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and distributed to PHAs and householders identifying the benefits and eligibility for this exclusion. Updates will be published and distributed when necessary.

b) Annualized income. If it is not feasible to calculate a level of income over a 12 month period (e.g., exempt or calculated over a period of expected future income), the FHA may assume the income anticipated for a shorter period subject to a re-determination at the start of the shorter period.

c) If it is not feasible to calculate a level of income over a 12 month period, the income anticipated for a shorter period may be annualized subject to a re-determination at the start of the shorter period.


EFFECTIVE DATE: FR 5479, Mar. 22, 1988, 53 FR 5329 was amended by removing and renumbering paragraph (c), as published in the Federal Register, on May 27, 1988. For the convenience of the reader, the superseded text is set forth as follows.

5.679 Amends (par. )

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24 CFR Subtitle A (4-1-90 edition)

(a) Excludes all or part of the following:

(1) Excludes all or part of the family’s earned income.

(2) Excludes all or part of the earned income of another family member who is not a member of the household.

(3) Excludes all or part of the earned income of the self-employed

(b) Excludes all or part of the family’s unearned income.

(c) Excludes all or part of the family’s unearned income.

(d) Excludes all or part of the family’s unearned income.

(e) Excludes all or part of the family’s unearned income.

(f) Excludes all or part of the family’s unearned income.

(g) Excludes all or part of the family’s unearned income.

(h) Excludes all or part of the family’s unearned income.

(i) Excludes all or part of the family’s unearned income.

(j) Excludes all or part of the family’s unearned income.

(k) Excludes all or part of the family’s unearned income.

(l) Excludes all or part of the family’s unearned income.

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Adjusted income means annual income less any personal or household deductions as described in paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), and (l) above. Adjusted income is defined in § 5.651.

24 CFR § 5.671

Adjusted income means annual income less any personal or household deductions as described in paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), and (l) above. Adjusted income is defined in § 5.651.

24 CFR § 5.671

Adjusted income means annual income less any personal or household deductions as described in paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), and (l) above. Adjusted income is defined in § 5.651.

24 CFR § 5.671

Adjusted income means annual income less any personal or household deductions as described in paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), and (l) above. Adjusted income is defined in § 5.651.

24 CFR § 5.671

Adjusted income means annual income less any personal or household deductions as described in paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), and (l) above. Adjusted income is defined in § 5.651.
(a) Maintenance deductions. In determining adjusted income, the responsible entity must deduct the following amounts from annual income:

(1) $600 for each dependent.

(2) $480 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.

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

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

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

§ 5.613

Effective date: May 10, 2017.

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

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

(b) The PHA must make best efforts to ensure cooperation agreements with welfare agencies under which such agreements exist.

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

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

§ 5.613 Tenant tenant.

(a) This section applies to families whose initial tenancy is effective on or after August 1, 1977.

(1) The gross rental payment is the sum of the amount calculated under section 561.1(d) of the 1977 Act (12 U.S.C. 1437f(c)(1)). If the family's welfare assistance is reduced from the standard of need by applying a percentage of the amount calculated under paragraph (c) of section 561.1(d) of the 1977 Act (12 U.S.C. 1437f(c)(1)) shall be the amount reduced from any application of the percentage.

(b) The PHA shall provide the tenant with the written report of the amount of the reduction.
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Project because there is an insufficient number of potential applicants who are very-low-income families.

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

(d) Project supervision by a State Housing Finance Agency having a policy of occupancy by families with a broad range of incomes, supported by evidence that the Agency is pursuing this goal throughout its assisted projects in the community, or a project with financing through the use of the HUD Act (24 U.S.C. 1711) or under Section (a) of the Internal Revenue Code (26 U.S.C. 103).

(i) Per Condemnation only. (j) Need for admission of a broad range of tenants to obtain full occupancy.

(k) Local comparisons to attracting occupancy by families with a broad range of incomes. An application citing this basis should be supported by evidence that the FHA is pursuing this goal throughout its housing program in the community.

(l) Need for higher incomes to sustain homeownership eligibility in a homeownership project, and

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

(c) Action on requests for exception. Whether to grant any request for exception is a matter controlled by law to HUD's sole discretion. The present regulation is intended to be broad enough that HUD will seek to grant appeals up to the maximum limits permitted by statute, nor to any presumption of an excess

(d) Exemption for program participation at any time that new agreements are being used or after a period of time, based on the findings of the

(e) Reporting PHAs and owners shall comply with HUD-specified reporting requirements that will permit HUD to examine the reasonably current financial need to maintain compliance with the income eligibility restrictions described in paragraph (a) of this section.

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

(j) Effective date. As of April 1, 1974, 24 C.F.R. 5.627 was removed, effective April 1, 1974.

FAMILY INCOME

5.6.49 Annual income.

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

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

(ii) Are anticipated to be received from a source outside the family during the 12-month period following admission of an occupancy or reoccupation effective date; and

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

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

(i) The full amount, before any, pay-roll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.

(ii) The net income from the operation of a business or profession. Expenditures, for business expansion or amortization of capital improvements shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a
business or profession may be ded-
ucted, based on straight-line depre-
ciation, 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 per-
sonal property. Expenditures for amori-
tization of capital indebtedness shall
not be used as deductions in deter-
mining net income. An allowance for
depreciation is permitted only as au-
thorized in paragraph (b)(3)(i) of this sec-
tion. Any withdrawal of cash or assets
from an investment will be included in
income, except to the extent the with-
drawal is reinvested in 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 de-
rived from all net family assets or a
percentage of the value of such assets
based on the current possessory savings
time, as determined by HUD;
(4) The full amount of periodic amount
received from Social Security,
annuities, insurance policies, re-
tirement funds, pension, disability or
dead benefit, and other similar types
of periodic receipts, including a lump-
sum amount or prospective monthly
amounts for the delayed start of a peri-
dal, amount exempt as provided in
paragraph (b)(3)(ii) of this section;
(5) Payments in lieu of earnings such
as unemployment and disability com-
ensation, worker’s compensation or
pension payment (except as provided in
paragraph (b)(3)(ii) of this section);
(6) Welfare assistance, including monies
received under Title XX, Aid to Family
Infants, Title XIX, Medicaid, Title
XXI, Food Stamps, and Title XXVI, the
Aid to the Aged, Blind, or Disabled,
programs under Title IV of the
Social Security Act. Expenditures for
amortization, as provided in paragraph
(b)(2)(ii) of this section, shall be
amortized for purposes of this para-
graph;
(7) Periodic and determinable allow-
ances, such as alimony and child sup-
port payments, and regular contribu-
tions or gifts received from organiza-
tions or from persons not residing in
the dwelling;
(8) All regular pay, special pay and
allowances of a member in the Armed
Forces except as provided in para-
graph (b)(3)(ii) of this section;
(9) Annuity income does not include the
following:
(1) Income from employment of chil-
dren (including foster children) under
the age of 18 years;
(2) Payments received for the care of
foster children or foster infants (usually
persons with disabilities, unrelated to
the tenant family, who are unable to
live alone);
(3) Lump-sum assistance to family
members, such as inheritance, in-
come payments (including payments under
health and accident insurance and
worker’s compensation), capital gains
and settlements for personal injury
(less or additional to what is
provided in paragraph (b)(3)(ii) of
this section);
(4) Amounts received by the family
members for specific purposes, or in
lieu of reimbursement of the cost of
medical ex-
penses for any family member;
(5) Interest of a life-time split, as defined
in §3.83;
(6) The full amount of student finan-
cial assistance paid directly to the stu-
dent or to the educational institution;
(7) The special pay to a family mem-
ber serving in the Armed Forces who is
expected to be on active duty
within five years;
(8) Amounts credited under training
programs funded by HUD;
(9) Amounts received by a person
with a disability that are disregarded
for a limited time for purposes of sup-
plemental security income eligibility
and benefits because they are not ex-
age for use under a Plan to Achieve Self-Suf-
iciency (PASS).
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(iii) Amends received by a participant in other publicly assisted programs which are specifically for or in restitution of out-of-pocket expenses incurred (fiscal 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, or on a part-time basis, that enhances the quality of life of 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 body. No resident may receive more than one stipend during the same period of time.

(v) Incremental earnings and benefits resulting to any family member from participation in a qualifying State or local employment training program (including training programs not affiliated with a local government or training of a family member as a resident management staff. Amounts excluded by this provision must be re-

(j) Temporary, nonrecurring or sporadic income (including gifts).

(k) Reimbursement payments paid to foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

(l) Earnings in excess of $400 for each full-time student 16 years of age or older (excluding the head of household and spouse).

(m) Adoption assistance payments in excess of $400 per adopted child.

(n) For public housing only: (1) The earnings and benefits to any family member resulting from the participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, section 21 of the 1987 Act

(3) U.S.C. 14371), or any comparable Federal, State, or local law during the exclusion period.

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

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

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

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

(iii) Is operated by a public agency; and

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

(k) Exclusive period means the period during which the family member participates in a program described in this section plus 12 months from the date the family member begins the first job acquired by the family member after completion of such program that is not funded by public housing assistance under the 1987 Act. If the family member is terminated from employment with good cause, the exclusion period shall continue.

(i) Earnings and Benefits means the incremental earnings and benefits resulting from a qualifying employment training program or subsequent job.

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

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

(l) Amends 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 received.

(m) Includes assistance under any program on which the exclusions are based on 24 CFR 544.000 (a) 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. Updated will be published and distributed when necessary.

(1) 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 reannualization at the end of the shorter period.

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


Effective Date Note: As 65 FR 4791, Mar. 25, 2000, 1.609 was amended by removing and superseding paragraph (c)(1)(i), for revising paragraphs (c)(1) and (iii), and by removing paragraph (g), effective Apr. 28, 2000. For the convenience of the user, the superseded text is set forth below.

1.609 Annual income.

(1) * * *

(1) Annual income received under a residual service stipend. A resident service stipend is a payment, whether or not funded through FHA, 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, yard maintenance, building maintenance and repairs, and minor repairs. A resident service stipend shall not be considered as earned income unless the PHA meets the standard set forth above.

(2) For public housing only in addition to the exclusions from annual income covered in paragraphs (b)(1) and (2), if the PHA determines that such benefits are necessary to meet the housing needs of a family, the PHA may adopt additional exclusions for specific income purposes as necessary to an established rental policy.

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

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(3) Exclude all or part of the family's earned income.

(4) Apply the exclusion only to new sources of earned income or only to increases in earned income.

(5) Apply the exclusion to earned income, other than periodic income, or any other family member age 18 or over.

(6) Apply the exclusion only to the earned income of all persons other than the primary tenant.

(7) Apply the exclusion to individuals, newly married families, existing tenants, or persons living in the family.

(8) Make the exclusion temporary or permanent, for the PHA, the family, or the affected family members.

(9) Make the exclusion retroactive, so that more earned income is excluded at first and less earned income is excluded after a period of time.

(10) Exclude any or all of the costs that result from earning income, such as social security costs or other costs that are withheld in the deduction.

(11) Exclude or defer the portion of the earned income that is not available to meet the family's needs, such as amounts that are paid to someone outside the family for all or any of the following:

a. Medical care or medical insurance costs.

b. Child care costs or any amount that is attributable to the child care costs.

c. Any amount that is attributable to the cost of any medical care or medical insurance.

(12) Any amount that is excluded from annual income under this paragraph (d) may not also be deducted in determining adjusted gross income as required in 24 CFR 503.

(13) Housing agencies do not have HUD approval to adopt optional earned income exclusions.

(4) The requirements for the determination of adjusted gross income under paragraph (e) shall include the determination of any of the options earned income exclusions discussed in paragraphs (b)(1) and (2), including any variations of the listed options.

F.4-1-00 Adjusted income.

(1) Adjusted income means annual income as determined in this section that is reduced to reflect the responsible credit of the income to the family residing in the development, after making the following deductions:

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§ 5.003 Purpose and applicability.

(a) This part establishes definitions of the terms "family," "annual income," and "disability," and provides uniform standards for calculating annual income and determining family composition.

(b) It applies to the rental housing assistance programs of the United States Department of Housing and Urban Development (HUD) and the Department of Agriculture (USDA).

(c) The definitions of "annual income," "disability," and "family" are found in §5.004.

(d) This part applies to the rental housing assistance programs of the United States Department of Housing and Urban Development (HUD) and the Department of Agriculture (USDA).

(e) The definitions of "annual income," "disability," and "family" are found in §5.004.

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

- "Annual income." See §5.611.

- "Family." See §5.611.

- "In-kind expenditures." See §5.641.

- "Impaired self-sufficiency." See §5.641.

- "In-kind expenditures." See §5.641.

- "In-kind expenditures." See §5.641.

- "In-kind expenditures." See §5.641.
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as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher of lower than 80 percent of the median income for the area on the basis of HUD's findings that such variations are necessary because of unusually higher or lower family incomes.

Medical expenses, Medical expenses, including removal insurance costs, that are anticipated during the period for which annual income is computed, and that are not covered by insurance. Monthly adjusted income. One-twelfth of adjusted income.

Monthly income. One-twelfth of annual income.

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

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

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

Other: the meaning provided in the relevant program regulations is used in this subpart, where appro- priate, the term "owner" shall also include "borrower" as defined in part 811 of this title.

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

Total tenant payment. See §5.721.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assumed unit is not included in the tenant rent, but is the responsibility of the family occupying the unit, an amount equal to the estimated cost of such utilities and other services for the unit by an energy-efficient household of similar circumstances consistent with the requirements of a safe, sanitary and healthful living environment.

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

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

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

Rental assistance. See definition at section 400 of the Social Security Act (42 U.S.C. 6041).


Effective date. As of FR 47171 (Mar. 29, 1985), §5.603 was amended by revising paragraph (a) to read: (a) and by redesignating paragraph (b) as paragraph (a) of a new paragraph (b) which is new paragraph (c) of a new paragraph (a). It was amended by revising the definitions.
§ 5.605

of "full-time student," "part-time student," and "prior service" and " prior work experience," just as by adding a number of "economic self-sufficiency programs," "extremely low income families," "limited service" and "limited income," "low income family," "very low income family," and "work activities," and in the definition of "tenant," by removing the phrase "24 CFR part 28," into replacing it with "part 80 of this title," effective Apr. 29, 1988. For the convenience of the user, the superseded text is set forth as follows:

(1) The terms elderly persons, low-income family, working families, and very low-income family as defined in section 801 of the 1987 Act, (42 U.S.C. 1437a), and the terms elderly family, elderly family, and low income are defined in §5.60.3.

(2) The terms (i) Act and (ii) housing agency. PHA are defined in §5.600.

(3) The terms regulated family, elderly family, family, and low and very low income are defined in §5.60.

Exhibit A: A person who is carrying a policy book that is consistency full-time for daily services under the standards and privacy of the educational institution attended.

An educational institution includes a vocational school with a diploma or certificate program as well as an institution offering a college degree.

(4) Tenant fees. The amount payable monthly by the family as rent to the PHA or owner, for the use of the dwelling unit, shall be the fair market rent charged for the dwelling. The fair market rent shall be paid in accordance with the procedures of the PHA and the local housing authority, as may be defined by the PHA or owner. The fair market rent shall be based on the relative cost of the dwelling unit as compared to similar units in the area. The tenant fees shall be paid in accordance with the procedures of the PHA and the local housing authority, as may be defined by the PHA or owner. The fair market rent shall be based on the relative cost of the dwelling unit as compared to similar units in the area.

(5) Utility allowance. The amount, if any, by which the utility allowance for the dwelling unit to which the family is assigned, is to be paid to the family occupying the unit.

(6) Part-time student. A person who is carrying a policy book that is consistency full-time for daily services under the standards and privacy of the educational institution attended.

An educational institution includes a vocational school with a diploma or certificate program as well as an institution offering a college degree.

(7) Elderly persons. The terms elderly persons, low-income family, and very low-income family, defined in section 801 of the 1987 Act, (42 U.S.C. 1437a), and the terms elderly family, elderly family, and family, as defined in §5.60, are defined in §5.60.3.

(8) Housing agency. PHA are defined in §5.600.

(9) Elderly family. Low-income family, family, and low and very low income are defined in §5.60.

(10) Tenant. The amount payable monthly by the family as rent to the PHA or owner, for the use of the dwelling unit, shall be the fair market rent charged for the dwelling. The fair market rent shall be paid in accordance with the procedures of the PHA and the local housing authority, as may be defined by the PHA or owner. The fair market rent shall be based on the relative cost of the dwelling unit as compared to similar units in the area. The tenant fees shall be paid in accordance with the procedures of the PHA and the local housing authority, as may be defined by the PHA or owner. The fair market rent shall be based on the relative cost of the dwelling unit as compared to similar units in the area.

(11) Utility allowance. The amount, if any, by which the utility allowance for the dwelling unit to which the family is assigned, is to be paid to the family occupying the unit.

(12) Part-time student. A person who is carrying a policy book that is consistency full-time for daily services under the standards and privacy of the educational institution attended.

An educational institution includes a vocational school with a diploma or certificate program as well as an institution offering a college degree.

(13) Elderly persons. The terms elderly persons, low-income family, and very low-income family, defined in section 801 of the 1987 Act, (42 U.S.C. 1437a), and the terms elderly family, elderly family, and family, as defined in §5.60, are defined in §5.60.3.

(14) Housing agency. PHA are defined in §5.600.

(15) Elderly family. Low-income family, family, and low and very low income are defined in §5.60.

(16) Tenant. The amount payable monthly by the family as rent to the PHA or owner, for the use of the dwelling unit, shall be the fair market rent charged for the dwelling. The fair market rent shall be paid in accordance with the procedures of the PHA and the local housing authority, as may be defined by the PHA or owner. The fair market rent shall be based on the relative cost of the dwelling unit as compared to similar units in the area. The tenant fees shall be paid in accordance with the procedures of the PHA and the local housing authority, as may be defined by the PHA or owner. The fair market rent shall be based on the relative cost of the dwelling unit as compared to similar units in the area.

(17) Utility allowance. The amount, if any, by which the utility allowance for the dwelling unit to which the family is assigned, is to be paid to the family occupying the unit.

(18) Part-time student. A person who is carrying a policy book that is consistency full-time for daily services under the standards and privacy of the educational institution attended.

An educational institution includes a vocational school with a diploma or certificate program as well as an institution offering a college degree.

(19) Elderly persons. The terms elderly persons, low-income family, and very low-income family, defined in section 801 of the 1987 Act, (42 U.S.C. 1437a), and the terms elderly family, elderly family, and family, as defined in §5.60, are defined in §5.60.3.

(20) Housing agency. PHA are defined in §5.600.

(21) Elderly family. Low-income family, family, and low and very low income are defined in §5.60.

(22) Tenant. The amount payable monthly by the family as rent to the PHA or owner, for the use of the dwelling unit, shall be the fair market rent charged for the dwelling. The fair market rent shall be paid in accordance with the procedures of the PHA and the local housing authority, as may be defined by the PHA or owner. The fair market rent shall be based on the relative cost of the dwelling unit as compared to similar units in the area. The tenant fees shall be paid in accordance with the procedures of the PHA and the local housing authority, as may be defined by the PHA or owner. The fair market rent shall be based on the relative cost of the dwelling unit as compared to similar units in the area.

(23) Utility allowance. The amount, if any, by which the utility allowance for the dwelling unit to which the family is assigned, is to be paid to the family occupying the unit.

(24) Part-time student. A person who is carrying a policy book that is consistency full-time for daily services under the standards and privacy of the educational institution attended.

An educational institution includes a vocational school with a diploma or certificate program as well as an institution offering a college degree.

(25) Elderly persons. The terms elderly persons, low-income family, and very low-income family, defined in section 801 of the 1987 Act, (42 U.S.C. 1437a), and the terms elderly family, elderly family, and family, as defined in §5.60, are defined in §5.60.3.

(26) Housing agency. PHA are defined in §5.600.

(27) Elderly family. Low-income family, family, and low and very low income are defined in §5.60.

(28) Tenant. The amount payable monthly by the family as rent to the PHA or owner, for the use of the dwelling unit, shall be the fair market rent charged for the dwelling. The fair market rent shall be paid in accordance with the procedures of the PHA and the local housing authority, as may be defined by the PHA or owner. The fair market rent shall be based on the relative cost of the dwelling unit as compared to similar units in the area. The tenant fees shall be paid in accordance with the procedures of the PHA and the local housing authority, as may be defined by the PHA or owner. The fair market rent shall be based on the relative cost of the dwelling unit as compared to similar units in the area.

(29) Utility allowance. The amount, if any, by which the utility allowance for the dwelling unit to which the family is assigned, is to be paid to the family occupying the unit.

(30) Part-time student. A person who is carrying a policy book that is consistency full-time for daily services under the standards and privacy of the educational institution attended.

An educational institution includes a vocational school with a diploma or certificate program as well as an institution offering a college degree.

(31) Elderly persons. The terms elderly persons, low-income family, and very low-income family, defined in section 801 of the 1987 Act, (42 U.S.C. 1437a), and the terms elderly family, elderly family, and family, as defined in §5.60, are defined in §5.60.3.

(32) Housing agency. PHA are defined in §5.600.

(33) Elderly family. Low-income family, family, and low and very low income are defined in §5.60.
## INCOME LIMITS

Income Limits for Admission

(Effective **OCT 18 2004**, 2004)

### Very Low Income

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<tr>
<th>County</th>
<th>1 Person</th>
<th>2 Persons</th>
<th>3 Persons</th>
<th>4 Persons</th>
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### Low-Income

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2600
"Subsidy Standards"

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

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

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

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<th>Voucher Size</th>
<th>Minimum Number of Persons in Household</th>
<th>Maximum Number of Persons in Household</th>
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</table>

* A voucher for a 1 bedroom unit would be issued to a single person household only when there are no (0/studio) bedroom dwellings available in the area.
In the inspection of a unit before leasing, the unit must meet the Occupancy Standards set by the respective county. See Exhibit F, "MCDCH OCCUPANCY STANDARDS", which shall be incorporated as part of this subsection.
HCIDC 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. \[\text{2 persons}\]
      each additional 50 sq. ft. \[\text{1 person per 50 sq. ft.}\]

   2. Bedrooms
      Measure bedroom area (do not include closet, halls, bathrooms)
      1st 70 sq. ft. \[\text{2 persons}\]
      each additional 50 sq. ft. \[\text{1 person per 50 sq. ft.}\]

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. \[\text{2 persons}\]
   each additional 100 sq. ft. \[\text{1 person per 100 sq. ft.}\]

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. \[\text{2 persons}\]
      each additional 50 sq. ft. \[\text{1 person per 50 sq. ft.}\]
EXHIBIT F

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

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

III. County of Kauai

A. One (1) or more bedrooms
1. Living Room - Cannot be used as a sleeping area
2. Bedroom #1
   Measure bedroom area (do not include closet, halls, bathrooms)
   1st 120 sq. ft. 2 persons
   each additional 50 sq. ft. 1 person per 50 sq. ft.
3. Bedroom #2
   Measure bedroom area (do not include closet, halls, bathrooms)
   1st 70 sq. ft. 2 persons
   each additional 50 sq. ft. 1 person per 50 sq. ft.
4. Bedroom #3 and on
   Measure bedroom area (do not include closet, halls, bathrooms)
   1st 80 sq. ft. 2 persons
   each additional 50 sq. ft. 1 person per 50 sq. ft.

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

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

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

III. County of Kauai
A. One (1) or more bedrooms
1. Living Room - Cannot be used as a sleeping area
2. Bedroom #1
   Measure bedroom area (do not include closet, halls, bathrooms)
   1st 120 sq. ft. 2 persons
   each additional 50 sq. ft. 1 person per 50 sq. ft.
3. Bedroom #2
   Measure bedroom area (do not include closet, halls, bathrooms)
   1st 70 sq. ft. 2 persons
   each additional 50 sq. ft. 1 person per 50 sq. ft.
4. Bedroom #3 and on
   Measure bedroom area (do not include closet, halls, bathrooms)
   1st 80 sq. ft. 2 persons
   each additional 50 sq. ft. 1 person per 50 sq. ft.

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

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

IV. County of Hawaii
A. One (1) or more bedrooms (Housing Code states that overcrowding is prohibited)
1. Living Room - (must be 120 sq. ft. minimum)
2. Bedroom #1 - (must be 120 sq. ft. minimum)
3. Bedroom #2 - (must be 80 sq. ft. minimum)
B. Efficiency Units (studios)

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

<table>
<thead>
<tr>
<th>sq. ft.</th>
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<tbody>
<tr>
<td>1st 70</td>
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<tr>
<td>each additional 100</td>
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### Utility Tables

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# Utility Tables

**Housing and Community Development Corp of Hawaii**

**Section 8 Housing Allowances for Tenant Furnished Utilities and Other Services**

**Reporting on January 9, 2001 at 10:24 AM**

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## UTILITY TABLES

**HOUSING AND COMMUNITY DEVELOPMENT CORP OF HAWAII**

**SECTION 8 HOUSING ALLOWANCES FOR TENANT FURNISHED UTILITIES AND OTHER SERVICES REPORTING ON JANUARY 9, 2001 AT 16:24AM**

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## Utility Tables

**Housing and Community Development Corp of Hawaii**

**Section 8 Housing Allowances for Tenant Furnished Utilities and Other Services**

**Reporting on January 3, 2021 at 10:24 AM**

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## Housing and Community Development Corp of Hawaii

### Section 8 Housing Allowances for Tenant Furnished Utilities and Other Services

Reporting on January 9, 2001 at 16:24:54

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(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); or

(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) 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.


Codification

Section was enacted as part of the Quality Housing and Work Responsibility Act of 1994, and not as part of subtitles C to F of title VI of Pub. L. 102-550 which comprise this chapter.


Effective Date

Subchapter effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement any provision of subchapter before such date, except to extent otherwise provided, see section 563 of Pub. L. 105-276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

Section Referred to in Other Sections

This section is referred to in section 1437d of this title.
§ 5.508 Submission of evidence of citizenship or eligible immigrant status.

(a) General. Brifgthness 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 immigrant status, the family members may exercise the election not to respond to have their immigration status as provided in paragraph (b) of this section, and the provisions of §§5.506 and 5.518 shall apply.

(b) Evidence of citizenship or eligible immigrant 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 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:

(a) A signed declaration of eligible immigrant status;

(b) Proof of age document;

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

(1) A signed declaration of eligible immigrant status;

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

(3) A signed verification consent form.

(4) Declaration. (1) For each family member who contends that he or she is a U.S. citizen or a noncitizen with eligible immigrant 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 immigrant status.

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

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

(5) At any time, 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.

(c) Record of receipt of information or verification of immigration status. The written declaration may be treated as part of the application for housing assistance or as constitute a separate document.

(d) Record of consent form. (1) Who signs. Each noncitizen who declares eligible immigrant status executes certain provisions of paragraphs (a) and (b) 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 immigrant status may be released to the responsible entity without the responsibility for the further use or transmission of the evidence by the entity receiving it as follows:

(i) HUD, as required by HUD; and

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

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

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Office of the Secretary, HUD

§ 5.508

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.

4) 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 or members of the family establish their citizenship or eligible immigration status as required by §§ 5.520 and 5.524 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.

5) Notification of requirements of section 246(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 (d) of this section, shall be given by the responsible entity as follows:

(i) Applicant's notice. The notification described in paragraph (b) of this section shall be given to each applicant at the time of application for assistance. Applicants whose applications are pending on June 19, 1966 shall be notified of the requirement to submit evidence of eligible status as soon as possible after June 19, 1966.

(ii) Notice to tenants. The notification described in paragraph (f) 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, 1966.

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

7) Form and context 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 denied, denied or terminated, as appropriate, upon a final determination of ineligibility after all appeals have been exhausted (see § 5.514 concerning INS appeal and internal hearing process) or, if appeals are not pursued, as a time to be specified in accordance with HUD requirements. Tenants also shall be informed of new to obtain assistance under the preservation of family 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 (a) 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 that the responsible entity anticipates or has knowledge that verification of an aspect of eligibility for assistance will occur (see § 5.508).

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

(i) For financial assistance under a Section 202 or 203 properly covered program, with the exception of Section 235 assistance payments, the required evidence shall be submitted at the first regular reexamination after June 19, 1966, in accordance with program requirements.

(ii) For Section 202 assistance in the form of Section 202 assistance payments, the mortgagor shall submit this required evidence in accordance with requirements imposed under the Section 202 Program.

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

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§5.510 Documents of eligible immigration status

(1) General. A responsible entity shall request and review original documents of eligible immigration status. The responsible entity shall retain photostats of the documents or, at its own expense, request and review the original documents from the family.

(2) Acceptable evidence of eligible immigration status. Acceptable evidence of eligible immigration status shall be in the form of a document designated by INS as acceptable evidence of immigration status in one of the forms concerning an eligible family member. Documents concerning an eligible family member shall be processed by INS.

§5.512 Verification of eligible immigration status

(1) General. Except as described in paragraph (c) of this section and §5.501, no individual or family applying for assistance may receive benefits prior to the verification of the eligibility of at least the individual or the family member(s) by the INS. Verification of eligibility consists with §5.510 requires that the individual(s) or family member(s) submit documentation to the INS in accordance with §5.501.
Tenancy Addendum
Section 8 Tenant-Based Assistance
Housing Choice Voucher Program

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

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 provisions 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-ordered 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.

4. Rent to Owner
a. The owner shall receive the amount approved by the PHA in accordance with HUD requirements.

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 or any member of the tenant family may be charged any amount that may be paid for services or utilities 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 to be maintained by the tenant.

7. Maintenance, Utilities, and Other Services
a. Maintenance
(1) The owner must maintain the unit and premises in accordance with the HHS.
(2) Maintenance and replacement (including redetermination) must be in accordance with the standards for the building as established by the owner.
b. Utilities and appliances
(1) The owner must provide all utilities needed to comply with the HHCS.
(2) The owner is not responsible for a break in the HHCS caused by the tenant’s failure to
(a) Pay for any utilities that the lessee is 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 in the lease 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;

(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) Facing to avoid prosecution, or accused or convicted after conviction, for a crime, or attempt to commit a crime, that is a felony under the law of the state 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, either good cause or the termination of tenancy must be something the family did or failed to do.

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

(a) Disturbance of neighbors,

(b) Destruction of property,

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

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

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

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

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

9. Lease: Relation to HAP Contract

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

10. PHA Termination of Assistance

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

11. Family Move Out

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

12. Security Deposit

(a) The owner may collect a security deposit from the tenants. (However, the PHA may provide 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 item, if any, used to reimburse the owner, the owner must promptly refund the full amount of the unused balance to the tenant.

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

13. Prohibitions of Discrimination

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

14. Conflict with Other Provisions of Law

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

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

15. Change in the 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 terminated 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 terms 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 determined by the PHA in accordance with HUD requirements.

16. Notices

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

17. Definitions

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

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

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

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

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

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

HUNP requirements. HUD requirements for the Section 8 program. HUD requirements are issued by HUD headquarters in 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).

Tenancy. The family member(s) or members who lease the unit from the owner.

Voucher program. The Section 8 housing choice voucher program.

Under this program, HUD provides funds to an PHA for rent subsidy on behalf of eligible families. The tenant under the lease will be assisted with rent subsidy for a tenancy under the voucher program.
Fair Market Rents (24 C.F.R. §888)
(Effective **OCT 18 2004**)

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§ 593.11

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

(iii) The person is involuntarily under 24 CFR part 24, or

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

(b) The RA makes the decision at any time. HUD determination of whether a displacement is or would be covered by this section.

(c) Definition of initial negotiation.

For purposes of determining the formula for computing replacement housing payments to be provided to a resident, an "initial displacement" is a direct result of federally funded rehabilitation or demolition of the real property. The term "initial displacement" means the execution of the Agreement between the owner and the RA.

FR 3777, July 3, 1986, as amended at 24 FR 1, April 30, 1968

§ 593.12 Other Federal requirements.

(a) Equal Opportunity and Related Requirements. Participation in this program requires compliance with the Equal Opportunity requirements specified in § 593.2(b) of this chapter including Section 503 of the Rehabilitation Act of 1973 (24 CFR part 2) and the Fair Housing Amendments Act of 1988 (24 CFR part 100).

(b) Environmental requirements. Activities under this part 593 are subject to HUD environmental regulations at 24 CFR part 50. An RA must not attach assistance to a unit unless, before the RA enters into an Agreement to provide project-based assistance for the unit,

(1) The wish of general local government within which the project is located that exercises land use responsibilities or, as determined by HUD, the county or State has completed the environmental review required by 24 CFR part 50 and provided to the RA for submission to HUD in the completed request.

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for release of funds and certification; and

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

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

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

(2) Flood Disaster Protection Act of 1973;

(3) Section 9 of the Housing and Urban Development Act of 1968 (12 U.S.C. 170a) and the regulations in 24 CFR part 102;

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

(5) Executive Order 11285. Prescribing Additional Arrangements for Developing and Coordinating a National Program for Minority Business Enterprises;

(6) Executive Order 11216. Minority Business Enterprise Development, and 201. Creating a National Women's Business Enterprise Policy; and

(7) Payment of not less than the wages prevailing in the locality, as determined by the Secretary of Labor pursuant to the Davis-Bacon Act to all laborers and mechanics employed in the construction or rehabilitation of the project under an Agreement concerning size or more suitable units, and compliance with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 20 CFR part 4, and other Federal law and regulations regarding labor standards applicable to such Agreement.

(d) The provisions of part 5 of this subchapter relating to the employment of workers, management of services, availability of funding, and placement during any period of vacancy, suspension, or placement is ineligibility status.

§ 593.12 Program accounts and records.

(a) During the term of each assistance, and for at least three years thereafter, the RA must keep

(1) A copy of each assisted loan and

(2) The RA must keep a copy of

(b) During the RA contact term, and at least three years thereafter, the RA must keep a copy of

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

(iii) The person is eligible under 49 CFR 21.22(b).

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

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

(b) Definition of extent of apparel. For purposes of approximating the formula for computing replacement housing allowance to be provided to a resident who is displaced as a direct result of privately undertook rehabilitation or demolition of the HA property, the term "initiation of construction," means the execution of the agreement between the owner and the HA.


(b) Environmental requirements. Activities under this part 60 are subject to HUD environmental regulations at 24 CFR part 58. An HA may not seek assistance to a unit unless, before the HA enters into an agreement to provide project-based assistance for the unit:

(i) The unit of general local government writing which the project is to include that exercises land use responsibility or, as determined by HUD, the county or State has completed the environmental review required by 28 CFR part 58 and provides to the HA for submission to HUD the completed request for release of funds and certification.

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

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

(i) Clean Air Act and Federal Water Pollution Control Act.


(iii) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 170d) and HUD regulations in 24 CFR part 100.

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

(v) Executive Order 11253, Preventing Adverse Action Against a Federal Project Approval Request

(vi) Executive Order 11259, Minority Business Enterprise Development, and 2200, Creating a National Women's Business Enterprise Policy, and

(vii) Payment of not less than the wages prevailing in the locality, as prescribed by the Secretary of Labor pursuant to the Davis-Bacon Act, to all laborers and mechanics employed in the construction or rehabilitation of the project under an approved contract, and all laborers and mechanics employed in the construction or rehabilitation of the project under an agreement covering work or more included units, and compliance with the OSHA Work Hours and Safety Standards Act, Department of Labor regulations in 20 CFR part 5, and other Federal laws and regulations pertaining to labor standards applicable to such an agreement.

(viii) The provisions of part 24 of this title relating to the employment, placement of services awarded contracts, or funding of the contractor or subcontractors during any period of debarment, suspension, or placement in the list of ineligible persons.

693.12 Program accounts and records.

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

(i) A copy of the residential lease; and

(ii) The assistance from

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