

DEPARTMENT OF HUMAN SERVICES

Repeal of Chapter 15-185 and
Adoption of Chapter 17-2031
Hawaii Administrative Rules

(date)

1. Chapter 185 of Title 15, Hawaii Administrative Rules, entitled "Section 8 - Housing Choice Voucher Program", is repealed.

2. Chapter 2031 of Title 17, Hawaii Administrative Rules, entitled "Section 8 - Housing Choice Voucher and Project Based Voucher Program", is adopted to read as follows:

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND
TOURISM

SUBTITLE 14

HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF
HAWAII

CHAPTER 185

SECTION 8 - HOUSING CHOICE VOUCHER PROGRAM

Repealed

§§15-185-1 to 15-185-202 Repealed.

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 5

HAWAII PUBLIC HOUSING AUTHORITY

CHAPTER 2031

SECTION 8 - HOUSING CHOICE VOUCHER AND PROJECT BASED
VOUCHER PROGRAM

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Historical Note: Chapter 2031 of Title 17, Hawaii Administrative Rules, is substantially based upon Chapter 17-511, Hawaii Administrative Rules [Eff 2/18/82; am 10/31/88; R 12/3/01]; and Chapter 15-185, Hawaii Administrative Rules. [Eff 12/3/01;
 R]

SUBCHAPTER 1

GENERAL PROVISIONS

§17-2031-1 Purpose. These rules are adopted under chapter 91, HRS, and shall govern the implementation of the management requirements of the tenant based housing choice voucher program and the project based voucher program authorized by the United States Housing Act of 1937, as amended by the Housing and Community Development Act of 1974, the Quality Housing Work Responsibility Act (QHWRA) of 1998, and the Housing and Economic Recovery Act of 2008 (HERA) and establish the role and responsibility of the participants and the Hawaii public housing authority. These rules set forth some of the authority's administrative plan that a public housing agency is required to adopt pursuant to the U.S. Department of Housing and Urban development section 8 program regulations in 24 C.F.R. Chapter IX Part 982 ("Administrative Plan") as it existed on October 20, 2022. [Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-13; C.F.R. §982.54)

§17-2031-2 Nondiscrimination. (a) The authority shall not deny any family or individual the opportunity to apply for or receive assistance under this chapter on the basis of race, color, sex, religion, marital status, creed, national or ethnic origin, age, familial status, handicap or disability or HIV infection.

(b) The authority shall comply with federal and state nondiscrimination laws and with rules and regulations governing fair housing and equal opportunity in the administration of the program. The authority shall provide a family with the United States Department of Housing and Urban Development

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discrimination complaint form and information on how to file a fair housing complaint if the family claims that discrimination prevented them from finding or leasing a suitable dwelling unit under the program. [Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-7; 24 C.F.R. §§982.53, 982.304)

§17-2031-3 Definitions. As used in this chapter:

"Adjusted income" means "annual income" of the members of the family residing or intending to reside in the dwelling unit minus any HUD allowable expenses and deductions as defined in 24 C.F.R. §5.611, as it existed on October 20, 2022, 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, as it existed on October 20, 2022.

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

"Assets" or "net family assets" means net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment as defined in 24 C.F.R. §5.603, as it existed on October 20, 2022.

"Authority" means the Hawaii public housing authority.

"Board" means the board of directors of the Hawaii public housing authority.

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

"Child" means a person who is born alive and is less than eighteen years of age.

"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 U.S. Housing Act of 1937, as amended, and there is no break in assistance to the family.

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

"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.

"Criminal activity" means any conduct that is prohibited by any criminal laws, whether federal, state or county, regardless of whether there has been an arrest or conviction and without satisfying the standard of proof for a criminal conviction.

"Disability" means having a physical or mental impairment which substantially limits one or more major life activities, having a record of such an impairment, or being regarded as having such an impairment, including persons who have human immunodeficiency virus (HIV) or AIDs. The term does not include current illegal use or addition to a controlled substance or alcohol or drug abuse that threatens the property or safety of others. Disabled individual or family includes:

- (1) A single individual who or a family whose head or spouse is unable to engage in any substantial, gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in indefinite duration; or
- (2) A single individual who or a family whose head or spouse has a physical impairment which is expected to be of long, continued and indefinite duration and which

substantially impedes the ability to live independently, and which is of a nature that the ability could be improved by suitable housing conditions.

"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 dwelling unit with the family.

"Domiciled" means physically residing in the dwelling unit with intent to remain.

"Drug" means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. §802) as it existed on October 20, 2022.

"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, as it existed on October 20, 2022, and which activity is conducted on or near the premises of the assisted dwelling unit.

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

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

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

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

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

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

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

"Family" means regardless of actual or perceived sexual orientation, gender identity, or marital status:

- (1) Two or more persons who live or intend to live together 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. A child who is temporarily away from the home because of placement in foster care is considered a member of the family. Family may include foster children and hanai children or a child who is domiciled with, and for whom an adult member of the current household is caring for with written or unwritten permission from the legal parent or other person having legal custody, or child domiciled with, and for whom an adult member of the current household is in the process of securing custody;
- (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.

"Foster child" or " Foster children" means a person or persons under eighteen years of age who is or are provided foster care by a foster parent pursuant to Chapter 587A, HRS.

"Foster parent" means any adult person licensed by the department of human services or another authorized agency to provide foster care services for a child or children under Chapter 587A, HRS.

"Gender identity or expression" includes a person's actual or perceived gender, as well as a person's gender identity, gender-related self-image, gender-related appearance, or gender-related expression, regardless of whether that gender identity, gender-related self-image, gender-related appearance, or gender-related expression is different from that traditionally associated with the person's sex at birth.

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

"Hanai child" or "Hanai children" means a child who is taken permanently to reside, be educated, and reared by someone other than the natural parents, traditionally a grandparent or other relative, with the written or unwritten permission of the natural parents.

"HAP" means the monthly housing assistance payment by the authority as defined in 24 C.F.R. §982.4, as it existed on October 20, 2022, which includes:

- (1) A payment to the owner for rent under the family's lease and
- (2) Any additional payment to the family if the total assistance payment exceeds the rent to the owner.

"HAP contract" means housing assistance payments contract.

"HCV" means Housing Choice Voucher

"Household" means the family and the authority-approved live-in aide.

"HRS" means Hawaii Revised Statutes.

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

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

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

"Involuntarily displaced" means an applicant who has vacated or may have to vacate the dwelling 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.

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

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

- (1) Is eighteen years of age or older;
- (2) Is determined by the authority to be essential to the care and well-being of the elder or elderly family member or the family member with disabilities;
- (3) Is not obligated for the support of the elder or the elderly family member or family member with disabilities;
- (4) Would not be living in the dwelling unit except to provide the necessary support services;
- (5) Is not a tenant; and
- (6) Notwithstanding any other rule, has no rights of tenancy, continued occupancy of dwelling unit, and is not a remaining member of the household and shall cease to be an occupant therein upon the recovery of the dwelling unit by the authority, or removal from the project of the elder or elderly family member or a family member with disabilities who required the live-in aide.

"Near elderly" means a family whose head, spouse, or solo member is at least fifty years of age but below the age of sixty two.

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

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

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

"PBRA" means Project-Based Rental Assistance.

"PBV" means Project-Based Voucher.

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

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

"RAD" means Rental Assistance Demonstration.

"Resident" for the purpose of conducting eligibility means a United States citizen or national or an eligible immigrant under one of the categories set forth in 42 U.S.C. §1436a(a), as it existed on October 20, 2022, also known as "noncitizen", who is able to demonstrate his or her intent to reside in Hawaii. Under one of these categories, one eligible immigrant is an alien who is a lawful resident in the United States and its territories and possessions under section 141 of the Compacts of the Free Association between the Government of the Republic of the Marshall Islands, the Federal States of Micronesia (48 U.S.C. 1901 note), and the Republic of Palau (48 U.S.C. 931 note) while the applicable section is in effect, also known as "COFA" resident. 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; record of employment in Hawaii; military records substantiating Hawaii residency; record of Hawaii residency; enrollment of minor children in Hawaii schools; establishment of bank accounts and other accounts in Hawaii; written reference from Hawaii residents, relatives, or social agencies; and any other indicia which could substantiate a claim of an intent to reside in Hawaii.

"Security deposit" means the deposit required by an owner from a participant as defined in the Residential Landlord-Tenant Code, §521-44, HRS, as it existed on October 20, 2022.

"Sexual orientation" means having a preference for heterosexuality, homosexuality, or bisexuality, having a history of any one or more of the

preferences, or being identified with any one of more of these preferences, "sexual orientation" shall not be construed to protect conduct otherwise proscribed by law.

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

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

"Violent criminal activity" means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

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

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

[Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. Parts 5 and 982)

§17-2031-4 Public notice to lower-income families. The authority shall inform the public of the availability and nature of housing assistance for families within allowed income limits through publications of general circulation and shall ensure wide and appropriate coverage. [Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.206)

§17-2031-5 Participation by owners and others. The authority shall invite eligible owners, including owners of suitable dwelling units located outside of

poverty or racially concentrated areas, to make dwelling units available for leasing by eligible families and to expand opportunities for disabled persons.

[Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§ 982.1, 982.54, 982.306)

§17-2031-6 Income limits. (a) Income limits for a family's participation in the program shall be the same income limits established by HUD for its section 8 tenant-based housing choice voucher program, which are incorporated by reference and attached as exhibit C.

(b) Applicable income limits as provided in subsection (a) shall be published once per year in a publication with wide circulation, be posted at all times in a conspicuous place at the authority's offices that accept applications, on the authority's website, and printed in the [corporation's] authority's informational materials on eligibility for the programs. [Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.201)

§17-2031-7 Assets. All assets held by each member of an eligible family shall be used to determine annual income. [Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §5.609)

§17-2031-8 Subsidy and occupancy standards.

(a) The authority shall establish subsidy standards that shall provide for a minimum commitment of subsidy while avoiding overcrowding. The subsidy

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standards are incorporated by reference and attached as exhibit D.

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

(c) The authority's occupancy standards follow the occupancy codes of the County in which the dwelling unit is located. The occupancy standards are incorporated by reference and attached as exhibit E. [Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-31; 24 C.F.R. §§982.54(d)(9), 982.401, 982.402)

§17-2031-9 Allowance for utilities and other services. (a) The authority shall maintain a utility allowance schedule for utilities and other services that shall be coordinated with the allowance schedules of the respective counties. The utility allowance schedules are incorporated by reference and attached as exhibit F.

(b) On request from a family that includes a person with disabilities, the authority shall approve a utility allowance which is higher than the applicable amount in the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation in accordance with 24 C.F.R. part 8, as it existed on October 20, 2022, to make the program accessible to and usable by the family member with a disability.

(c) A participant shall receive a utility reimbursement when the utility allowance exceeds the total tenant payment. [Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.517)

§17-2031-10 Verification of information. (a) The authority shall require an applicant or participant to provide documentation verifying

information provided by the family relating to the program.

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

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

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

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

[Eff] (Auth: HRS §356D-13)

(Imp: HRS §356D-13; 24 C.F.R. §§982.201, 982.551; 982.552; 982.553)

SUBCHAPTER 2

ELIGIBILITY

§17-2031-21 Applications. (a) A family seeking to participate in the program shall submit a completed pre-application form prepared by the authority. The applicant is permitted to file a pre-application on the authority's application portal, or through reasonable accommodation in person, by mail, or at any of the authority's section 8 applications offices for any and all waiting list areas prescribed in section 17-2031-26.

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

(c) An applicant who has misrepresented material information in a pre-application, application, or other inquiry for any of the authority's programs shall not be eligible to file an application with the authority for twelve months from the date of written notification from the authority. [Eff

] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§982.201, 982.202)

§17-2031-22 Eligibility for admission and participation. (a) To be eligible for participation in the program, an applicant and family 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 family members shall:
 - (A) Qualify as a family;

- (B) Be income eligible as determined under section 17-2031-6;
- (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 under the age of six and has an assigned social security number. If a family member is under the age of six and has not been assigned a social security number, the applicant or participant shall provide for each new child within ninety calendar days of being added to the household, a valid social security number issued by the social security administration, or an original document issued by a federal or state government agency, which contains the name of the individual and the social security number, along with other identifying information of the individual;
- (F) Not have been evicted since March 1, 1985 from a public housing program administered by the authority or any of its predecessors, the housing and community development corporation of Hawaii or Hawaii housing authority with the exception of evictions solely due to failure to pay a debt to the authority, in which case, the applicant can be admitted upon payment in full of the unpaid amounts due to the agency;
- (G) Not have been terminated for assistance under the program;
- (H) Not have committed fraud, bribery, or any other corrupt or criminal act in

- connection with any federal housing program;
- (I) Within one year of the projected date of voucher award, not have been engaged in any drug-related or violent criminal activity or other criminal activity which would adversely affect the health, safety, right of peaceful enjoyment of the premises by other residents, the owner, or authority employees;
 - (J) 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 of alcohol (or pattern of abuse) may interfere with the health, safety, or right to peaceful enjoyment of a rental premises by other residents;
 - (i) For the purposes of this subsection, "reasonable cause to believe" means by a preponderance of the evidence;
 - (ii) For the purposes of this subsection, in determining whether to deny eligibility based on a pattern of illegal use of a controlled substance or a pattern of abuse of alcohol, the authority may consider rehabilitation as provided for under 42 U.S.C. §13661(b)(2)(A)-(C), as it existed on October 20, 2022, which is incorporated by reference and attached as exhibit G;
 - (K) Not be engaged in any drug-related criminal activity or violent criminal activity which would adversely affect the health, safety, right to peaceful enjoyment of the premises by other

- residents, the owner, or authority employees;
- (L) Not have been convicted of the manufacture, production, or distribution of methamphetamines; and
 - (M) Not subject to lifetime registration requirements under any State sex offender's registration program.
- (2) During the final application phase the applicant and all adult household members shall meet the requirements set forth in subsection 17-2031-22(a)(1), as well as the following requirements:
- (A) Not have 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 an intent to abuse or commit violence. Abusive or violent behavior may be verbal or physical and include use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate; and
 - (B) Furnish evidence of citizenship or eligible immigrant status as provided for in 24 C.F.R. §5.508, as it existed on October 20, 2022, which is incorporated by reference and attached as exhibit H.

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

(c) A participant shall not receive a voucher at the same time as other rent supplement or housing benefits including state rent supplement payments authorized under section 356D-151, HRS.

§17-2031-22

(d) Before the authority denies or terminates assistance on the basis of a criminal record, the authority shall provide the applicant or participant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record pursuant to section 17-2031-71 or 17-2031-72. [Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§5.216, 982.201, 982.202, 982.307, 982.551, 982.552, 982.553)

§17-2031-23 Income targeting. At least seventy five per cent of families admitted to the program during the fiscal year from the waiting list shall be extremely low income families. [Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.201)

§17-2031-24 Notification of eligibility.

(a) An applicant shall be mailed or sent a written or electronic notification after an eligibility determination is made. The notification shall specifically state the reasons for the determination.

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

(c) An applicant determined to be ineligible for admission or participation in the program shall be accorded an opportunity to request for an informal review as set forth in section 17-2031-71. [Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§982.201, 982.204, 982.554)

§17-2031-25 Local preferences. (a) Eligible applicants shall be given preference for certification in the program if, at the time they are seeking

housing assistance, they fall within the following preference categories:

- (1) The following preferences shall be given first priority but have equal weight within this group:
 - (A) Involuntarily displaced, including public housing families subject to relocation due to modernization activity, or based on an emergency where conditions of the public housing dwelling unit, building, or project pose an immediate, verifiable threat to life, health or safety of the family, and the family cannot be relocated to another public housing dwelling unit in the same program, meeting their needs;
 - (B) Victims of domestic violence, including public housing tenants that are victims of stalking, or reprisals, or hate crimes, and cannot be safely transferred to another public housing dwelling unit in the same program; or
 - (C) Homeless; or
 - (D) Public housing families that exceed the largest public housing dwelling unit size on the island where they reside; or Public housing tenants who are approved for a reasonable accommodation for a dwelling unit with special features and have not been offered a dwelling unit in the public housing program that meets the family's needs and have waited over one year.
- (2) The following preferences shall be given second priority but have equal weight within this group:
 - (A) Living in substandard housing; or
 - (B) Paying more than fifty per cent of annual income for rent.
- (3) The following are other preferences that have equal weight:

- (A) Working families and those unable to work because of age or disability;
- (B) Veterans and veterans' surviving spouse;
- (C) Residents who live or work in the jurisdiction (by county); or
- (D) Victims of reprisals or hate crimes.

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

- (1) Place on the waiting list;
- (2) Date or time of submission of an application; or
- (3) Lottery position.

(c) 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 during the past three years because of drug-related criminal activities unless the adult member has successfully completed a rehabilitation program approved by the authority.

[Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.203, 982.207)]

§17-2031-26 Waiting list. (a) The authority shall maintain a separate waiting list for each of its housing choice voucher or project-based voucher programs.

- (b) Placement on the waiting list may be by:
 - (1) Date and time; or
 - (2) Random lottery selection, so long as all adopted preferences are considered.

(c) Applicants shall be notified of the opportunity to apply for vouchers and of the procedure to be used to be placed on the waiting lists through notices posted in a conspicuous place at the authority's offices that accept section 8 applications, the authority's website, and in a

printed statement in the authority's information material on its application process.

(d) The notice to open the waiting list shall include information on what procedure shall be used to place applicants on the waiting list, how to apply, the date and time of the lottery selection and the number of applicants that will be selected by the lottery, if applicable.

(e) The authority may accept applications from applicants with and without a preference, or solely based on preference, which will be specified in the notice of opening of the wait list.

(f) Applicants who are selected for placement on the waiting list shall be notified in writing, through mail or electronic communication, of their selection on the waiting list approximately ten business days after the waiting list has closed.

(g) Selection of applicants from the waiting list shall be based upon:

- (1) A randomly assigned number based on the number of applicants that were selected by the lottery; or
- (2) Date and time of the application; and
- (3) Applicable local preference.

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

(i) An applicant may continue to be on the waiting list even though the applicant is a tenant in or receiving housing assistance from another housing program.

(j) Applications for the housing choice voucher program will be active for eighteen months from the date of placement on the waiting list and then will expire. Applicants on the waitlist at eighteen months will receive a letter informing them that their application has expired within ten business days.

(k) When the authority opens the waiting list for applicants and limits applications to those with local preferences, any applicant who is unable to verify their preference within ten business days shall be removed from the waiting list.

(l) Applicants who were either not selected to participate in the lottery, or whose application has expired, will not qualify for an informal hearing.
[Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.204, 982.205, 982.206)

§17-2031-27 Removal from the waiting list. An applicant shall be removed from the waiting list for any one of the following reasons:

- (1) The applicant requests that applicant's name be removed;
- (2) The applicant fails to notify the 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 section 17-2031-22;
- (4) The applicant fails to respond to the authority's reasonable contact efforts. Two written or electronic notices to the last known address shall constitute reasonable effort to contact;
- (5) The applicant fails without good cause to keep a scheduled interview or to provide requested information necessary to determine eligibility;
- (6) The applicant refuses a voucher for housing assistance; or
- (7) The applicant misrepresents any material information to the authority on the application or otherwise.
[Eff] (Auth: HRS §356D-13)
(Imp: HRS §356D-13; 24 C.F.R. §982.204)

- §17-2031-28 Closing and reopening the waiting list.** (a) The authority may suspend the acceptance of applications and close the waiting list, in whole or in part, when it is determined that there are enough applicants on the waiting list to fill anticipated openings for the next twenty-four months.
- (b) The authority may publicly announce any closure and reopening of the application taking process pursuant to section 17-2031-4. If the list is opened for only a limited time, the opening announcement shall include the closing date and not require further notice. Publicly announce may include, but is not limited to, publishing notices in a newspaper of general circulation and minority newspapers or notifying social service organizations.
- (c) During periods when the waiting list is closed, the authority is not required to maintain a list of persons to be notified when application taking is reopened. [Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.206)

- §17-2031-29 Final application process - selection and certification.** (a) Selection for certification shall be from the established waiting list and shall be based on:
- (1) Applicable local preferences; and
 - (2) Lottery placement; or
 - (3) Date and time of receipt of application.
- (b) The authority shall contact applicants selected off the waiting list in writing through mail, electronic or other virtual written communication.
- (c) Completed applications will be processed as they are returned on a first come, first served basis.
- (d) Following initial contact with an applicant from the waiting list, housing assistance will be offered to applicants in the order in which they completed the application process.
- (e) Applicants shall be provided with a briefing packet containing all required materials and shall be informed of their responsibilities prior to acceptance

of a voucher. A voucher shall not be issued unless the applicant or an authorized representative attends a briefing and signs the voucher.

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

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

(f) An applicant may request an extension to the initial sixty day time period if the voucher is about to expire. The request for extension shall be in writing and be received by the authority or postmarked no later than the last day of the voucher term. The extension request shall include an explanation for the request and a progress report on efforts made to locate a suitable dwelling unit.

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

(h) Upon request from a prospective landlord, the authority may furnish the current address and the name and address of any current or prior landlord of the voucher holder as shown in the authority's records. Also upon request from the prospective landlord, the authority may furnish other information about the tenancy history of family members, or about drug trafficking by family members, provided that there has been a criminal conviction.

[Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§ 982.204, 982.301, 982.302, 982.303, 982.305, 982.306, 982.307)

§17-2031-30 Special admission and exception for designated programs.

(a) The authority may admit families not on the established waiting list, or without considering the family's waiting list position, that are targeted for specific funding awards from HUD, including, but not limited to:

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

(b) The authority shall admit families on the established waiting list who qualify for special funding awards from HUD including, but not limited to:

- (1) The Mainstream Housing Opportunities for Persons with Disabilities program and
- (2) The Welfare-to-Work or similar self-sufficiency programs.

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

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(d) A family may be admitted under this section without qualifying for any preferences, or without being on the program waiting list.

(e) The authority shall maintain records showing the family was admitted through HUD-targeted assistance. [Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.203)

§17-2031-31 Annual income. The authority shall determine each applicant's and participant's annual income pursuant to 24 C.F.R. §5.609, as it existed on October 20, 2022, which is incorporated by reference and attached as exhibit B.
[Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. § 5.609)

§17-2031-32 Reexaminations. (a) At least once every twelve months, the authority may reexamine a family's income, composition and any other matter necessary to determine the participant's rent and eligibility for continued housing assistance.

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

(c) The participant and owner shall be notified in writing by the authority of the results of any reexamination within a reasonable time.
[Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.516)

§17-2031-33 Interim rent adjustment. (a) The authority may adjust a participant's rent between reexaminations if a participant reports a change in income.

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

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

(d) The participant and owner shall be notified in writing by the authority of the results of any reexamination within a reasonable time.

[Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.516)

§17-2031-34 Continued assistance.

(a) When one family splits into two eligible families, both families wish to continue assistance, and there is no court order, the authority shall decide to continue assistance to one family instead of the other if that family:

- (1) Retains the children or includes any disabled or elderly members. Children subject to a joint custody agreement but live with one parent for a cumulative period of at least one hundred eighty three days of the year shall be considered a member of that household;
- (2) Includes the family member that applied as head of household;

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- (3) Excludes the responsible party for domestic violence which caused the split of the family;
- (4) Is subject to other factors specified by the authority; or
- (5) Is recommended by social service agencies or qualified professionals to retain assistance. [Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.315)

SUBCHAPTER 3

LEASE

§17-2031-41 Request for lease approval. Upon finding a dwelling unit that an owner is willing to lease, the family shall submit a request to have the lease approved by the authority. [Eff]
(Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.305)

§17-2031-42 Dwelling unit inspection.

(a) Prior to approving a lease, the authority shall inspect the dwelling unit within a reasonable time after receipt of the owner's inspection request.

(b) Dwelling units approved for lease in the program shall meet minimum housing quality standards.

(c) Inspections will occur every other year, except in circumstances where the authority may determine a need for an annual inspection. Situations may include, but not be limited to:

- (1) If a dwelling unit does not pass an initial or annual inspection the first time;
- (2) The dwelling unit fails a quality control inspection; or
- (3) The participant or landlord requests a special inspection between the scheduled inspection.

[Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§982.305, 982.401)

§17-2031-43 Lease requirements. (a) The authority shall review the lease, particularly noting compliance with HUD regulations and state and local

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law. The participant also must have legal capacity to enter a lease under state and local law.

(b) The family and owner must submit a standard form lease used in the locality and that is generally used for other unassisted tenants in the premises by the owner. The terms and conditions of the lease must be consistent with state and local law. The lease must specify what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family. The HUD prescribed tenancy addendum must be included in the lease word-for-word before the lease is executed. The HUD tenancy addendum is incorporated by reference and attached as exhibit I. [Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.308)

§17-2031-44 Lease approval. (a) If the authority determines that a dwelling unit is suitable for the program and the lease meets the requirements of the program, the owner and family shall be notified, and a contract executed.

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

(c) If the authority determines that a lease cannot be approved for any reason, the owner and family shall be notified in writing.

[Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§982.308, 982.309)

SUBCHAPTER 4

HOUSING ASSISTANCE PAYMENTS AND RENT

§17-2031-51 Housing assistance payments. The authority shall make housing assistance payments to the owner on behalf of an eligible family.
[Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.311)

§17-2031-52 Contract rents. (a) The contract rent for a dwelling unit in the program shall be determined on a case-by-case basis. The approved rent shall be reasonable in comparison to rent for other comparable unassisted dwelling units in the housing market.

(b) Contract rents may be adjusted at each annual anniversary date of the HAP contract at the request of the owner. [Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.507)

§17-2031-53 Total tenant payment.

(a) The authority shall compute the total tenant payment.

(b) There shall be an established minimum rent of \$50.00 per month. Exception to the application of the minimum monthly rental amount shall apply if the family is unable to pay because of financial hardship which is determined pursuant to 24 C.F.R. §5.630, as it existed on October 20, 2022, and includes the following situations:

- (1) The family has lost eligibility or is awaiting an eligibility determination for federal, state, or local assistance;

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- (2) The family would be evicted as a result of the imposition of the minimum rent requirement;
- (3) The income of the family has decreased because of changed circumstances, including:
 - (A) Loss of employment;
 - (B) An income producing family member dies; and
 - (C) Other circumstances beyond the family's control as determined by the authority.

[Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13 ; 24 C.F.R. §§5.628, 5.630)

§17-2031-54 Rent. (a) Voucher rents are based on the payment standard as set by the authority on an annual basis and are guided by the fair market rents published annually by HUD. On request from the family that includes a person with disabilities, the authority shall approve an exception rent of up to one hundred twenty per cent of the fair market rent if the exception rent is needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities in accordance with 24 C.F.R. Part 8, as it existed on October 20, 2022.

(b) The small area fair market rent, which includes utilities and is established for dwelling units of various bedroom sizes, is determined by HUD. [Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §888.111, 982.503, 982.504, 982.507)

§17-2031-55 Payment standard. (a) The maximum monthly subsidy payment for a family before deducting the family contribution is set by the authority between ninety per cent and one hundred ten per cent of the HUD determined small area fair market rent. The authority may establish a payment standard amount

that is higher or lower than the basic range subject to HUD approval or waiver.

(b) The authority may approve a higher payment standard within the basic range to reasonably accommodate a family that includes a person with disabilities which may be subject to HUD approval. [Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.503)

§17-2031-56 Security deposits. (a) The participant shall be responsible for the payment of a security and utility deposit as directed by their lease.

(b) The authority shall not be responsible for the payment of security and utility deposits. [Eff] (Auth: HRS §§356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.313)

§17-2031-57 Ownership change. (a) A change in ownership of a dwelling unit under a HAP contract does not require execution of a new contract or lease. The authority may approve the assignment of the HAP contract at the previous owner's request.

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

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

(d) Housing assistance payments to the owner who is selling the dwelling unit shall be suspended effective the first of the month following the receipt of the notification of the sale of the dwelling unit and when the assignment of the HAP contract to the new owner is approved by the authority.

[Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§982.305, 982.306)

SUBCHAPTER 5

OPERATIONS

§17-2031-61 Inspections. (a) The authority shall annually inspect each dwelling unit leased to a participant of the program utilizing inspection standards required by HUD.

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

[Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.405)

§17-2031-62 Overcrowded or under occupied dwelling units. A participant shall be issued a new voucher if the authority determines that the dwelling unit does not meet the authority's subsidy standards for occupancy. [Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §982.403)

§17-2031-63 Portability. (a) The authority may require applicants who were nonresidents at the time of application to live in its jurisdiction during the first twelve-month period.

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

[Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§982.353, 982.354, 982.355)

§17-2031-64 Transfers. (a) A family may terminate its lease with the landlord at any time after the first twelve months as provided by the rental agreement with the landlord and shall provide a copy of the notice to the authority.

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

- (1) There are insufficient program funds for continued assistance;
 - (2) The participant has violated a family obligation listed on the voucher;
 - (3) The participant owes the authority money; or
 - (4) The participant has moved or has been issued a voucher within the last twelve months.
- [Eff _____] (Auth: HRS §356D-13)
(Imp: HRS §356D-13; 24 C.F.R. §§982.354, 982.552)

§17-2031-65 Eviction - termination of tenancy by owner. (a) If the owner wishes to terminate the lease, the owner is required to provide proper notice as provided in the lease and the Hawaii Residential Landlord-Tenant Code.

(b) During the term of the lease the owner may only evict for:

- (1) Serious or repeated violations of the lease, including but not limited to failure to pay rent or other amounts due under the lease, or repeated violation of the terms and conditions of the lease;
- (2) Violations of federal, state or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises, such as failure to comply with all obligations, restrictions, whether demonstrated by the landlord as rules or otherwise, which are in accordance with section 521-52, HRS, and which the landlord can demonstrate are

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

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

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

(d) The owner shall provide the tenant a written notice specifying the grounds for termination of tenancy pursuant to chapter 521, HRS, before the commencement of the eviction action. The notice of grounds provided in 982.310(e)(1)(ii), CFR, as it existed on October 20, 2022, may be included in, or may be combined with, any owner eviction notice to the tenant. The owner eviction notice means a notice to vacate, or a complaint, or other initial pleading used under State or local law to commence an eviction action.

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

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

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

(h) The family is not responsible for payment of the portion of the rent to owner covered by the housing assistance payment under HAP contract between the owner and the authority. The authority's failure to pay the housing assistance payment to the owner is not a violation of the lease between the tenant and the owner. During the term of the lease, the owner may not terminate the tenancy of the family for nonpayment of the authority's housing assistance payment. [Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§982.310, 982.455)

§17-2031-66 Termination of participation.

(a) The authority shall terminate a family's participation in the program when:

- (1) The family has been evicted from housing assistance under the program for serious violation of the lease;
- (2) Any member of the family fails to sign and submit consent forms for obtaining information in accordance with the program; or
- (3) The family does not submit required evidence of citizenship or eligible immigration status.
- (4) Any family member fails to meet the eligibility requirements concerning

- individuals enrolled at an institution of higher education as specified in 24 C.F.R. 5.612, as it existed on October 20, 2022.
- (b) The authority may terminate a family's participation in the program when:
 - (1) The family fails to fulfill their obligations under the program;
 - (2) Any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
 - (3) The family is under contract and one hundred and eighty days have elapsed since the last housing assistance payment was made due to housing assistance payment being zero dollars, or other participant related reason;
 - (4) The family has not reimbursed any public housing agency for amounts paid to an owner under a HAP contract on behalf of the family for rent, damages to the dwelling unit, or other amounts owed by the family under the lease;
 - (5) The family breaches an agreement with the authority to pay amounts owed to the authority, or amounts paid to an owner by the authority;
 - (6) Any member of the family has engaged in or threatened abusive or violent behavior toward the authority's personnel. Threatened means an oral or written threat or physical gestures that communicate an intent to abuse or commit violence. Abusive or violent behavior may be verbal or physical and include use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate;
 - (7) Any member of the family has engaged in any drug-related criminal activity or violent criminal activity. For the purpose of this

- subsection, "violent criminal activity" means any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another;
- (8) Any member of the family is illegally using a controlled substance or whose illegal use or pattern of abuse of a controlled substance, or whose abuse of alcohol or pattern of abuse of alcohol is determined by the authority to interfere with the health, safety, or right to peaceful enjoyment of a rental premises by other residents. In determining whether to terminate assistance based on a pattern of illegal use of a controlled substance or a pattern of abuse of alcohol by a household member, the authority may consider rehabilitation as provided for under 42 U.S.C. §13661(b)(2)(A)-(C), as it existed on October 20, 2022, which is incorporated by reference and attached as exhibit G;
 - (9) A family participating in the family self-sufficiency program fails to comply, without good cause, with the family's family self-sufficiency contract of participation; or
 - (10) Welfare-to-work family fails, willfully and persistently, to fulfill its obligations under the welfare-to-work voucher program.

(c) The authority may implement a lottery system to terminate a family's participation in the program if the authority must terminate housing assistance payment contracts due to insufficient funds. Families will be randomly chosen to be terminated from the housing choice voucher program. Individuals who are elderly, disabled, victims of domestic violence, or VASH participants shall be excluded from the lottery.

(d) A participant found to be ineligible for continued participation in the program shall be notified in writing by the authority and be accorded an opportunity to request an informal hearing as set forth in these rules. Such notice shall state the

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reasons for the authority's determination and that the participant has the opportunity to request an informal hearing. [Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§982.551, 982.552, 982.553)

SUBCHAPTER 6

INFORMAL REVIEWS

§17-2031-71 Informal review process for applicants. (a) An applicant who has been denied assistance by the authority shall have an opportunity for an informal review pursuant to 24 C.F.R. §982.554, as it existed on October 20, 2022.

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

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

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

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

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

(g) An applicant who is denied assistance for citizen or immigrant status shall have an opportunity for an informal hearing pursuant to 24 C.F.R. §5.514, as it existed on October 20, 2022. [Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§982.54(d)(12), 982.554)

§17-2031-72 Informal hearing process for participants.

(a) The authority shall give a participant an opportunity for an informal hearing to consider whether the following authority decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations and authority rules pursuant to:

- (1) A determination of the family's annual or adjusted income and the use of such income to compute the housing assistance payment;
- (2) A determination of the appropriate utility allowance, if any, for tenant-paid utilities from the authority's utility allowance schedule;
- (3) A determination of the family dwelling unit size under the authority's subsidy standards;
- (4) A determination that a family is residing in a dwelling unit with a larger number of bedrooms than appropriate for the family dwelling unit size under the authority's subsidy standards, or the authority's determination to deny the family's request for an exception from the standards;
- (5) A determination to terminate assistance for a participant family because of the family's action or failure to act;
- (6) A determination to terminate assistance because the participant family has been absent from the assisted dwelling unit for longer than the maximum period permitted; or
- (7) A determination to terminate a family's family self-sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account.

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

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

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

(e) Prior to the informal hearing:

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

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

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

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

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

(1) A summary of the decision and reasons for the decision;

(2) The amount owed and documentation of the calculation of monies owed and

(3) The effective date of the decision.

(i) The authority shall not be bound by the decision of the hearing officer that:

(1) Concerns matters in which the authority is not required to provide an opportunity for a hearing or that otherwise exceeds the authority of the hearing; or

- (2) Is contrary to HUD regulations or requirements, or otherwise contrary to federal, State, or local law.
- (3) If the authority determines that it is not bound by a decision of the hearing officer, the authority shall send a letter to the participant within thirty days of its determination. The letter shall state the reasons for the determination.

(j) A participant who is determined to be ineligible for assistance due to citizen or immigration status shall have an opportunity for an informal hearing pursuant to 24 C.F.R. §5.514, as it existed on October 20, 2022.

[Eff] (Auth: 356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§5.514, 982.54(d)(13), 982.555)

SUBCHAPTER 7

FAMILY SELF-SUFFICIENCY PROGRAM

§17-2031-81 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 and to reduce Section 8, public housing, or any federal, state, and local rent or homeownership subsidies. Under the family self-sufficiency program, low-income families are provided opportunities for education, job training, counseling, and other forms of social service assistance, while living in assisted housing, so that they may obtain the education, employment, and business and social skills necessary. [Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. Part 984)

§17-2031-82 Eligibility.

(a) Participants in the authority's Section 8 tenant-based 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] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. Part 984)

§17-2031-83 Recruitment and outreach.

(a) The authority shall conduct outreach programs to recruit family self-sufficiency participants.

(b) Outreach efforts may include the following:

- (1) Sending informational brochures to each family participating in the authority's Section 8 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 _____] (Auth: HRS §356D-13)
(Imp: HRS §356D-13; 24 C.F.R. Part 984)

§17-2031-84 Selection. (a) Families shall be selected without regard to race, color, religion, sex, handicap, familial status, or national origin.

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

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

(d) Initially, up to one hundred thirty-six Section 8 participants shall be selected to participate in the family self-sufficiency program.

[Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. Part 984)

§17-2031-85 Termination or withholding services.

(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 set forth in 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] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. Part 984)

SUBCHAPTER 8

SECTION 8 PROJECT-BASED VOUCHER PROGRAM

§17-2031-91 Purpose. The purpose of this subchapter is to establish a procedure for the selection of dwelling units to which the authority may attach Section 8 voucher assistance. [Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. Part 983)

§17-2031-92 Eligible projects. (a) The authority may attach Section 8 voucher assistance to dwelling units in newly constructed and existing structures of various types including single-family housing and multifamily structures.

(b) The authority may not attach Section 8 voucher assistance to dwelling units in the following types of housing:

- (1) Owner occupied dwelling units; however, cooperatives are considered to be rental housing for purposes of this subchapter;
- (2) Mobile or manufactured homes;
- (3) Shared housing, nursing homes, and facilities providing continual psychiatric, medical, nursing services, board and care or intermediate care;
- (4) Except for existing dwelling units, housing for which the construction or rehabilitation has started prior to execution of an agreement with the authority;
- (5) Dwelling units within the grounds of penal, reformatory, medical, mental, and similar public or private institutions;
- (6) Housing located in an area that has been identified by the Federal Emergency Management Agency as having special flood

- hazards unless the community in which the area is situated is participating in the National Flood Insurance Program;
- (7) Housing located in the coastal barrier resources system designated under the Coastal Barrier Resources Act;
 - (8) College or other school dormitories;
 - (9) Dwelling units subsidized under other federal housing programs including:
 - (i) Public housing;
 - (ii) A dwelling unit subsidized by any other form of section 8 assistance;
 - (iii) A dwelling unit subsidized with any local or state rent subsidy;
 - (iv) A section 236 project or a dwelling unit subsidized with section 236 rental assistance payments;
 - (v) A Rural Development Administration section 515 project;
 - (vi) A dwelling unit subsidized with rental assistance payments under section 521 of the Housing Act of 1949 (a Rural Development Administration Program);
 - (vii) Housing assisted under former section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
 - (viii) A section 221(d)(3) project;
 - (ix) A project with a section 202 loan;
 - (x) A section 202 project for non-elderly persons with disabilities;
 - (xi) Section 202 supportive housing for the elderly;
 - (xii) Section 811 supportive housing for persons with disabilities;
 - (xiii) A section 101 rent supplement project;
 - (xiv) A dwelling unit subsidized with tenant-based assistance under the HOME program, or any dwelling unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD.

§17-2031-92

[Eff] (Auth:
HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§983.52,
983.53)

§17-2031-93 Notification of project-based assistance. (a) The authority shall publish requests for proposals to participate in the Section 8 project-based voucher program in a newspaper of general circulation once a week for three consecutive weeks. The advertisement shall state the number of vouchers available for project-based assistance; whether proposals will be accepted for rehabilitation, new construction, or existing dwelling units; state the selection criteria; and specify an application deadline of at least thirty days after the date the advertisement is last published.

(b) The authority may select dwelling units to which assistance is to be attached, without advertising under paragraph (a) of this section and without applying the selection factors otherwise required under section 17-2031-95, if attachment of project-based assistance would further the purposes of the sale of a public housing project to a resident management corporation under section 21 of the United States Housing Act of 1937. [Eff]
(Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §983.51)

§17-2031-94 Applications for project-based assistance; information required.

(a) Housing providers or agencies desiring Section 8 project-based voucher assistance shall submit to the authority a proposal, in the format prescribed by the authority, along with any additional information that the authority determines to be applicable.

(b) Housing provider or agency information may include, but is not limited to the following:

- (1) Name and address of the eligible housing provider or owner and other project principals and officers and principal members, shareholders, investors, and other parties having a substantial interest in the ownership of the project, and evidence of the applicant's status as a corporation, partnership, joint venture or other business organization;
- (2) Certification showing that the above-mentioned parties are not on the United States General Services Administration list of parties excluded from federal procurement and non-procurement programs or the State list of parties debarred or suspended; a disclosure of any possible conflict of interest by any of these parties that would be a violation of the agreement or the housing assistance payments contract;
- (3) To the extent available, certified copies of the housing provider's or owner's organizational documents, including its articles of incorporation and bylaws, declaration of trust, partnership or limited partnership agreement, together with all amendments thereto and, in the case of nonprofit organizations, a copy of the determination letter from the Internal Revenue Service as to recognition of exemption from federal income taxation;
- (4) A resume of the housing provider's experience in the construction or rehabilitation of rental housing projects including a list and a brief description of the projects in which the applicant participated;
- (5) A resume of the housing provider's or owner's experience in the management of rental housing projects including a list and a brief description of the projects which the applicant manages;

- (6) The name, title, address, and telephone number of the person to whom communications should be addressed;
 - (7) Evidence of the housing provider's or owner's legal authority to incur obligations and to sign and deliver such documents as may be necessary to finance, construct, or rehabilitate the project;
 - (8) A current certificate of good standing from the State department of commerce and consumer affairs and tax clearance from the State department of taxation;
 - (9) Evidence of the housing provider's or owner's ability to develop, own, market, manage, and provide appropriate services in connection with housing project;
 - (10) Evidence of the housing provider's or owner's financial ability to complete the project;
 - (11) The housing provider's or owner's ties to the community and support from local community groups;
 - (12) A description of any financial default, modification of terms and conditions of financing, or legal action taken or pending against the applicant or its principals;
 - (13) A description of the housing provider's or owner's experience or involvement in the provision of supportive services;
 - (14) A statement of the housing provider's or owner's past or current involvement with the authority or its predecessors, the housing finance and development corporation, the Hawaii housing authority or the housing and community development corporation of Hawaii, and the assistance, if any, received from those entities.
- (c) Project information may include, but is not limited to the following:
- (1) A description of the proposed housing project, including the number of dwelling units by square footage, bedroom count,

- bathroom count, sketches of the proposed building, dwelling units plans, listing of amenities and services, and the estimated date of completion;
- (2) Identification and description of the proposed site, site plan, and neighborhood characteristics;
 - (3) Identification of the census tract in which the project is located;
 - (4) Evidence of site control, such as a deed, agreement of sale, commitment letter, or development agreement;
 - (5) Availability of public services and facilities, such as schools, sewers, parks, and fire protection, and the adequacy thereof;
 - (6) If applicable, evidence that the proposed new construction is permitted by current zoning ordinances or regulations or evidence to indicate that the needed re-zoning is likely and will not delay the project;
 - (7) The proposed contract rent per dwelling unit, including an indication of which utilities, services, and equipment are included in the rent and which are not included. For those utilities that are not included in the rent, an estimate of the average monthly cost for each dwelling unit type for the first year of occupancy;
 - (8) A signed certification of the owner's intention to comply with all applicable federal requirements referenced in 24 CFR 983.4, as it existed on October 20, 2022;
 - (9) A statement from the owner certifying the number of persons, businesses, non-profit corporations occupying the property on the date of submission of the application; the number of persons displaced, temporarily relocated or moved permanently within the building complex; estimated cost of relocation payments and services; the funding source of relocation activities; and

- the name of the organization that will carry out the relocation activities;
- (10) The owner's plan for managing and maintaining the dwelling units;
 - (11) Evidence of financing or lender interest and the proposed terms of financing;
 - (12) The proposed term of the housing assistance payments contract;
 - (13) If applicable, a relocation plan that includes steps that will be taken to minimize the displacement of households, businesses, nonprofit organizations, and farms as a result of the project; and
 - (14) Such other information as the authority deems necessary. [Eff _____]
(Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §§983.3, 983.6, 983.51)

§17-2031-95 Review and screening of applications.

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

(b) Applications shall be screened for completeness, i.e., submission of information required under sections 17-2031-92 and 94. Applications that do not meet the application submission deadline or information requirements shall be rejected by the executive director.

(c) The authority shall review each application and any additional information submitted by the applicant or obtained from other sources in its review of each application. Additional information or data may be requested and the authority may independently verify any or all information supplied by the applicant. [Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §983.51)

§17-2031-96 Selection of project applications.

(a) Based upon the review of the applications,

documents, and any additional information submitted by the applicants or obtained from other sources by the authority, the executive director shall prepare a recommendation to the board to attach Section 8 voucher assistance to specific projects.

(b) The board shall review the recommendation of the executive director and, if the board determines that the project-basing of Section 8 voucher assistance for a specific project is consistent with the public housing agency plan and the goals of deconcentrating poverty and expanding housing and economic opportunities, it may approve the application and authorize the executive director to allocate an appropriate amount of Section 8 voucher funding, subject to such terms and conditions as it deems necessary or appropriate to assure compliance with 24 C.F.R. part 983, as it existed on October 20, 2022 and these rules.

(c) Upon the board's approval to allocate Section 8 voucher funding to an applicant, the executive director shall notify the applicant of the allocation. [Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §983.52)

§17-2031-97 Agreement to enter into housing assistance contract. (a) The authority shall enter into an agreement with the selected project owner prior to the start of any new construction or rehabilitation.

(b) After the agreement has been executed, the owner shall promptly proceed with the construction or rehabilitation work as provided for in the agreement. If the work is not promptly commenced, diligently continued, or completed, the authority may terminate the agreement or take other appropriate action. [Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §983.101; Pub. Law 106-377, 114 Stat. 1441)

§17-2031-98 Eligibility and selection of

tenants. (a) Tenants in a section 8 project-based voucher assisted dwelling unit shall meet the eligibility criteria set forth in section 17-2031-22.

(b) The authority may use the section 8 tenant-based waiting list as set forth in section 17-2031-26. [Eff _____] (Auth: HRS §356D-13) (Imp: HRS §356D-13; 24 C.F.R. §983.203)

§17-2031-99 Dwelling unit cap on project-based dwelling units by project

(a) The authority may not select a proposal to provide project-based voucher assistance for dwelling units in a project or enter into an agreement or HAP contract to provide PBV assistance for dwelling units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP is more than 25 percent of the number of dwelling units, either assisted or unassisted, in the project.

(b) Exceptions to the 25 percent cap per project are permitted, where PBV dwelling units are not counted against the cap, when:

- (1) The dwelling units are in a single-family project, comprising one to four dwelling units; or
- (2) The dwelling units are excepted dwelling units in a multifamily project because they are made available for elderly or disabled families receiving supportive services, also known as qualifying families.

(c) The approved services are not required to be provide at or near the project.

(d) To qualify, a family must have at least one member receiving at least one qualifying supportive service. The authority shall not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted dwelling unit, although such services may be offered. The following services may be offered to

families for a project to qualify for the 25 percent cap, depending on the needs of the family:

- (1) Palolo Valley Homes, Ohana Learning Center, 2170 Ahe Street, Honolulu, HI 96816; Owner: Mutual Housing Association of Hawaii:
 - (A) Computer access for the community to use for job search, printing documents, internet access, etc;
 - (B) University student assist children with homework;
 - (C) Resident services department provides referrals to available services in the community;
 - (D) Music lab;
 - (E) Reading room;
 - (F) Demonstration kitchen for children's cooking lessons;
 - (G) Nurses station/health room;
 - (H) HCAP education programs;
 - (I) Iolani School programs, STEM, Kai program; and
 - (J) Foodbank;
- (2) Towers of Kuhio Park, 1475 Linapuni Street #100, Honolulu, HI 96819; Owner: Michaels Development Company:
 - (A) Early childcare development preschools;
 - (B) Case management and referral services;
 - (C) Food bank and food programs;
 - (D) Out of school teen programming;
 - (E) Mental and behavioral health;
 - (F) Domestic violence prevention and intervention;
 - (G) Child abuse prevention and intervention;
 - (H) Child sex trafficking intervention;
 - (I) Community computer and resource centers;
 - (J) Educational and vocational financial aid;
 - (K) Parenting training;
 - (L) Job training and placement;
 - (M) Emergency financial support;

- (N) Financial literacy;
- (O) Housing navigation;
- (P) Gang and bullying prevention;
- (Q) Interpretation services;
- (R) Skills training and makers space;
- (S) Substance abuses referral services;
- (T) Community building and family engagement;
- (U) Acculturation services;
- (V) Walking school bus; and
- (W) English as a second language.

(e) A dwelling unit shall continue to count as an excepted dwelling unit for as long as the family resides in the dwelling unit, if a family at the time of initial tenancy is receiving, and while the resident of an excepted dwelling unit has received, FSS supportive services or any other supportive services as defined by the rules above, and successfully completes the FSS contract of participation or the supportive services requirement.

(f) On an annual basis, the authority will monitor all families receiving services to determine if such families will be allowed to continue receiving PBV assistance.

- (1) The authority will require families receiving services to provide written evidence from each provider confirming that the family has received all of the required services in the statement of family obligations or FSS contract of family participation; or
- (2) Alternatively, each service provider will submit a report to the management of the property, identifying the services received by each family. The property owner will submit the report to the authority, who will verify that all services required in the statement of family obligation or FSS contract of participation received.

[Eff _____] (Auth: HRS §356D-13)
(Imp: HRS §356D-13; 24 C.F.R. §983.56)

§17-2031-100 Rental assistance demonstration.

Where the authority chooses to convert public housing projects to Rental Assistance Demonstration (RAD) Section 8 Project Based Voucher (PBV) the provisions of this section and its subsections will apply. In the event of a conflict between applicable RAD notices and guidance issued by HUD and the following provisions, applicable RAD notices and guidance apply. When future notices or amendments are issued by HUD and create a conflict, the authority shall amend its rules to comply with the new HUD requirements. [Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; HUD Notice H-2019-09 PIH-2019-23(HA) issued 9/5/2019 (RAD Notice))

§17-2031-101 Term of the RAD PBV contract.

(a) The initial contract will be for a period of at least fifteen years. The initial contract may be up to twenty years upon request of the project owner and with approval by the authority.

(b) Upon expiration of the initial contract, the authority must offer, and the project owner must accept, renewal of the contract subject to the terms and conditions applicable at the time of renewal and the availability of appropriated funds and the owner's satisfactory RAD PBV program performance, for such periods as the authority deems appropriate and in accordance with HUD instructions. [Eff

] (Auth: HRS §356D-13) (Imp: HRS §356D-13; HUD Notice H-2019-09 PIH-2019-23(HA) issued 9/5/2019 (RAD Notice) section 1.6.B.1-2)

§17-2031-102 Contract rents. The initial rent to project owner will be provided by HUD based on the level of public housing capital and operating subsidies and tenant rents, and shall be further constrained by the reasonable rent and as otherwise provided in RAD program requirements.

§17-2031-102

[Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; HUD Notice H-2019-09 PIH-2019-23(HA) issued 9/5/2019 (RAD Notice) section 1.6.B.5)

§17-2031-103 Re-determining rent to owner - rent reasonableness. (a) Contract rents will be adjusted only by HUD's OCAF at each anniversary of the HAP contract, subject to the availability of appropriations for each year of the contract term.

(1) OCAF means "an operating cost adjustment factor established by HUD that is applied to the current contract rent, less the portion of the rent paid for debt service".

(b) The rent to project owner may at no time exceed the reasonable rent charged for comparable unassisted dwelling units in the private market, as determined by the authority in accordance with 24 CFR 983.303, as it existed on October 20, 2022. However, the rent to project owner shall not be reduced below the initial rent to owner for dwelling units under the initial HAP contract.

[Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; HUD Notice H-2019-09 PIH-2019-23(HA) issued 9/5/2019 (RAD Notice) section 1.6.B.6)

§17-2031-104 Conversion from public housing to RAD. (a) At conversion, current public housing households are not subject to rescreening, income eligibility, or income targeting. These households will be grandfathered for conditions that occurred prior to conversion, but will be subject to any ongoing eligibility requirements for actions that occur after conversion.

(b) Once any such household moves out, the dwelling unit must be leased to an eligible family. To facilitate the right to return to the assisted property, this provision shall apply to current public housing residents of the converting project that will

reside in non-RAD PBV dwelling units placed on a project site that contains RAD PBV dwelling units or PBRA dwelling units. Such families and such contract dwelling units otherwise will be subject to all requirements of the PBV program, except as may be modified by any RAD requirements.

(c) Households at project sites converting to RAD who were not public housing residents that will reside in non-RAD PBV dwelling units also will be subject to any applicable RAD requirements, to the extent such requirements modify otherwise applicable PBV requirements. [Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; HUD Notice H-2019-09 PIH-2019-23(HA) issued 9/5/2019 (RAD Notice) section 1.6. C.1)

§17-2031-105 Phase-in of tenant rent increases.

(a) If a tenant's monthly rent increases by more than the greater of ten percent or \$25 purely as a result of conversion, the rent increase will be phased in over 3 or 5 years.

(b) For each RAD transaction, the authority shall specify prior to conversion whether the length of the tenant rent phase-in will be 3 or 5 years, or a combination depending on circumstances. The authority will communicate the policy in writing to affected residents.

(c) The public housing dwelling units at Kuhio Park Towers, owned and managed by project owner KPT Towers 1, LLC, located at 1475 Linapuni Street #100, Honolulu, HI 96819, are converting to RAD. Upon conversion to RAD, if the tenant's monthly rent increases by more than the greater of ten percent or \$25 purely as a result of conversion, the rent increase shall be phased in over three (3) years. [Eff] (Auth: HRS §356D-13) (Imp: HRS §356D-13; HUD Notice H-2019-09 PIH-2019-23(HA) issued 9/5/2019 (RAD Notice) section 1.6. C.3)

§17-2031-106 Termination notification requirements. (a) In addition to the regulations at 24 CFR 983.257, as it existed on October 20, 2022, related to project owner termination of tenancy and eviction, the termination procedure for RAD conversions to PBV will require adequate written notice of termination of the lease which shall be:

- (1) A reasonable period of time, but not to exceed 30 days:
 - (A) If the health or safety of other tenants, project owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
 - (B) In the event of any drug-related or violent criminal activity or any felony conviction;
- (2) Not less than fourteen days in the case of nonpayment of rent;
- (3) Not less than thirty days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.

[Eff] (Auth: HRS §356D-13)
(Imp: HRS §356D-13; HUD Notice H-2019-09
PIH-2019-23(HA) issued 9/5/2019 (RAD Notice)
section 1.6. C.6)

§17-2031-107 Grievance process. (a) For the termination of assistance and several other authority determinations, the PBV program rules require the authority to provide an opportunity for an informal hearing, as outlined in 24 CFR 982.555, as it existed on October 20, 2022. RAD specifies alternative requirements for 24 CFR 982.555(b), as it existed on October 20, 2022, in part, to require that:

- (1) In addition to reasons that require an opportunity for an informal hearing given in 24 CFR 982.555(a)(1)(i)-(vi), as it existed on October 20, 2022, an opportunity for an

informal hearing must be given to families for any dispute that a family may have with respect to a project owner action in accordance with the family's lease or the authority in accordance with RAD PBV requirements that adversely affect the family's rights, obligations, welfare, or status.

- (A) For any hearing required under 24 CFR 982.555(a)(1)(i)-(vi), as it existed on October 20, 2022, the authority will perform the hearing, as is the current standard in the program. The hearing officer must be selected in accordance with 24 CFR 982.555(e)(4)(i), as it existed on October 20, 2022.
 - (B) For any additional hearings required under RAD, the project owner will perform the hearing.
- (1) There is no right to an informal hearing for class grievances or to disputes between families not involving the project owner or the authority.
 - (2) The project owner gives families notice of their ability to request an informal hearing as outlined in 24 CFR 982.555(c)(1), as it existed on October 20, 2022, for informal hearings that will address circumstances that fall outside of the scope of 24 CFR 982.555(a)(1)(i)-(vi), as it existed on October 20, 2022.
 - (3) The project owner provides opportunity for an informal hearing before an eviction.
[Eff] (Auth: HRS §356D-13)
(Imp: HRS §356D-13; HUD Notice H-2019-09
PIH-2019-23(HA) issued 9/5/2019 (RAD Notice)
section 1.6. C.6)

§17-2031-108 Establishment of waiting list.

(a) For public housing projects converting to Section 8 assistance through the RAD program, there shall be a preference established on the RAD waiting list for applicants currently on the public housing waiting list wishing to be added to the RAD or PBV site based waiting list for the converting dwelling units.

(b) Individuals on the public housing waiting list who wish to be added to the RAD waiting list shall maintain their original public housing application date. The authority considers this the best means to transition applicants from the current public housing waiting list as provided by RAD Notice 2019-23 as amended or superseded from time to time.

(c) At conversion, the authority will inform applicants on the applicable geographic or site based public housing waiting list via electronic or written notice of the availability of the PBV waiting list. The authority will inform individuals of the opening of the waiting list consistent with 24 CFR 983.251, as it existed on October 20, 2022, and these rules.

(d) The authority shall maintain its waiting list in accordance with all applicable civil rights and fair housing laws and regulations. [Eff

] (Auth: HRS §356D-13) (Imp: HRS §356D-13; HUD Notice H-2019-09 PIH-2019-23(HA) issued 9/5/2019 (RAD Notice) section 1.6. D.4)

§17-2031-109 Resident participation and funding.

For public housing conversions to long-term, project-based Section 8 voucher rental assistance contracts, including RAD, residents will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding. Project owners must provide \$25 per occupied replacement PBV dwelling unit annually for resident participation, of which at least \$15 per occupied

DEPARTMENT OF HUMAN SERVICES

The repeal of Chapter 15-185, Hawaii Administrative Rules, and the adoption of Chapter 17-2031, Hawaii Administrative Rules, on the Summary page dated _____, was adopted on _____, following a public hearing held on _____, after public notice was given in the Honolulu Star-Advertiser, Hawaii Tribune Herald, West Hawaii Today, Maui News, and The Garden Island on _____.

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

Robert J. Hall, Chairperson
Board of Directors
Hawaii Public Housing
Authority


APPROVED AS TO FORM:

Deputy Attorney General

David Y. Ige
Governor
State of Hawaii

Date:

Filed

 Displaying title 24, up to date as of 10/05/2022. Title 24 was last amended 9/26/2022.

Title 24 - Housing and Urban Development

Subtitle A - Office of the Secretary, Department of Housing and Urban Development

Part 5 - General HUD Program Requirements; Waivers

Subpart F

- Section 8 and Public Housing, and Other HUD Assisted Housing Serving Persons with Disabilities: Family Income and Family Payment; Occupancy Requirements for Section 8 Project-Based Assistance Family Income

EDITORIAL NOTE ON PART 5


Editorial Note: Nomenclature changes to part 5 appear at 65 FR 16715, Mar. 29, 2000.

§ 5.611 Adjusted income.

Adjusted income means annual income (as determined by the responsible entity, defined in § 5.100 and § 5.603) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

- (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. This deduction may not exceed the earned income received by family members who are 18 years of age or older and 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) **Additional deductions.**
- (1) For public housing, a PHA may adopt additional deductions from annual income. The PHA must establish a written policy for such deductions.
 - (2) For the HUD programs listed in § 5.601(d), the responsible entity shall calculate such other deductions as required and permitted by the applicable program regulations.

[66 FR 6223, Jan. 19, 2001]

 Displaying title 24, up to date as of 10/05/2022. Title 24 was last amended 9/26/2022.

Title 24 - Housing and Urban Development

Subtitle A - Office of the Secretary, Department of Housing and Urban Development

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EDITORIAL NOTE ON PART 5

Editorial Note: Nomenclature changes to part 5 appear at 65 FR 16715, Mar. 29, 2000.

§ 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.

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

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- (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 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 payments.*
 - (i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

- (A) Qualify as assistance under the TANF program definition at 45 CFR 260.31; and
 - (B) Are not otherwise excluded under paragraph (c) of this section.
- (ii) 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:
- (A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
 - (B) 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 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).
- (9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition and any other required fees and charges, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.
- (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) Subject to paragraph (b)(9) of this section, 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);
 - (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) [Reserved]
 - (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, or any deferred Department of Veterans Affairs disability 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 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.

[61 FR 54498, Oct. 18, 1996, as amended at 65 FR 16716, Mar. 29, 2000; 67 FR 47432, July 18, 2002; 70 FR 77743, Dec. 30, 2005; 79 FR 36164, June 25, 2014; 81 FR 12370, Mar. 8, 2016]

INCOME LIMITS

Income Limits for Admission
(Effective April 18, 2022)

	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
City & County of Honolulu	\$45,750	\$52,250	\$54,800	\$65,300	\$70,550	\$75,750	\$81,000	\$86,200
County Of Hawaii	\$33,350	\$38,100	\$42,850	\$47,600	\$51,450	\$55,250	\$59,050	\$62,850
County of Kauai	\$39,900	\$45,600	\$51,300	\$57,000	\$61,600	\$66,150	\$70,700	\$75,250
County of Maui	\$39,950	\$45,650	\$51,350	\$57,050	\$61,650	\$66,200	\$70,750	\$75,350

EXHIBIT D

"Subsidy Standards"

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

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

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

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

EXHIBIT D

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

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

HPHA 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 Dwelling Units (studios)
 Measure living room area (do not include kitchen area, but may include dining space if in one area)
- | | |
|-----------------------------|--------------------------|
| 1st 70 sq. ft. | 2 persons |
| each additional 100 sq. ft. | 1 person per 100 sq. ft. |

III. County of Kauai

- A. One (1) or more bedrooms
- Living Room - Cannot be used as a sleeping area
 - 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. |
- 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. |
- 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 Dwelling 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 Dwelling Units (studios)

Measure living room area (do not include kitchen area, but may include dining space if in one area)

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

Utility Allowance Schedule

See Public Reporting and Instructions on back.

U.S Department of Housing and

Urban Development

Office of Public and Indian Housing

OMB Approval No. 2577-0169

exp. 7/31/2022

The following allowances are used to determine the total cost of tenant-furnished utilities and appliances.

Locality/PHA		Unit Type					Date (mm/dd/yyyy)
Utility or Service	Fuel Type	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR
Heating	Natural Gas						
	Bottled Gas						
	Electric						
	Electric – Heat Pump						
	Fuel Oil						
	Other						
Cooking	Natural Gas						
	Bottled Gas						
	Electric						
	Other						
Other Electric							
Air Conditioning							
Water Heating	Natural Gas						
	Bottled Gas						
	Electric						
	Fuel Oil						
Water							
Sewer							
Trash Collection							
Other – specify							
Range/Microwave							
Refrigerator							
Actual Family Allowances – May be used by the family to compute allowance while searching for a unit.					Utility/Service/Appliance	Allowance	
					Heating		
Head of Household Name					Cooking		
					Other Electric		
					Air Conditioning		
Unit Address					Water Heating		
					Water		
					Sewer		
					Trash Collection		
Number of Bedrooms					Other		
					Range/Microwave		
					Refrigerator		
					Total		

The following allowances are used to determine the total cost of tenant-furnished utilities and appliances.

Locality/PHA		Unit Type					Date (mm/dd/yyyy)	
Hawaii Public Housing Authority		Single Family					8/1/2022	
Utility or Service	Fuel Type	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	
Heating	Natural Gas							
	Bottled Gas							
	Electric							
	Electric – Heat Pump							
	Fuel Oil							
	Other							
Cooking	Natural Gas	\$16	\$19	\$28	\$37	\$45	\$54	
	Bottled Gas							
	Electric	\$27	\$32	\$47	\$62	\$77	\$91	
	Other							
Other Electric		\$152	\$179	\$249	\$320	\$392	\$463	
Air Conditioning								
Water Heating	Natural Gas	\$41	\$48	\$70	\$91	\$113	\$134	
	Bottled Gas							
	Electric	\$73	\$87	\$111	\$136	\$160	\$184	
	Fuel Oil							
Water		\$45	\$49	\$77	\$118	\$160	\$214	
Sewer		\$97	\$101	\$125	\$160	\$196	\$231	
Trash Collection								
Other – specify								
Range/Microwave		\$20	\$20	\$20	\$20	\$20	\$20	
Refrigerator		\$21	\$21	\$21	\$21	\$21	\$21	
Actual Family Allowances – May be used by the family to compute allowance while searching for a unit.					Utility/Service/Appliance	Allowance		
Head of Household Name					Heating			
					Cooking			
Unit Address					Other Electric			
					Air Conditioning			
					Water Heating			
Number of Bedrooms					Water			
					Sewer			
					Trash Collection			
					Other			
					Range/Microwave			
					Refrigerator			
					Total			

42 USC 13661: Screening of applicants for federally assisted housing

Text contains those laws in effect on October 6, 2022

From Title 42-THE PUBLIC HEALTH AND WELFARECHAPTER 135-RESIDENCY AND SERVICE REQUIREMENTS IN FEDERALLY ASSISTED HOUSING
SUBCHAPTER V-SAFETY AND SECURITY IN PUBLIC AND ASSISTED HOUSING**Jump To:**[Source Credit](#)[Miscellaneous](#)[Codification](#)[Effective Date](#)**§13661. Screening of applicants for federally assisted housing****(a) Ineligibility because of eviction for drug crimes**

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

(b) Ineligibility of illegal drug users and alcohol abusers**(1) In general**

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

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

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

(2) Consideration of rehabilitation

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

(A) has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable);

(B) has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable); or

(C) is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).

(c) Authority to deny admission to criminal offenders

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

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

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

(Pub. L. 105–276, title V, §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.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement any provision of this section 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.

 Displaying title 24, up to date as of 10/05/2022. Title 24 was last amended 9/26/2022.

Title 24 - Housing and Urban Development

Subtitle A - Office of the Secretary, Department of Housing and Urban Development

Part 5 - General HUD Program Requirements; Waivers

Subpart E - Restrictions on Assistance to Noncitizens

EDITORIAL NOTE ON PART 5

Editorial Note: Nomenclature changes to part 5 appear at 65 FR 16715, Mar. 29, 2000.

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

- (a) **General.** Eligibility for assistance or continued assistance under a Section 214 covered program is contingent upon a family's submission to the responsible entity of the documents described in paragraph (b) of this section for each family member. If one or more family members do not have citizenship or eligible immigration status, the family members may exercise the election not to contend to have eligible immigration status as provided in paragraph (e) of this section, and the provisions of §§ 5.516 and 5.518 shall apply.
- (b) **Evidence of citizenship or eligible immigration status.** Each family member, regardless of age, must submit the following evidence to the responsible entity.
- (1) For U.S. citizens or U.S. nationals, the evidence consists of a signed declaration of U.S. citizenship or U.S. nationality. The responsible entity may request verification of the declaration by requiring presentation of a United States passport or other appropriate documentation, as specified in HUD guidance.
- (2) For noncitizens who are 62 years of age or older or who will be 62 years of age or older and receiving assistance under a Section 214 covered program on September 30, 1996 or applying for assistance on or after that date, the evidence consists of:
- (i) A signed declaration of eligible immigration status; and
- (ii) Proof of age document.
- (3) For all other noncitizens, the evidence consists of:
- (i) A signed declaration of eligible immigration status;
- (ii) One of the INS documents referred to in § 5.510; and
- (iii) A signed verification consent form.
- (c) **Declaration.**
- (1) For each family member who contends that he or she is a U.S. citizen or a noncitizen with eligible immigration status, the family must submit to the responsible entity a written declaration, signed under penalty of perjury, by which the family member declares whether he or she is a U.S. citizen or a noncitizen with eligible immigration status.
- (i) For each adult, the declaration must be signed by the adult.
- (ii) For each child, the declaration must be signed by an adult residing in the assisted dwelling unit who is responsible for the child.
- (2) **For Housing covered programs:** The written declaration may be incorporated as part of the application for housing assistance or may constitute a separate document.
- (d) **Verification consent form -**
- (1) **Who signs.** Each noncitizen who declares eligible immigration status (except certain noncitizens who are 62 years of age or older as described in paragraph (b)(2) of this section) must sign a verification consent form as follows.
- (i) For each adult, the form must be signed by the adult.

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

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

(i) HUD, as required by HUD; and

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

(3) **Notice of release of evidence by HUD.** The verification consent form also shall notify the individual of the possible release of evidence of eligible immigration status by HUD. Evidence of eligible immigration status shall only be released to the INS for purposes of establishing eligibility for financial assistance and not for any other purpose. HUD is not responsible for the further use or transmission of the evidence or other information by the INS.

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

(f) **Notification of requirements of Section 214 -**

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

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

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

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

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

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

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

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

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

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

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

- (i) For financial assistance under a Section 214 covered program, with the exception of Section 235 assistance payments, the required evidence shall be submitted at the first regular reexamination after June 19, 1995, in accordance with program requirements.
 - (ii) For financial assistance in the form of Section 235 assistance payments, the mortgagor shall submit the required evidence in accordance with requirements imposed under the Section 235 Program.
 - (3) **New occupants of assisted units.** For any new occupant of an assisted unit (e.g., a new family member comes to reside in the assisted unit), the required evidence shall be submitted at the first interim or regular reexamination following the person's occupancy.
 - (4) **Changing participation in a HUD program.** Whenever a family applies for admission to a Section 214 covered program, evidence of eligible status is required to be submitted in accordance with the requirements of this subpart unless the family already has submitted the evidence to the responsible entity for a Section 214 covered program.
 - (5) **One-time evidence requirement for continuous occupancy.** For each family member, the family is required to submit evidence of eligible status only one time during continuously assisted occupancy under any Section 214 covered program.
- (h) **Extensions of time to submit evidence of eligible status -**
- (1) **When extension must be granted.** The responsible entity shall extend the time, provided in paragraph (g) of this section, to submit evidence of eligible immigration status if the family member:
 - (i) Submits the declaration required under § 5.508(a) certifying that any person for whom required evidence has not been submitted is a noncitizen with eligible immigration status; and
 - (ii) Certifies that the evidence needed to support a claim of eligible immigration status is temporarily unavailable, additional time is needed to obtain and submit the evidence, and prompt and diligent efforts will be undertaken to obtain the evidence.
 - (2) **Thirty-day extension period.** Any extension of time, if granted, shall not exceed thirty (30) days. The additional time provided should be sufficient to allow the individual the time to obtain the evidence needed. The responsible entity's determination of the length of the extension needed shall be based on the circumstances of the individual case.
 - (3) **Grant or denial of extension to be in writing.** The responsible entity's decision to grant or deny an extension as provided in paragraph (h)(1) of this section shall be issued to the family by written notice. If the extension is granted, the notice shall specify the extension period granted (which shall not exceed thirty (30) days). If the extension is denied, the notice shall explain the reasons for denial of the extension.
 - (i) **Failure to submit evidence or to establish eligible status.** If the family fails to submit required evidence of eligible immigration status within the time period specified in the notice, or any extension granted in accordance with paragraph (h) of this section, or if the evidence is timely submitted but fails to establish eligible immigration status, the responsible entity shall proceed to deny, prorate or terminate assistance, or provide continued assistance or temporary deferral of termination of assistance, as appropriate, in accordance with the provisions of §§ 5.514, 5.516, and 5.518.
 - (ii) [Reserved]

TENANCY ADDENDUM
Section 8 Tenant-Based Assistance
Housing Choice Voucher Program
 (To be attached to Tenant Lease)

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

OMB Approval No. 2577-0169
 exp. 7/31/2022

The Tenancy Addendum is part of the HAP contract and lease. Public reporting burden for this collection of information is estimated to average 0.5 hours. This includes the time for collection, reviewing and reporting the data. The information is being collected as required by 24 CFR 982.451 which in part states the PHA must pay the housing assistance payment promptly. This agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless there is a valid OMB number. Assurances of confidentiality are not provided under this section.

HUD is committed to protecting the privacy of an individual's information stored electronically or in paper form in accordance with federal privacy laws, guidance and best practices. HUD expects its third-party business partners including Public Housing Authorities who collect, use, maintain, or disseminate HUD information to protect the privacy of that information in accordance with applicable law.

1. Section 8 Voucher Program

- a. The owner is leasing the contract unit to the tenant for occupancy by the tenant's family with assistance for a tenancy under the Section 8 housing choice voucher program (voucher program) of the United States Department of Housing and Urban Development (HUD).
- b. The owner has entered into a Housing Assistance Payments Contract (HAP contract) with the PHA under the voucher program. Under the HAP contract, the PHA will make housing assistance payments to the owner to assist the tenant in leasing the unit from the owner.

2. Lease

- a. The owner has given the PHA a copy of the lease, including any revisions agreed by the owner and the tenant. The owner certifies that the terms of the lease are in accordance with all provisions of the HAP contract and that the lease includes the tenancy addendum.
- b. The tenant shall have the right to enforce the tenancy addendum against the owner. If there is any conflict between the tenancy addendum and any other provisions of the lease, the language of the tenancy addendum shall control.

3. Use of Contract Unit

- a. During the lease term, the family will reside in the contract unit with assistance under the voucher program.
- b. The composition of the household must be approved by the PHA. The family must promptly inform the PHA of the birth, adoption or court-awarded custody of a child. Other persons may not be added to the household without prior written approval of the owner and the PHA.
- c. The contract unit may only be used for residence by the PHA-approved household members. The unit must be the family's only residence. Members of the household may engage in legal profit making activities incidental to primary use of the unit for residence by members of the family.
- d. The tenant may not sublease or let the unit.
- e. The tenant may not assign the lease or transfer the unit.

4. Rent to Owner

- a. The initial rent to owner may not exceed the amount approved by the PHA in accordance with HUD requirements.
- b. Changes in the rent to owner shall be determined by the provisions of the lease. However, the owner may not raise the rent during the initial term of the lease.
- c. During the term of the lease (including the initial term of the lease and any extension term), the rent to owner may at no time exceed:

- (1) The reasonable rent for the unit as most recently determined or redetermined by the PHA in accordance with HUD requirements, or
- (2) Rent charged by the owner for comparable unassisted units in the premises.

5. Family Payment to Owner

- a. The family is responsible for paying the owner any portion of the rent to owner that is not covered by the PHA housing assistance payment.
- b. Each month, the PHA will make a housing assistance payment to the owner on behalf of the family in accordance with the HAP contract. The amount of the monthly housing assistance payment will be determined by the PHA in accordance with HUD requirements for a tenancy under the Section 8 voucher program.
- c. The monthly housing assistance payment shall be credited against the monthly rent to owner for the contract unit.
- d. The tenant is not responsible for paying the portion of rent to owner covered by the PHA housing assistance payment under the HAP contract between the owner and the PHA. A PHA failure to pay the housing assistance payment to the owner is not a violation of the lease. The owner may not terminate the tenancy for nonpayment of the PHA housing assistance payment.
- e. The owner may not charge or accept, from the family or from any other source, any payment for rent of the unit in addition to the rent to owner. Rent to owner includes all housing services, maintenance, utilities and appliances to be provided and paid by the owner in accordance with the lease.
- f. The owner must immediately return any excess rent payment to the tenant.

6. Other Fees and Charges

- a. Rent to owner does not include cost of any meals or supportive services or furniture which may be provided by the owner.
- b. The owner may not require the tenant or family members to pay charges for any meals or supportive services or furniture which may be provided by the owner. Nonpayment of any such charges is not grounds for termination of tenancy.
- c. The owner may not charge the tenant extra amounts for items customarily included in rent to owner in the locality, or provided at no additional cost to unsubsidized tenants in the premises.

7. Maintenance, Utilities, and Other Services

a. Maintenance

- (1) The owner must maintain the unit and premises in accordance with the HQS.
- (2) Maintenance and replacement (including redecoration) must be in accordance with the standard practice for the building concerned as established by the owner.

b. Utilities and appliances

- (1) The owner must provide all utilities needed to comply with the HQS.
- (2) The owner is not responsible for a breach of the HQS caused by the tenant's failure to:
 - (a) Pay for any utilities that are to be paid by the tenant.
 - (b) Provide and maintain any appliances that are to be provided by the tenant.

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

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

8. Termination of Tenancy by Owner

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

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

- (1) Serious or repeated violation of the lease;
- (2) Violation of Federal, State, or local law that imposes obligations on the tenant in connection with the occupancy or use of the unit and the premises;
- (3) Criminal activity or alcohol abuse (as provided in paragraph c); or
- (4) Other good cause (as provided in paragraph d).

c. Criminal activity or alcohol abuse

- (1) The owner may terminate the tenancy during the term of the lease if any member of the household, a guest or another person under a resident's control commits any of the following types of criminal activity:
 - (a) Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
 - (b) Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;
 - (c) Any violent criminal activity on or near the premises; or
 - (d) Any drug-related criminal activity on or near the premises.
- (2) The owner may terminate the tenancy during the term of the lease if any member of the household is:

(a) Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or

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

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

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

d. Other good cause for termination of tenancy

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

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

- (a) Disturbance of neighbors,
- (b) Destruction of property, or
- (c) Living or housekeeping habits that cause damage to the unit or premises.

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

- (a) The tenant's failure to accept the owner's offer of a new lease or revision;
- (b) The owner's desire to use the unit for personal or family use or for a purpose other than use as a residential rental unit; or
- (c) A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, the owner's desire to rent the unit for a higher rent).

(4) The examples of other good cause in this paragraph do not preempt any State or local laws to the contrary.

9. Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

a. **Purpose:** This section incorporates the protections for victims of domestic violence, dating violence, sexual assault, or stalking in accordance with subtitle N of the Violence Against Women Act of 1994, as amended (codified as amended at 42 U.S.C. 14043e et seq.) (VAWA) and implementing regulations at 24 CFR part 5, subpart L.

b. **Conflict with other Provisions:** In the event of any conflict between this provision and any other provisions included in Part C of the HAP contract, this provision shall prevail.

c. **Effect on Other Protections:** Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, sexual assault, or stalking.

- d. **Definition:** As used in this Section, the terms “actual and imminent threat,” “affiliated individual,” “bifurcate,” “dating violence,” “domestic violence,” “sexual assault,” and “stalking” are defined in HUD’s regulations at 24 CFR part 5, subpart L. The terms “Household” and “Other Person Under the Tenant’s Control” are defined at 24 CFR part 5, subpart A.
- e. **VAWA Notice and Certification Form:** The PHA shall provide the tenant with the “Notice of Occupancy Rights under VAWA and the certification form described under 24 CFR 5.2005(a)(1) and (2).
- f. **Protection for victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking:**
- (1) The landlord or the PHA will not deny admission to, deny assistance under, terminate from participation in, or evict the Tenant on the basis of or as a direct result of the fact that the Tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the Tenant otherwise qualifies for admission, assistance, participation, or occupancy. 24 CFR 5.2005(b)(1).
 - (2) The tenant shall not be denied tenancy or occupancy rights solely on the basis of criminal activity engaged in by a member of the Tenant’s Household or any guest or Other Person Under the Tenant’s Control, if the criminal activity is directly related to domestic violence, dating violence, sexual assault, or stalking, and the Tenant or an Affiliated Individual of the Tenant is the victim or the threatened victim of domestic violence, dating violence, sexual assault, or stalking. 24 CFR 5.2005(b)(2).
 - (3) An incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking will not be construed as serious or repeated violations of the lease by the victim or threatened victim of the incident. Nor shall it not be construed as other “good cause” for termination of the lease, tenancy, or occupancy rights of such a victim or threatened victim. 24 CFR 5.2005(c)(1) and (c)(2).
- g. **Compliance with Court Orders:** Nothing in this Addendum will limit the authority of the landlord, when notified by a court order, to comply with the court order with respect to the rights of access or control of property (including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking) or with respect to the distribution or possession of property among members of the Tenant’s Household. 24 CFR 5.2005(d)(1).
- h. **Violations Not Premised on Domestic Violence, Dating Violence, Sexual Assault, or Stalking:** Nothing in this section shall be construed to limit any otherwise available authority of the Landlord to evict or the public housing authority to terminate the assistance of a Tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking that is in question against the Tenant or an Affiliated Individual of the Tenant. However, the Landlord or the PHA will not subject the tenant, who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, to a more demanding standard than other tenants in determining whether to evict or terminate assistance. 24 CFR 5.2005(d)(2).
- i. **Actual and Imminent Threats:**
- (1) Nothing in this section will be construed to limit the authority of the Landlord to evict the Tenant if the Landlord can demonstrate that an “actual and imminent threat” to other tenants or those employed at or providing service to the property would be present if the Tenant or lawful occupant is not evicted. In this context, words, gestures, actions, or other indicators will be construed as an actual and imminent threat if they meet the following standards for an actual and imminent threat: “Actual and imminent threat” refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur. 24 CFR 5.2005(d)(3).
 - (2) If an actual and imminent threat is demonstrated, eviction should be used only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence, developing other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents. 24 CFR 5.2005(d)(4).
- j. **Emergency Transfer:** A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking may request an emergency transfer in accordance with the PHA’s emergency transfer plan. 24 CFR 5.2005(e). The PHA’s emergency transfer plan must be made available upon request, and incorporate strict confidentiality measures to ensure that the PHA does not disclose a tenant’s dwelling unit location to a person who committed or threatened to commit an act of domestic violence, dating violence, sexual assault, or stalking against the tenant;
- For transfers in which the tenant would not be considered a new applicant, the PHA must ensure that a request for an emergency transfer receives, at a minimum, any applicable additional priority that is already provided to other types of emergency transfer requests. For transfers in which the tenant would be considered a new applicant, the plan must include policies for assisting a tenant with this transfer.
- k. **Bifurcation:** Subject to any lease termination requirements or procedures prescribed by Federal, State, or local law, if any member of the Tenant’s Household engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking, the Landlord may “bifurcate” the Lease, or remove that Household member from the Lease, without regard to whether that Household member is a signatory to the Lease, in order to evict, remove, or terminate the occupancy rights of that Household member without evicting, removing, or otherwise penalizing the victim of the criminal activity who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the housing choice voucher program. 24 CFR 5.2009(a).

If the Landlord bifurcates the Lease to evict, remove, or terminate assistance to a household member, and that household member is the sole tenant eligible to receive assistance, the landlord shall provide any remaining tenants or residents a period of 30 calendar days from the date of bifurcation of the lease to:

- (1) Establish eligibility for the same covered housing program under which the evicted or terminated tenant was the recipient of assistance at the time of bifurcation of the lease;
 - (2) Establish eligibility under another covered housing program; or
 - (3) Find alternative housing.
- l. **Family Break-up:** If the family break-up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the PHA must ensure that the victim retains assistance. 24 CFR 982.315.
- m. **Move with Continued Assistance:** The public housing agency may not terminate assistance to a family or member of the family that moves out of a unit in violation of the lease, with or without prior notification to the public housing agency if such a move occurred to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking; and who reasonably believed they were imminently threatened by harm from further violence if they remained in the dwelling unit, or if any family member has been the victim of sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.
- (1) The move is needed to protect the health or safety of the family or family member who is or has been a victim of domestic violence dating violence, sexual assault or stalking; and
 - (2) The family or member of the family reasonably believes that he or she was threatened with imminent harm from further violence if he or she remained in the dwelling unit. However, any family member that has been the victim of a sexual assault that occurred on the premises during the 90-calendar day period preceding the family's move or request to move is not required to believe that he or she was threatened with imminent harm from further violence if he or she remained in the dwelling unit. 24 CFR 982.354.
- n. **Confidentiality.**
- (1) The Landlord shall maintain in strict confidence any information the Tenant (or someone acting on behalf of the Tenant) submits to the Landlord concerning incidents of domestic violence, dating violence, sexual assault or stalking, including the fact that the tenant is a victim of domestic violence, dating violence, sexual assault, or stalking.
 - (2) The Landlord shall not allow any individual administering assistance on its behalf, or any persons within its employ, to have access to confidential information unless explicitly authorized by the Landlord for reasons that specifically call for these individuals to have access to the information pursuant to applicable Federal, State, or local law.
 - (3) The Landlord shall not enter confidential information into any shared database or disclose such information to any other entity or individual, except to the extent that the disclosure is requested or consented to in writing by the individual in a time-limited release; required for use in an eviction proceeding; or is required by applicable law.

10. Eviction by court action

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

11. Owner notice of grounds

- a. At or before the beginning of a court action to evict the tenant, the owner must give the tenant a notice that specifies the grounds for termination of tenancy. The notice may be included in or combined with any owner eviction notice.
- b. The owner must give the PHA a copy of any owner eviction notice at the same time the owner notifies the tenant.
- c. Eviction notice means a notice to vacate, or a complaint or other initial pleading used to begin an eviction action under State or local law.

12. Lease: Relation to HAP Contract

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

13. PHA Termination of Assistance

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

14. Family Move Out

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

15. Security Deposit

- a. The owner may collect a security deposit from the tenant. (However, the PHA may prohibit the owner from collecting a security deposit in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. Any such PHA-required restriction must be specified in the HAP contract.)
- b. When the family moves out of the contract unit, the owner, subject to State and local law, may use the security deposit, including any interest on the deposit, as reimbursement for any unpaid rent payable by the tenant, any damages to the unit or any other amounts that the tenant owes under the lease.
- c. The owner must give the tenant a list of all items charged against the security deposit, and the amount of each item. After deducting the amount, if any, used to reimburse the owner, the owner must promptly refund the full amount of the unused balance to the tenant.
- d. If the security deposit is not sufficient to cover amounts the tenant owes under the lease, the owner may collect the balance from the tenant.

16. Prohibition of Discrimination

In accordance with applicable equal opportunity statutes, Executive Orders, and regulations, the owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status or disability in connection with the lease. Eligibility for HUD's programs must be made without regard to actual or perceived sexual orientation, gender identity, or marital status.

17. Conflict with Other Provisions of Lease

- a. The terms of the tenancy addendum are prescribed by HUD in accordance with Federal law and regulation, as a condition for Federal assistance to the tenant and tenant's family under the Section 8 voucher program.
- b. In case of any conflict between the provisions of the tenancy addendum as required by HUD, and any other provisions of the lease or any other agreement between the owner and the tenant, the requirements of the HUD-required tenancy addendum shall control.

18. Changes in Lease or Rent

- a. The tenant and the owner may not make any change in the tenancy addendum. However, if the tenant and the owner agree to any other changes in the lease, such changes must be in writing, and the owner must immediately give the PHA a copy of such changes. The lease, including any changes, must be in accordance with the requirements of the tenancy addendum.
- b. In the following cases, tenant-based assistance shall not be continued unless the PHA has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner:
 - (1) If there are any changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;
 - (2) If there are any changes in lease provisions governing the term of the lease;
 - (3) If the family moves to a new unit, even if the unit is in the same building or complex.
- c. PHA approval of the tenancy, and execution of a new HAP contract, are not required for agreed changes in the lease other than as specified in paragraph b.
- d. The owner must notify the PHA of any changes in the amount of the rent to owner at least sixty days before any such changes go into effect, and the amount of the rent to owner following any such agreed change may not exceed the reasonable rent for the unit as most recently determined or redetermined by the PHA in accordance with HUD requirements.

19. Notices

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

20. Definitions

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

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

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

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

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

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

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

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

PHA. Public Housing Agency.

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

Program. The Section 8 housing choice voucher program.

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

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

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

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