant shall not be transferred during periods when eviction proceedings have been initiated or are in process against such tenant or during any periods of conditional deferment of eviction action against such tenant.

(f) A tenant who is not current with rent or other charges and who does not have an approved payment arrangement shall not be transferred until the situation is resolved to the satisfaction of the authority.

(g) A tenant shall not be transferred between any federally-assisted housing programs.

(h) The authority may terminate the rental agreement of a tenant who refuses to transfer as required by the authority. [Eff SEP 04 2007]

(Auth: HRS §356d-15) (Imp: HRS §356D-32; 24 C.F.R. §966.4)

§17-2028-58 Backcharges. A tenant shall pay in full any backcharges within one hundred eighty days from the date of notification of the backcharge. Failure to do so shall result in the termination of the rental agreement. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-32; 24 C.F.R. §966.4)

§17-2028-59 Rental agreement termination. (a) Tenant shall give the authority at least twenty-eight days written notice that the tenant will vacate the tenant's unit prior to the vacate date.

(b) The authority may terminate a rental agreement when tenant, any member of the tenant's household, or any guest or other person under the tenant's control:

(1) Fails to observe or perform any covenant or obligation of the rental agreement, or rule of the authority of housing project, or law or ordinance of a governmental agency that pertains to or establishes standards of occupancy;

(2) Engages in the illegal use of a controlled substance or gives the authority a reasonable cause to believe that the 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 a rental premises by other residents;

(3) Whose illegal use of a controlled substance, or abuse of alcohol, is determined by the authority to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents;

(4) Who the authority determines engages in any criminal activity that threatens the health,

safety, or right to peaceful enjoyment of the premises by other residents;

(5) Who the authority determines engages in any drug-related criminal activity on or near the authority's property; or

(6) Tenant threatens or implies to threaten an employee/contractor or agency.

(c) The authority shall give a tenant written notice of the proposed termination of the rental agreement of not less than:

(1) Fourteen days in the case of failure to pay rent;

(2) A reasonable time commensurate with the exigencies of the situation in the case of creation or maintenance of a threat to the health or safety of other tenants or project employees; or

(3) Thirty days in all other cases. The authority shall terminate a rental agreement in accordance with chapter 356D.

[Eff SEP 0 4 2007] (Auth: §356D-15) (Imp: HRS §356D-52; 24 C.F.R. §966.4)

SUBCHAPTER 5

RENTS AND SECURITY DEPOSITS

§17-2028-61 Minimum rents. There is established a minimum rent of $0.00 per month.

[Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-15; 24 C.F.R. 5.630)

§17-2028-62 Choice of rent. Once a year, the authority shall give each tenant the opportunity to choose between two methods of determining the monthly tenant rent. The tenant may choose to pay either a flat rent or income-based rent.

(a) The flat rent shall be the fair market rents (or "FMRs") that are determined by HUD, at least

annually, pursuant to 24 C.F.R. §888.113. These fair market rents, which include utilities (exclusive of telephone and cable television), are established for dwelling units of various bedroom sizes, and which are incorporated by reference and attached as exhibit K.

(b) The income-based rent is based on thirty per cent of tenant's adjusted income or ten per cent of income, whichever is greater.

(1) The income-based rent does not include charges for excess utility consumption or other charges.

(2) For purposes of establishing the income-based rent, the authority shall exclude from annual income the earned income of previously unemployed family members and increases in earnings of a family member during participation in any economic self-sufficiency or other job training program as provided for in 24 C.F.R. §960.255 and the PHA plan.

(c) If a tenant is unable to pay the flat rent because of financial hardship, the tenant may at any time request a switch to payment of income-based rent prior to the next annual option to select the type of rent. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-32; 24 C.F.R. §§5.628, 960.255)

§17-2028-63 Security deposits. Prior to admission to a housing project, a tenant shall pay a security deposit in an amount not to exceed one month's rent. The security deposit may be applied to rent or used to repay charges owed to the authority upon the termination of the rental agreement.
[Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-32; 24 C.F.R. §966.4).

SUBCHAPTER 6

FAMILY SELF-SUFFICIENCY PROGRAM

§17-2028-71 Family self-sufficiency program. The objective of the authority's family self-sufficiency (FSS) program is to reduce the dependency of low-income families on welfare assistance, section 8, public housing, or any federal, state, or 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 to achieve self-sufficiency. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-15; 24 C.F.R. Part 984)

§17-2028-72 Eligibility. (a) Tenants in the authority's federal public housing program 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 SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-15; 24 C.F.R. Part 984)

§17-2028-73 Recruitment and outreach. (a) The authority shall conduct outreach programs to recruit participants for the family self-sufficiency program.

(b) Outreach efforts may include the following:

(1) Sending informational brochures to each family participating in the authority federal public housing program;

(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 authority's caseloads.

[Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-15; 24 C.F.R. Part 984)

§17-2028-74 Selection. (a) Families will be selected without regard to race, color, religion, sex, disability, familial status, or national origin.

(b) Families will be selected by date of receipt of the family self-sufficiency application.

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

(d) Initially, up to twenty-five tenants may be selected to participate in the family self-sufficiency program. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-15; 24 C.F.R. Part 984)

§17-2028-75 Termination or withholding of service. (a) The authority 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 authority determines that the family self-sufficiency participant is not making progress or complying with the goals of the contract of participation, the authority 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 authority 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 SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-15; 24 C.F.R. Part 984)

SUBCHAPTER 7

SPECIAL PROGRAMS

§17-2028-81 Special programs. The authority may administer programs that are created for special or specific purposes to benefit specific categories of persons pursuant to HUD regulations governing those programs. This may include selection from wait lists and lists of participants using criteria that are different from those provided in this chapter. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-15; 24 C.F.R. 960.505)

§17-2028-82 Occupancy by police officers. (a) For purposes of this section, "police officer" means a person determined by the authority to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a federal, State or local government or by any agency of these governments.

(b) For the purpose of increasing security for residents of a public housing project, the authority may allow police officers that would not otherwise be eligible for occupancy in public housing, to reside in a public housing dwelling unit.

(c) The authority shall include in the PHA annual plan or supporting documents the number and location of the units to be occupied by police officers, and the terms and conditions of their tenancies; and a statement that such occupancy is needed to increase security for public housing residents.

(d) Occupancy by police officers shall be carried out pursuant to 24 C.F.R. §960, subpart E.

[Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-15; 24 C.F.R. §960.505)

§17-2028-83 Designated housing. (a) The authority may designate public housing projects, or portions of public housing projects, for occupancy by disabled families, elderly families, or mixed populations of disabled and elderly families.

(b) The authority shall designate public housing projects, or portions of public housing projects in accordance with 24 C.F.R. Part 945. The authority shall also include a description of the designation activity in the PHA plan.

[Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356d-15; 24 C.F.R. Part 945)

SUBCHAPTER 8

HOUSEHOLD PETS

§17-2028-91 Pet ownership. (a) The authority may permit pet ownership by residents of public housing, subject to compliance with the authority's pet policy established in the PHA plan.

(b) This subchapter does not apply to animals that assist, support or provide service to persons with disabilities. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-15; 24 C.F.R. §§960.705, 960.707)

§17-2028-92 Conditions for pet ownership. (a) A resident shall comply with the authority's reasonable conditions for pet ownership that include, but are not limited to, the following: (1) Obtaining a permit from the authority to own a pet pursuant to the requirements set forth in the authority's pet policy established in the PHA plan; and

(2) Complying with the authority's rules for pet ownership.

(b) The authority may revoke a pet permit for the following reasons:

(1) The authority determines that the pet is not properly cared for;

(2) The pet presents a threat to the safety and security of other tenants, employees of the authority, contractors and others on the premises;

(3) The pet is destructive or causes an infestation;

(4) The pet disturbs other tenants for reasons including, but not limited to, noise, odor, cleanliness, sanitation, and allergic reactions;

(5) The pet owner fails to provide an annual update on the pet as required in the pet rules;

(6) The resident association or project pet committee, which consists of residents with and without a pet, recommends to the authority that the pet permit be revoked due to a demonstrated lack of cooperation and responsibility in maintaining the pet; or

(7) Tenant fails to pay on a timely basis the following applicable pet fees:

(A) An initial pet deposit of $75.00 or an amount equal to the total tenant payment, whichever is lower and

(B) For owners of a dog or cat, a non-refundable monthly fee of $5.00.

[Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §356D-15; 24 C.F.R. §§960.705, 960.707)

SUBCHAPTER 9

MISCELLANEOUS PROVISIONS

§17-2028-101 Severability. If any part, section, sentence, clause, or phrase of this chapter, or its application to any person or transaction or 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 SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §1-23)

§17-2028-102 Number and gender. Words in the singular or plural number and masculine gender shall have the same meaning as defined in section 1-17, HRS. [Eff SEP 0 4 2007] (Auth: HRS §356D-15) (Imp: HRS §1-17)

DEPARTMENT OF HUMAN SERVICES

Amendments to and compilation of chapter 17-2028, Hawaii Administrative Rules, on the Summary Page dated July 17, 2007, were adopted on **Sept. 4, 2007**, following a public hearing held on June 5, 2007, after public notice was given in the Honolulu Star-Bulletin, The Garden Island, The Maui Times, West Hawaii Today, and Hawaii Tribune-Herald on May 4, 2007.

They shall take effect ten days after filing with the Office of the Lieutenant Governor.

TRAVIS O. THOMPSON, Chairperson
Hawaii Public Housing Authority

APPROVED AS TO FORM:

Deputy Attorney General

APPROVED:

LINDA LINGLE
Governor
State of Hawaii

Dated: AUG 23 2007

Filed

LIEUTENANT GOVERNOR
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DEPARTMENT OF HUMAN SERVICES

Amendment of Chapter 17-2028,
Hawaii Administrative Rules
Sept 4, _____, 2007

SUMMARY

1. §17-2028-3 is amended

2. §17-2028-34 is amended.

3. §17-2028-35 is amended.

4. §17-2028-39 is amended.

5. §17-2028-55 is amended.

6. §17-2028-61 is amended.

"Adjusted Income (24 CFR §5.611)" Exhibit A

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

(ii) *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.

(6) 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 54488, Oct. 18, 1996, as amended at 65 FR 16715, Mar. 29, 2000)

EFFECTIVE DATE NOTE: At 65 FR 16715, Mar. 29, 2000, §5.609 was amended by removing and reserving paragraph (c)(3), by revising paragraphs (c)(5)(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) * * *

(5) * * *

(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 taxes 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:

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(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 these 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.

~~§ 5.612 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, 1997.* (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.

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 these 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 63 FR 16718, Mar. 26, 1998, §5.601 was removed, effective Apr. 27, 1998.

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

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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);

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(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

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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 5488, Oct. 18, 1996, as amended at 65 FR 16718, Mar. 29, 2000]

EFFECTIVE DATE NOTE: At 65 FR 16718, 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. 29, 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:~~

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

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§ 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 recertification 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.

§ 5.603 Definitions.

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.

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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 5488, 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

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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 882" and replacing it with "part 881 of this title", effective Apr. 21, 2000. For the convenience of the user, the superseded text is set forth as follows:

§ 5.603 Definitions.

* * * * *

(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.

~~§ 5.605 Overall income eligibility for assistance.~~

~~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.

§ 5.607 Income limits for admission.

(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

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"Individuals Exempt from Community Service or Self-Sufficiency Work Activities (24 CFR §960.601 (b))"

Exhibit D

Approved by the Office of Management and Budget under OMB control number 2577-0[illegible])

§960.[illegible] Special rent requirements and other terms and conditions.

The HA shall lease units to Officers under a lease agreement that is consistent with the requirements of this section and 24 CFR part [illegible]. The requirements of this section shall take precedence if there is any inconsistency between them and 24 CFR part [illegible].

(a) *Reasonable rent.* The lease shall provide for a reasonable rent, which may be a flat amount not related to the Officer's income. The HA should attempt to establish a rent that will provide an incentive to Officers to reside in the units but that is also consistent with the limited loss of income requirement of §960.[illegible](a)(4)(ii) of this part. As required in §960.[illegible](a)(1) of this part, the plan must state facts and circumstances (such as, the rent that would ordinarily be charged for the unit, the HA's annual maintenance cost for the unit, the degree of difficulty in attracting Officers to reside in the unit, the extent of the crime problem in the development, and the anticipated benefits of the Officer's presence) that demonstrate the reasonableness of the rent amount.

(b) *Continued employment.* The lease shall provide that the Officer's right of occupancy is dependent on the continuation of the employment that qualified the Officer for residency in the development under the plan. The lease also shall provide that the Officer will move out of the leased unit within a reasonably prompt time, to be established by the lease, after termination of employment.

§960.[illegible] Applicability of the annual contributions contract effect on the Performance Funding System.

(a) *Annual contributions contract.* Except to the extent that eligibility requirements are exempted under §960.[illegible] of this part, public housing units occupied by Officers in accordance with a plan submitted and approved under this subpart will be subject to the terms and conditions of the annual contributions contract (ACC) between the HA and the United States of America. This subpart does not override any of the terms and conditions of the ACC except insofar as they are inconsistent with the provisions of this subpart.

(b) *Performance funding system.* For purposes of the operating subsidy under the Performance Funding System (PFS) described in part [illegible], subpart A of this chapter, dwelling units allocated to Officers in accordance with this subpart are excluded from the total unit months available, as defined in §[illegible].102 of this chapter. Also for purposes of the operating subsidy under the PFS, the full amount of any rent paid by Officers in accordance with this subpart is included in other income, as defined in §[illegible].102 of this chapter. HAs may receive operating subsidy for one unit per housing development to promote economic self-sufficiency services or anti-drug programs, including housing police officers and security personnel. An HA may request consideration of such units in its calculation of operating subsidy eligibility through the appropriate local HUD Office.

Subpart F—When Resident Must Perform Community Service Activities or Self-Sufficiency Work Activities

SOURCE: 65 FR 16729, Mar. 29, 2000, unless otherwise noted.

EFFECTIVE DATE NOTE: At 65 FR 16729, subpart F to part 960 was added, effective Apr. 28, 2000.

§960.[illegible] Implementation.

PHAs and residents must comply with the requirements of this subpart beginning with PHA fiscal years that commence on or after October 1, 2000. Unless otherwise provided by §903.11 of this chapter, Annual Plans submitted for those fiscal years are required to contain information regarding the PHA's compliance with the community service requirement, as described in §903.7 of this chapter.

§960.601 Definitions.

(a) *Definitions found elsewhere.*

(1) *General definitions.* The following terms are defined in part 5, subpart A of this title: *public housing, public housing agency* (PHA).

(2) *Definitions concerning income and rent.* The following terms are defined in part 5, subpart F of this title: *economic self-sufficiency program; work activities.*

(b) *Other definitions.* In addition to the definitions in paragraph (a) of this section, the following definitions apply:

Community service. The performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities.

Exempt individual. An adult who:

(1) Is 62 years or older;

(2)(i) Is a blind or disabled individual, as defined under 216(i)(1) or 1614 of the

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Exhibit D

Social Security Act (42 U.S.C. 416(i)(1); 1382c), and who certifies that because of this disability she or he is unable to comply with the service provisions of this subpart, or

(ii) Is a primary caretaker of such individual;

(3) Is engaged in work activities;

(4) Meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*) or under any other welfare program of the State in which the PHA is located, including a State-administered welfare-to-work program; or

(5) Is a member of a family receiving assistance, benefits or services under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*) or under any other welfare program of the State in which the PHA is located, including a State-administered welfare-to-work program, and has not been found by the State or other administering entity to be in noncompliance with such a program.

Service requirement. The obligation of each adult resident, other than an exempt individual, to perform community service or participate in an economic-self sufficiency program required in accordance with § 960.603.

§ 960.605 General requirements.

(a) *Service requirement.* Except for any family member who is an exempt individual, each adult resident of public housing must:

(1) Contribute 8 hours per month of community service (not including political activities); or

(2) Participate in an economic self-sufficiency program for 8 hours per month; or

(3) Perform 8 hours per month of combined activities as described in paragraphs (a)(1) and (a)(2) of this section.

(b) *Family violation of service requirement.* The lease shall specify that it shall be renewed automatically for all purposes unless the family fails to comply with the service requirement. Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve month lease term, but not for termination of tenancy during the course of the twelve month lease term (see § 966.4(l)(2)(i) of this chapter).

§ 960.606 How PHA administers service requirements.

(a) *PHA policy.* Each PHA must develop a local policy for administration of the community service and economic self-sufficiency requirements for public housing residents.

(b) *Administration of qualifying community service or self-sufficiency activities for residents.* The PHA may administer qualifying community service or economic self-sufficiency activities directly, or may make such activities available through a contractor, or through partnerships with qualified organizations, including resident organizations, and community agencies or institutions.

(c) *PHA responsibilities.* (1) The PHA policy must describe how the PHA determines which family members are subject to or exempt from the service requirement, and the process for determining any changes to exempt or nonexempt status of family members.

(2) The PHA must give the family a written description of the service requirement, and of the process for claiming status as an exempt person and for PHA verification of such status. The PHA must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt persons.

(3) The PHA must review family compliance with service requirements, and must verify such compliance annually at least thirty days before the end of the twelve month lease term. If qualifying activities are administered by an organization other than the PHA, the PHA shall obtain verification of family compliance from such third parties.

(4) The PHA must retain reasonable documentation of service requirement performance or exemption in participant files.

(5) The PHA must comply with nondiscrimination and equal opportunity requirements listed at §5.105(a) of this title.

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Exhibit F

OCCUPANCY GUIDELINES

The corporation does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom. The Occupancy Guidelines for determining unit size shall be applied in a manner consistent with Fair Housing guidelines.

For occupancy guidelines, an adult is a person 18 years or older.

All guidelines relate to the number of bedrooms in the unit. Dwelling units will be so assigned that:

One bedroom will be generally assigned for every two family members. The corporation shall consider factors such as family characteristics including sex, age, or relationship, the number of bedrooms and the size of sleeping areas or bedrooms and the overall size of the dwelling unit. Consideration shall also be given for medical reasons and the presence of a live-in aide.

Single person families shall be allocated one bedroom.

GUIDELINES FOR DETERMINING BEDROOM SIZE FOR WAIT LIST

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

Exhibit G

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.

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.

Proposed 2/20/01

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.

Exhibit H

LIGHTING USAGE TABLES

NPC, Inc.

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LIGHTING USAGE TABLE

PROJECT: HCDCH

NUMBER OF BEDROOMS: 0

AREA NAME	NUMBER OF FIXTURES	WATTS PER FIXTURE	HOURS PER DAY	HOURS PER YEAR	KWH PER YEAR
Porches	2	60	3	1095	131
Kitchen	1	120	4	1460	175
Bathroom	1	120	2	730	88
Bedroom	1	120	3	1095	131
Lamps	2	60	4	1460	175
Living Room	1	120	5	1825	219
Hall/Stairs	1	60	3	1095	66
Closet	0	0	1	365	0
Dining Room	0	0	2	730	0
Utility	0	0	1	365	0
Storage	0	0	1	365	0
Pantry	0	0	2	730	0
				TOTAL	986

LIGHTING USAGE TABLE

PROJECT: HCDCH

NUMBER OF BEDROOMS: 1

AREA NAME	NUMBER OF FIXTURES	WATTS PER FIXTURE	HOURS PER DAY	HOURS PER YEAR	KWH PER YEAR
Porches	2	60	3	1095	131
Kitchen	1	120	4	1460	175
Bathroom	1	120	2	730	88
Bedroom	1	120	3	1095	131
Lamps	2	60	4	1460	175
Living Room	1	120	5	1825	219
Hall/Stairs	1	60	3	1095	66
Closet	0	0	1	365	0
Dining Room	0	0	2	730	0
Utility	0	0	1	365	0
Storage	0	0	1	365	0
Pantry	0	0	2	730	0
				TOTAL	986

LIGHTING USAGE TABLE

PROJECT: HCDCH

NUMBER OF BEDROOMS: 2

AREA NAME	NUMBER OF FIXTURES	WATTS PER FIXTURE	HOURS PER DAY	HOURS PER YEAR	KWH PER YEAR
Porches	2	60	3	1095	131
Kitchen	1	120	4	1460	175
Bathroom	1	120	2	730	88
Bedroom	2	120	3	1095	263
Lamps	3	60	4	1460	263
Living Room	1	120	5	1825	219
Hall/Stairs	2	60	3	1095	131
Closet	0	0	1	365	0
Dining Room	0	0	2	730	0
Utility	0	0	1	365	0
Storage	0	0	1	365	0
Pantry	0	0	2	730	0
				TOTAL	1270

LIGHTING USAGE TABLE

PROJECT: HCDCH

NUMBER OF BEDROOMS: 3

AREA NAME	NUMBER OF FIXTURES	WATTS PER FIXTURE	HOURS PER DAY	HOURS PER YEAR	KWH PER YEAR
Porches	2	60	3	1095	131
Kitchen	1	120	4	1460	175
Bathroom	1	120	2	730	88
Bedroom	3	120	3	1095	394
Lamps	4	60	4	1460	350
Living Room	1	120	5	1825	219
Hall/Stairs	2	60	3	1095	131
Closet	0	0	1	365	0
Dining Room	0	0	2	730	0
Utility	0	0	1	365	0
Storage	0	0	1	365	0
Pantry	0	0	2	730	0
				TOTAL	1489

LIGHTING USAGE TABLE

PROJECT: HCDCH

NUMBER OF BEDROOMS: 4

AREA NAME	NUMBER OF FIXTURES	WATTS PER FIXTURE	HOURS PER DAY	HOURS PER YEAR	KWH PER YEAR
Porches	2	60	3	1095	131
Kitchen	1	120	4	1460	175
Bathroom	2	120	2	730	175
Bedroom	4	120	3	1095	526
Lamps	5	60	4	1460	438
Living Room	1	120	5	1825	219
Hall/Stairs	3	60	3	1095	197
Closet	0	0	1	365	0
Dining Room	0	0	2	730	0
Utility	0	0	1	365	0
Storage	0	0	1	365	0
Pantry	0	0	2	730	0
				TOTAL...	1862

LIGHTING USAGE TABLE

PROJECT: HCDCH

NUMBER OF BEDROOMS: 5

AREA NAME	NUMBER OF FIXTURES	WATTS PER FIXTURE	HOURS PER DAY	HOURS PER YEAR	KWH PER YEAR
Porches	2	60	3	1095	131
Kitchen	1	120	4	1460	175
Bathroom	2	120	2	730	175
Bedroom	5	120	3	1095	657
Lamps	6	60	4	1460	526
Living Room	1	120	5	1825	219
Hall/Stairs	3	60	3	1095	197
Closet	0	0	1	365	0
Dining Room	0	0	2	730	0
Utility	0	0	1	365	0
Storage	0	0	1	365	0
Pantry	0	0	2	730	0
				TOTAL...	2081

CALCULATIONS FOR ELECTRIC DOMESTIC HOT WATER HEATERS

NPC, Inc.

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CALCULATIONS FOR DOMESTIC HOT WATER HEATERS

Project Name: Name	**HCDCH 0 BR**	
Unit Type:	0 BR	
Number of Bedrooms:	0	Bedrooms
Estimated Number of Occupants:	1	Occupants
Estimated Consumption Rate:	14	Gallons/Occupant/Day
Specific Heat of Water:	1.00	Btu/lb/F
Specific Volume of Water:	62.32	lb/cf
Volume Conversion:	7.48	gal/cf
Heuristic Exponent:	0.68	
Estimated Service Water Inlet Temperature:	55	F
Hot Water Supply Temperature:	120	F
Delta T:	65	F
Calender Schedule:	365	days/yr
Daily Schedule:	24	hrs/day
Total Operating Hours:	8,760	hrs/yr
Estimated Air Temperature At Tank:	72	F
Estimated Tank Size:	30	gal
Assumed Tank Insulation (R-Value):	12.00	F-sf-hr/Btu
R-Value of Shell Plus Air:	0.62	F-sf-hr/Btu
Estimated System Efficiency:	100%	
Assumed Standing Pilot?	no	
Pilot Consumption Rate:	400	Btu/hr
Fuel Type:	Electric	
Pilot Consumption:		kBtu/yr
Total Energy Lost:	680	kBtu/yr
Consumption Energy Required:	2,843	kBtu/yr
Total Energy Required:	3,523	kBtu/yr
Primary Fuel Required:	**1,032**	**kWh/Year**

CALCULATIONS FOR DOMESTIC HOT WATER HEATERS

Project Name: Name	**HCDCH 1 BR**	
Unit Type:	1 BR	
Number of Bedrooms:	1	Bedrooms
Estimated Number of Occupants:	2	Occupants
Estimated Consumption Rate:	14	Gallons/Occupant/Day
Specific Heat of Water:	1.00	Btu/lb/F
Specific Volume of Water:	62.32	lb/cf
Volume Conversion:	7.48	gal/cf
Heuristic Exponent:	0.68	
Estimated Service Water Inlet Temperature:	55	F
Hot Water Supply Temperature:	120	F
Delta T:	65	F
Calender Schedule:	365	days/yr
Daily Schedule:	24	hrs/day
Total Operating Hours:	8,760	hrs/yr
Estimated Air Temperature At Tank:	72	F
Estimated Tank Size:	30	gal
Assumed Tank Insulation (R-Value):	12.00	F-sf-hr/Btu
R-Value of Shell Plus Air:	0.62	F-sf-hr/Btu
Estimated System Efficiency:	100%	
Assumed Standing Pilot?	no	
Pilot Consumption Rate:	400	Btu/hr
Fuel Type:	Electric	
Pilot Consumption:		kBtu/yr
Total Energy Lost:	680	kBtu/yr
Consumption Energy Required:	5,687	kBtu/yr
Total Energy Required:	6,367	kBtu/yr
Primary Fuel Required:	**1,866**	**kWh/Year**

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CALCULATIONS FOR DOMESTIC HOT WATER HEATERS

Project Name: Name HCDCH 2 BR

Unit Type:	2 BR	
Number of Bedrooms:	2	Bedrooms
Estimated Number of Occupants:	3	Occupants
Estimated Consumption Rate:	14	Gallons/Occupant/Day
Specific Heat of Water:	1.00	Btu/lb/F
Specific Volume of Water:	62.32	lb/cf
Volume Conversion:	7.48	gal/cf
Heuristic Exponent:	0.68	
Estimated Service Water Inlet Temperature:	55	F
Hot Water Supply Temperature:	120	F
Delta T:	65	F
Calender Schedule:	365	days/yr
Daily Schedule:	24	hrs/day
Total Operating Hours:	8,760	hrs/yr
Estimated Air Temperature At Tank:	72	F
Estimated Tank Size:	30	gal
Assumed Tank Insulation (R-Value):	12.00	F-sf-hr/Btu
R-Value of Shell Plus Air:	0.62	F-sf-hr/Btu
Estimated System Efficiency:	100%	
Assumed Standing Pilot?	no	
Pilot Consumption Rate:	400	Btu/hr
Fuel Type:	Electric	
Pilot Consumption:		kBtu/yr
Total Energy Lost:	680	kBtu/yr
Consumption Energy Required:	8,530	kBtu/yr
Total Energy Required:	9,210	kBtu/yr
Primary Fuel Required:	**2,699**	**kWh/Year**

CALCULATIONS FOR DOMESTIC HOT WATER HEATERS

Project Name: Name	**HCDCH 3 BR**	
Unit Type:	3 BR	
Number of Bedrooms:	3	Bedrooms
Estimated Number of Occupants:	5	Occupants
Estimated Consumption Rate:	14	Gallons/Occupant/Day
Specific Heat of Water:	1.00	Btu/lb/F
Specific Volume of Water:	62.32	lb/cf
Volume Conversion:	7.48	gal/cf
Heuristic Exponent:	0.68	
Estimated Service Water Inlet Temperature:	55	F
Hot Water Supply Temperature:	120	F
Delta T:	65	F
Calender Schedule:	365	days/yr
Daily Schedule:	24	hrs/day
Total Operating Hours:	8,760	hrs/yr
Estimated Air Temperature At Tank:	72	F
Estimated Tank Size:	40	gal
Assumed Tank Insulation (R-Value):	12.00	F-sf-hr/Btu
R-Value of Shell Plus Air:	0.62	F-sf-hr/Btu
Estimated System Efficiency:	100%	
Assumed Standing Pilot?	no	
Pilot Consumption Rate:	400	Btu/hr
Fuel Type:	Electric	
Pilot Consumption:		kBtu/yr
Total Energy Lost:	827	kBtu/yr
Consumption Energy Required:	14,217	kBtu/yr
Total Energy Required:	15,044	kBtu/yr
Primary Fuel Required:	**4,408**	**kWh/Year**

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CALCULATIONS FOR DOMESTIC HOT WATER HEATERS

Project Name: Name	**HCDCH 4 BR**	
Unit Type:	4 BR	
Number of Bedrooms:	4	Bedrooms
Estimated Number of Occupants:	7	Occupants
Estimated Consumption Rate:	14	Gallons/Occupant/Day
Specific Heat of Water:	1.00	Btu/lb/F
Specific Volume of Water:	62.32	lb/cf
Volume Conversion:	7.48	gal/cf
Heuristic Exponent:	0.68	
Estimated Service Water Inlet Temperature:	55	F
Hot Water Supply Temperature:	120	F
Delta T:	65	F
Calender Schedule:	365	days/yr
Daily Schedule:	24	hrs/day
Total Operating Hours:	8,760	hrs/yr
Estimated Air Temperature At Tank:	72	F
Estimated Tank Size:	40	gal
Assumed Tank Insulation (R-Value):	12.00	F-sf-hr/Btu
R-Value of Shell Plus Air:	0.62	F-sf-hr/Btu
Estimated System Efficiency:	100%	
Assumed Standing Pilot?	no	
Pilot Consumption Rate:	400	Btu/hr
Fuel Type:	Electric	
Pilot Consumption:		kBtu/yr
Total Energy Lost:	827	kBtu/yr
Consumption Energy Required:	19,903	kBtu/yr
Total Energy Required:	20,730	kBtu/yr
Primary Fuel Required:	6,074	kWh/Year

CALCULATIONS FOR DOMESTIC HOT WATER HEATERS

Project Name: Name	**HCDCH 5 BR**	
Unit Type:	5	br
Number of Bedrooms:	5	Bedrooms
Estimated Number of Occupants:	9	Occupants
Estimated Consumption Rate:	14	Gallons/Occupant/Day
Specific Heat of Water:	1.00	Btu/lb/F
Specific Volume of Water:	62.32	lb/cf
Volume Conversion:	7.48	gal/cf
Heuristic Exponent:	0.68	
Estimated Service Water Inlet Temperature:	55	F
Hot Water Supply Temperature:	120	F
Delta T:	65	F
Calender Schedule:	365	days/yr
Daily Schedule:	24	hrs/day
Total Operating Hours:	8,760	hrs/yr
Estimated Air Temperature At Tank:	72	F
Estimated Tank Size:	40	gal
Assumed Tank Insulation (R-Value):	12.00	F-sf-hr/Btu
R-Value of Shell Plus Air:	0.62	F-sf-hr/Btu
Estimated System Efficiency:	100%	
Assumed Standing Pilot?	no	
Pilot Consumption Rate:	400	Btu/hr
Fuel Type:	Electric	
Pilot Consumption:		kBtu/yr
Total Energy Lost:	827	kBtu/yr
Consumption Energy Required:	25,590	kBtu/yr
Total Energy Required:	26,417	kBtu/yr
Primary Fuel Required:	7,740	kWh/Year

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MISCELLANEOUS ELECTRIC ALLOWANCES

NTC Inc.

Housing and Community Development Corporation of Hawaii

Miscellaneous Electrical Allowances (all in kWh)

Bedroom Size	Television	Radio	Small Appliances	Fan	Total Annual Consumption	Total Monthly Consumption
0	250	35	300	25	610	51
1	250	35	350	25	661	55
2	250	35	375	50	712	59
3	250	35	400	70	758	63
4	250	35	425	100	814	68
5	250	35	450	125	865	72

CALCULATIONS FOR GAS DOMESTIC HOT WATER HEATERS

NFI, Inc.

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CALCULATIONS FOR DOMESTIC HOT WATER HEATERS

Project Name: Name	**HCDCH 0 BR**	
Unit Type:	0 BR	
Number of Bedrooms:	0	Bedrooms
Estimated Number of Occupants:	1	Occupants
Estimated Consumption Rate:	14	Gallons/Occupant/Day
Specific Heat of Water:	1.00	Btu/lb/F
Specific Volume of Water:	62.32	lb/cf
Volume Conversion:	7.48	gal/cf
Heuristic Exponent:	0.68	
Estimated Service Water Inlet Temperature:	55	F
Hot Water Supply Temperature:	120	F
Delta T:	65	F
Calender Schedule:	365	days/yr
Daily Schedule:	24	hrs/day
Total Operating Hours:	8,760	hrs/yr
Estimated Air Temperature At Tank:	72	F
Estimated Tank Size:	30	gal
Assumed Tank Insulation (R-Value):	12.00	F-sf-hr/Btu
R-Value of Shell Plus Air:	0.62	F-sf-hr/Btu
Estimated System Efficiency:	75%	
Assumed Standing Pilot?	yes	
Pilot Consumption Rate:	400	Btu/hr
Fuel Type:	Natural Gas	
Pilot Consumption:	3,504	kBtu/yr
Total Energy Lost:	680	kBtu/yr
Consumption Energy Required:	2,843	kBtu/yr
Total Energy Required:	7,027	kBtu/yr
Primary Fuel Required:	94	**Therms/Year**

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CALCULATIONS FOR DOMESTIC HOT WATER HEATERS

Project Name: Name	**HCDCH 1 BR**	
Unit Type:	1 BR	
Number of Bedrooms:	1	Bedrooms
Estimated Number of Occupants:	2	Occupants
Estimated Consumption Rate:	14	Gallons/Occupant/Day
Specific Heat of Water:	1.00	Btu/lb/F
Specific Volume of Water:	62.32	lb/cf
Volume Conversion:	7.48	gal/cf
Heuristic Exponent:	0.68	
Estimated Service Water Inlet Temperature:	55	F
Hot Water Supply Temperature:	120	F
Delta T:	65	F
Calender Schedule:	365	days/yr
Daily Schedule:	24	hrs/day
Total Operating Hours:	8,760	hrs/yr
Estimated Air Temperature At Tank:	72	F
Estimated Tank Size:	30	gal
Assumed Tank Insulation (R-Value):	12.00	F-sf-hr/Btu
R-Value of Shell Plus Air:	0.62	F-sf-hr/Btu
Estimated System Efficiency:	75%	
Assumed Standing Pilot?	yes	
Pilot Consumption Rate:	400	Btu/hr
Fuel Type:	Natural Gas	
Pilot Consumption:	3,504	kBtu/yr
Total Energy Lost:	680	kBtu/yr
Consumption Energy Required:	5,687	kBtu/yr
Total Energy Required:	9,871	kBtu/yr
Primary Fuel Required:	132	**Therms/Year**

CALCULATIONS FOR DOMESTIC HOT WATER HEATERS

Project Name: Name	**HCDCH 2 BR**	
Unit Type:	2 BR	
Number of Bedrooms:	2	Bedrooms
Estimated Number of Occupants:	3	Occupants
Estimated Consumption Rate:	14	Gallons/Occupant/Day
Specific Heat of Water:	1.00	Btu/lb/F
Specific Volume of Water:	62.32	lb/cf
Volume Conversion:	7.48	gal/cf
Heuristic Exponent:	0.68	
Estimated Service Water Inlet Temperature:	55	F
Hot Water Supply Temperature:	120	F
Delta T:	65	F
Calender Schedule:	365	days/yr
Daily Schedule:	24	hrs/day
Total Operating Hours:	8,760	hrs/yr
Estimated Air Temperature At Tank:	72	F
Estimated Tank Size:	30	gal
Assumed Tank Insulation (R-Value):	12.00	F-sf-hr/Btu
R-Value of Shell Plus Air:	0.62	F-sf-hr/Btu
Estimated System Efficiency:	75%	
Assumed Standing Pilot?	yes	
Pilot Consumption Rate:	400	Btu/hr
Fuel Type:	Natural Gas	
Pilot Consumption:	3,504	kBtu/yr
Total Energy Lost:	680	kBtu/yr
Consumption Energy Required:	8,530	kBtu/yr
Total Energy Required:	12,714	kBtu/yr
Primary Fuel Required:	**170**	**Therms/Year**

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CALCULATIONS FOR DOMESTIC HOT WATER HEATERS

Project Name: Name	**HCDCH 3 BR**	
Unit Type:	3 BR	
Number of Bedrooms:	3	Bedrooms
Estimated Number of Occupants:	5	Occupants
Estimated Consumption Rate:	14	Gallons/Occupant/Day
Specific Heat of Water:	1.00	Btu/lb/F
Specific Volume of Water:	62.32	lb/cf
Volume Conversion:	7.48	gal/cf
Heuristic Exponent:	0.68	
Estimated Service Water Inlet Temperature:	55	F
Hot Water Supply Temperature:	120	F
Delta T:	65	F
Calender Schedule:	365	days/yr
Daily Schedule:	24	hrs/day
Total Operating Hours:	8,760	hrs/yr
Estimated Air Temperature At Tank:	72	F
Estimated Tank Size:	40	gal
Assumed Tank Insulation (R-Value):	12.00	F-sf-hr/Btu
R-Value of Shell Plus Air:	0.62	F-sf-hr/Btu
Estimated System Efficiency:	75%	
Assumed Standing Pilot?	yes	
Pilot Consumption Rate:	400	Btu/hr
Fuel Type:	Natural Gas	
Pilot Consumption:	3,504	kBtu/yr
Total Energy Lost:	827	kBtu/yr
Consumption Energy Required:	14,217	kBtu/yr
Total Energy Required:	18,548	kBtu/yr
Primary Fuel Required:	247	**Therms/Year**

CALCULATIONS FOR DOMESTIC HOT WATER HEATERS

Project Name: Name	**HCDCH 4 BR**	
Unit Type:	4 BR	
Number of Bedrooms:	4	Bedrooms
Estimated Number of Occupants:	7	Occupants
Estimated Consumption Rate:	14	Gallons/Occupant/Day
Specific Heat of Water:	1.00	Btu/lb/F
Specific Volume of Water:	62.32	lb/cf
Volume Conversion:	7.48	gal/cf
Heuristic Exponent:	0.68	
Estimated Service Water Inlet Temperature:	55	F
Hot Water Supply Temperature:	120	F
Delta T:	65	F
Calender Schedule:	365	days/yr
Daily Schedule:	24	hrs/day
Total Operating Hours:	8,760	hrs/yr
Estimated Air Temperature At Tank:	72	F
Estimated Tank Size:	40	gal
Assumed Tank Insulation (R-Value):	12.00	F-sf-hr/Btu
R-Value of Shell Plus Air:	0.62	F-sf-hr/Btu
Estimated System Efficiency:	75%	
Assumed Standing Pilot?	yes	
Pilot Consumption Rate:	400	Btu/hr
Fuel Type:	Natural Gas	
Pilot Consumption:	3,504	kBtu/yr
Total Energy Lost:	827	kBtu/yr
Consumption Energy Required:	19,903	kBtu/yr
Total Energy Required:	24,234	kBtu/yr
Primary Fuel Required:	**323**	**Therms/Year**

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CALCULATIONS FOR DOMESTIC HOT WATER HEATERS

Project Name: Name	**HCDCH 5 BR**	
Unit Type:	5 BR	
Number of Bedrooms:	5	Bedrooms
Estimated Number of Occupants:	9	Occupants
Estimated Consumption Rate:	14	Gallons/Occupant/Day
Specific Heat of Water:	1.00	Btu/lb/F
Specific Volume of Water:	62.32	lb/cf
Volume Conversion:	7.48	gal/cf
Heuristic Exponent:	0.68	
Estimated Service Water Inlet Temperature:	55	F
Hot Water Supply Temperature:	120	F
Delta T:	65	F
Calender Schedule:	365	days/yr
Daily Schedule:	24	hrs/day
Total Operating Hours:	8,760	hrs/yr
Estimated Air Temperature At Tank:	72	F
Estimated Tank Size:	40	gal
Assumed Tank Insulation (R-Value):	12.00	F-sf-hr/Btu
R-Value of Shell Plus Air:	0.62	F-sf-hr/Btu
Estimated System Efficiency:	75%	
Assumed Standing Pilot?	yes	
Pilot Consumption Rate:	400	Btu/hr
Fuel Type:	Natural Gas	
Pilot Consumption:	3,504	kBtu/yr
Total Energy Lost:	827	kBtu/yr
Consumption Energy Required:	25,590	kBtu/yr
Total Energy Required:	29,921	kBtu/yr
Primary Fuel Required:	**399**	**Therms/Year**

"Rehabilitation 42 USC §13661(b) (2) (A) - (C)" Exhibit I

[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

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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.

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"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 (c) 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

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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

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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.

(b) *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 (b)(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 60530, 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 §5.508(a) for the specific immigration status claimed by the individual.

[61 FR 13616, Mar. 27, 1996, as amended at 61 FR 60530, 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.

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Fair Market Rents (24 C.F.R. §888)

(Effective DEC 16 2005, 2005)

County	Studio	1 BR	2 BR	3 BR	4 BR
Honolulu	$836	$997	$1,205	$1,757	$2,069
Hawaii	$627	$753	$845	$1,191	$1,306
Maui	$921	$1,021	$1,187	$1,588	$1,701
Kauai	$739	$832	$1,096	$1,375	$1,497