

**LOWELL HOUSING AUTHORITY  
LOWELL MASSACHUSETTS  
ADMINISTRATIVE PLAN [ACOP]  
FOR THE  
LOW RENT PUBLIC HOUSING PROGRAM**

**July 11, 2007**

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**July 13, 2018 – Amendment #12**

**RESOLUTION**  
**ADOPTION OF THE ADMINISTRATIVE PLAN [ACOP] FOR THE**  
**LOW RENT PUBLIC HOUSING PROGRAM**

Whereas a written Admissions and Continued Occupancy Administrative Plan [ACOP] and a Tenant Selection and Assignment Plan [TSAP] for administration of Low Rent Public Housing [LRPH] is required to state Public Housing Agency (PHA) policy on matters for which the PHA has discretion to establish local policies, and

Whereas, a PHA must administer its program in accordance with its ACOP and TSAP, and

Whereas a PHA is required to revise its plans to be in accordance with HUD regulations and requirements, and

Whereas the current Administrative Plan (Admissions and Continuing Occupancy Plan) for the LRPH Program of the City of Lowell Housing Authority (LHA), dated 1/5/2000 is not in accordance with revised HUD regulations as set forth in 24 CFR Parts 5 and 912, 913, 942 and 960 and *Federal Register* Notices or other binding program directives that were promulgated subsequent to March 31, 2000.

Now, Therefore, Be it Resolved, that LHA hereby (1) deletes from its ACOP and TSAP [now to be referred to as its LRPH Administrative Plan] all policies and procedures pertaining to matters for which the PHA has discretion that are inconsistent with current HUD regulations and requirements, (2) incorporates into its Administrative Plan all current non-discretionary requirements, and (3) automatically incorporates into its Administrative Plan future non-discretionary requirements concurrent with the Effective Date of the *Federal Register* rule or other binding program directive establishing such requirements.

Dated: 7/11/2007

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## **CHAPTER 1: PURPOSE AND GENERAL POLICIES**

### **1.A. PURPOSE OF THE LRPH ADMINISTRATIVE PLAN**

The United States Department of Housing and Urban Development (HUD) requires each Public Housing Agency (PHA) administering Low Rent Public Housing programs under the United States Housing Act of 1937, as amended (42 U.S.C. I 437f), to adopt a written Admissions and Continued Occupancy Plan [ACOP] and a Tenant Selection and Assignment Plan [TSAP], hereafter referred to as the LRPH Administrative Plan, which establishes local policies for administration of the programs in accordance with HUD requirements.

The purpose of an Administrative Plan is to state PHA policy on matters for which the PHA has discretion to establish local policies. It is not meant to repeat, nor can it amend, non-discretionary HUD requirements. Such requirements are established by regulations appearing in the Code of Federal Regulations (CFR) and *Federal Register* Notices or other binding program directives.

The principal regulations affecting the LRPH programs are contained in 24 CFR Parts 5 and 912,913,942 and 960 and the Annual Contributions Contract [ACC]. For the most part, these regulations carefully and unambiguously define terms, and state what applicants, tenants and PHAs “must” or “shall do in order to participate in the programs”.

In recent years, HUD has provided PHAs an increasing opportunity to develop local approaches to meet certain requirements and to exercise choice as to whether or not to take a specified action. In addition, since HUD regulations and notices do not always specify or provide guidance on “how to” meet each requirement, PHAs have to develop their own implementing instructions for some subjects.

One specific change has been the ruling by HUD General Counsel that ACC units can be operated in properties developed and/or owned by private entities as well those owned and operated by PHAs. The Administrative Plan applies for the most part to these private owners but strictly as it applies to units which are designated for use by public housing households and which receive financial support under the PHA’s ACC.

### **1.B. BACKGROUND**

The Quality Housing and Work Responsibility Act of 1998 (QHWRA, also referred to as the Public Housing Reform Act or PHRA) repealed or amended various provisions which had been critical in the operation of LRPH. In 1999 and 2000, HUD promulgated implementing regulations for the program, the most critical of which was the issuance of the Final Rule for Changes to Admission and Occupancy Requirements dated March 29, 2000 and also set in motion the 5 year and Annual Public Housing Agency Plans which is the vehicle for approval of critical LRPH operating procedures such as preferences. In addition, HUD uses Notices to convey further interpretations and requirements for PHAs operating the LRPH program.

### **1.C. ORGANIZATION AND STRUCTURE OF THE PHA**

The Low Rent Public Housing [LRPH] program is funded by the federal government and administered by the **Lowell Housing Authority Board of Commissioners**.

The Lowell Housing Authority Board of Commissioners are elected in accordance with state housing law

and generally serve in the same capacity as the directors of a corporation, establishing policies under which the PHA conducts business, ensuring that policies are followed by PHA staff and ensuring that the PHA is successful in its mission. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability. The LRPB program is administered by the Lowell Housing Authority.

Formal actions of the LHA are taken through written resolutions, adopted by the board of commissioners and entered into the official records of the LHA.

The principal staff member of the LHA is the Executive Director hired and appointed by the board of commissioners. The Executive Director is directly responsible for carrying out the policies established by the commissioners and is delegated the responsibility for hiring, training and supervising the remainder of the LHA's staff in order to manage the day-to-day operations of the LHA to ensure compliance with federal and state laws and directives for the programs managed. In addition, the Executive Director's duties include budgeting and financial planning for the agency.

#### **1.D. PHA MISSION**

##### LHA Policy

*The mission of the Lowell Housing Authority is to explore the development of new programs and to continue to improve the quality of existing programs to meet the affordable housing needs and improve the quality of life for Lowell residents.*

#### **1.E. THE PHA'S PROGRAMS**

The PHA's administrative plan is applicable to the operation of the LRPB program.

#### **1.F. THE PHA'S COMMITMENT TO ETHICS AND SERVICE**

##### LHA Policy

*As a public service agency, the LHA is committed to providing excellent service to LRPB program tenants in the community. The LHA's standards include:*

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.*
- Provide decent, safe, and sanitary housing - in compliance with program housing quality standards - for very low income families while ensuring that family rents are fair, reasonable, and affordable.*
- Encourage self sufficiency of tenant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.*
- Promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.*

- *Promote a housing program which maintains quality service and integrity.*
- *Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.*
- *Administer an efficient, high-performing agency through continuous improvement of the LHA's support systems and commitment to our employees and their development.*

*The LHA will make every effort to keep tenants informed of LRPH program rules and regulations, and to advise tenants of how the program rules affect them.*

## **1.G. OVERVIEW AND HISTORY OF THE PROGRAM**

The United States Housing Act of 1937 (the “Act”) initiated federal housing program initiatives. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing developments for low-income residents. This Act has been amended several times, including in 1998 when the Quality Housing and Work Responsibility Act was passed.

## **1.H. LRPH PROGRAM BASICS**

The purpose of the LRPH program is to provide rental and homeownership assistance to eligible families. The rules and regulations of the program are determined by the U.S. Department of Housing and Urban Development. The PHA is afforded some choices in the operation of the program which are included in the PHA's administrative plan, a document approved by the board of commissioners of the PHA.

When a family is determined to be eligible for the program and units are available, the PHA invites a household to apply for housing. When the household is qualified under the LRPH rules for admission and a suitable housing unit is available, the PHA will enter into a lease with the family permitting occupancy.

Even though the family is determined to be eligible for the program, the PHA has the responsibility of approving the family as a suitable renter or homeowner for the program.

## **1.I. THE PARTNERSHIPS**

To administer the program, the PHA enters into a contractual relationship with HUD known as the Annual Contributions Contract [ACC]. The PHA also enters into contractual relationships with the assisted family and other third party service providers.

For the program to work and be successful, all parties involved – HUD, the PHA and the family – have important roles to play. The roles and responsibilities of all parties are defined in federal regulations and in legal documents that parties execute to participate in the program.

### **What does HUD do?**

HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement the LRPH program legislation passed by Congress;
- Allocate operating, capital and other program funds to PHAs;
- Provide technical assistance to PHAs on interpreting and applying program requirements;

- Monitor PHA compliance with program requirements and PHA performance in program administration.

### **What does the PHA do?**

The PHA administers the program under contract with HUD and has the following major responsibilities:

- Establish local policies;
- Review applications from interested applicant households to determine whether applicants are eligible for the program;
- Maintain waiting list and select households for admission;
- Approve the rental or homeownership unit (including assuring compliance with housing physical standards);
- Ensure that households continue to qualify under the program;
- Ensure that the PHA and households comply with program rules;
- Provide families with prompt, professional service;
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the PHA's administrative plan and other applicable federal, state and local laws.

### **What does the PHA as the Owner and the Manager (including if a third party contract manager is engaged) do?**

The manager has the following major responsibilities:

- Screen families who apply for tenancy, to determine if they will be good renters.
  - The manager should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.
- Comply with the terms of the ACC;
- Comply with all applicable fair housing laws and discriminate against no one;
- Maintain the housing unit by making necessary repairs in a timely manner;
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

### **What does the Family do?**

The family has the following responsibilities:

- Provide the PHA with complete and accurate information, determined by the PHA to be necessary for administration of the program;
- Cooperate in attending all appointments scheduled by the PHA;
- Allow the PHA to inspect the unit at reasonable times and after reasonable notice;
- Take responsibility for care of the housing unit, including any violations of housing quality standards caused by the family;
- Comply with the terms of the lease;

- Comply with the family obligations of the lease;
- Not commit serious or repeated violations of the lease;
- Not engage in drug-related or violent criminal activity;
- Notify the PHA and the Manager before moving or terminating the lease;
- Use the unit only for residence and as the sole residence of the family. Not sublet the unit, assign the lease, or have any interest in the unit;
- Promptly notify the PHA of any changes in family composition, income or allowable expenses;
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled in an effective manner.

### **1.J. APPLICABLE REGULATIONS**

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 912, 913, 942 ,960 and 966

These may be found at <http://www.hud.gov/offices/pih/regs/fedreg.cfm>

### **1.K. OVERVIEW AND PURPOSE OF THE PLAN**

The administrative plan is required by HUD. The purpose of the administrative plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the PHA's agency plan. This administrative plan is a supporting document to the PHA agency plan, and is available for public review as required .

This administrative plan is set forth to define the PHA's local policies for operation of the housing programs in the context of federal laws and regulations. All issues related to LRPH not addressed in this document are governed by such federal regulations, HUD handbooks and guidebooks, notices and other applicable law. The policies in this administrative plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

The PHA is responsible for complying with all changes in HUD regulations pertaining to the program. If such changes conflict with this plan, HUD regulations will have precedence.

Administration of the LRPH program and the functions and responsibilities of PHA staff shall be in compliance with the PHA's personnel policy and HUD's regulations as well as all federal, state and local fair housing laws and regulations.

### **1.L. CONTENTS OF THE PLAN**

HUD regulations contain a list of what must be included in the administrative plan. This PHA administrative plan covers PHA policies on these subjects.

A primary focus of HUD's Rental Integrity Monitoring (RIM) and PHAS programs is consistency – consistency in how PHAs conduct their business and in how HUD monitors PHA activities. HUD expects

that all staff will be consistent in the procedures they follow and the calculations they make and that their actions will be consistent with the PHA's administrative plan.

HUD makes a distinction between:

- Mandatory policies: those driven by legislation, regulations, current handbooks, notices, and legal opinions, and
- Optional, non-binding guidance, including guidebooks, notices that have expired and recommendations from individual HUD staff.

The Lowell Housing Authority has developed its policies and procedures to be consistent with HUD's mandatory policies and to make clear which are the optional policies the PHA has adopted.

In many cases the PHA has developed procedures which implement policies and which are not included in this Administrative Plan but which the Lowell Housing Authority believes are consistent with and accomplish the intention of those policies.

### **1.M. UPDATING AND REVISING THE PLAN**

The PHA will revise this administrative plan as needed to comply with changes in HUD regulations. The original plan and any changes must be approved by the board of commissioners of the agency, the pertinent sections included in and provided to HUD through the PHA Plan, a separate document and required by HUD on an annual basis 75 days prior to the end of the PHA's fiscal year.

#### LHA Policy

*The LHA will review and update the plan at least once a year and more often if needed, to reflect changes in regulations, LHA operations, or when needed to ensure staff consistency in operation. Such changes will be included in the PHA Plan.*

## **CHAPTER 2: FAIR HOUSING AND EQUAL OPPORTUNITY**

### **INTRODUCTION**

This chapter explains the laws and HUD regulations requiring PHAs to affirmatively further civil rights and fair housing in all federally-assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes. The responsibility to further nondiscrimination pertains to all areas of the PHA's housing operations.

### **2.A. OVERVIEW**

Federal laws require PHAs to treat all applicants and tenants equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. The PHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- When more than one civil rights law applies to a situation, the laws will be read and applied together.
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

### **2.B. NONDISCRIMINATION**

Federal regulations prohibit discrimination against certain protected classes. State and local requirements, as well as PHA policies, can prohibit discrimination against additional classes of people.

The PHA shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called "protected classes")

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

#### *LHA Policy*

*The LHA will not discriminate on the basis of marital status or sexual orientation.*

The PHA will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the housing choice voucher program
- Provide housing that is different from that provided to others

- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or tenant toward or away from a particular area based any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class.

### **Providing Information to Families and Managers**

The PHA must take steps to ensure that families and managers are fully aware of all applicable civil rights laws. As part of the briefing process, the PHA must provide information to applicant families about civil rights requirements . The PHA informs staff and managers of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with the lease.

### **Discrimination Complaints**

If an applicant or tenant believes that any family member has been discriminated against by the PHA or a manager, the family should advise the PHA. HUD requires the PHA to make every reasonable attempt to determine whether the applicant's or tenant's assertions have merit and take any warranted corrective action. In addition, the PHA is required to provide the applicant or tenant with information about how to file a discrimination complaint.

#### *LHA Policy*

*Applicants or tenants who believe that they have been subject to unlawful discrimination may notify the LHA in writing.*

*The LHA will attempt to remedy discrimination complaints made against the LHA.*

*The LHA will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).*

## **2.C. OVERVIEW OF DISABILITIES POLICIES**

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

The PHA must ensure that persons with disabilities have full access to the PHA's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the program.



#### LHA Policy

*The LHA will ask all applicants and tenants if they require any type of accommodations, in writing, on the intake application by including the following language:*

*"If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the housing office."*

### **2.D. DEFINITION OF REASONABLE ACCOMMODATION**

A person with a disability may require special accommodations in order to have equal access to the program. The types of reasonable accommodations the PHA can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service.

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the PHA, or result in a "fundamental alteration" in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

#### **Types of Reasonable Accommodations**

When needed, the PHA must modify normal procedures to accommodate the needs of a person with disabilities. Examples include:

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with PHA staff
- Displaying posters and other housing information in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair

### **2.E. REQUEST FOR AN ACCOMMODATION**

If an applicant or tenant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the PHA treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The family must explain what type of accommodation is needed to provide the person with the disability full access to the PHA's programs and services.

If the need for the accommodation is not readily apparent or known to the PHA, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability.

#### LHA Policy

*The LHA will encourage the family to make its request in writing using a reasonable accommodation request form.*

*If the provision of equipment such as air conditioners or other modifications would result in a violation of HUD UPCS but not of the State building and health codes, 'reasonable accommodation' shall prevail, not UPCS.*

## **2.F. VERIFICATION OF DISABILITY**

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

Before providing an accommodation, the PHA must determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family's access to the PHA's programs and services.

If a person's disability is obvious, or otherwise known to the PHA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the PHA, the PHA must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, the PHA will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]
- The PHA must request only information that is necessary to evaluate the disability-related need for the accommodation. The PHA will not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the tenant file.

## **2.G. APPROVAL/DENIAL OF REQUESTED ACCOMMODATION**

[Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The PHA must approve a request for an accommodation if the following three conditions are met:

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the PHA, or fundamentally alter the nature of the PHA's operations (including the obligation to comply with HUD requirements and regulations).

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the cost of the requested accommodation, the financial resources of the PHA at the time of the request, the benefits that the accommodation would provide to the family, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

Before making a determination whether to approve the request, the PHA may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a

consent form so that the PHA may verify the need for the requested accommodation.

#### LHA Policy

*After a request for an accommodation is presented, the LHA will respond, in writing, within 10 business days.*

*If the LHA denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of the LHA's operations), the LHA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the LRP program and without imposing an undue financial and administrative burden.*

*If the LHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the LHA will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family.*

## **2.H. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS**

HUD regulations require the PHA to ensure that persons with disabilities related to hearing and vision have reasonable access to the PHA's programs and services [24 CFR 8.6].

At the initial point of contact with each applicant, the PHA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

#### LHA Policy

*To meet the needs of persons with hearing impairments the LHA has established a TDD telephone number to address all program related inquiries.*

*Additionally, a third party representative (a friend, relative or advocate, named by the applicant) will be permitted to receive, interpret and explain housing materials and be present at all meetings.*

## **2.I. PHYSICAL ACCESSIBILITY**

The PHA must comply with a variety of regulations pertaining to physical accessibility, including the following:

- PIH 2002-01 (HA), Accessibility Notice
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

The PHA's policies concerning physical accessibility must be readily available to applicants and tenants. They can be found in three key documents:

- This plan describes the key policies that govern the PHA's responsibilities with regard to physical

accessibility.

- Notice PIH 2002-01(HA) Accessibility Notice (which must be posted in the HCV offices in a conspicuous place) summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.
- The PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of PHA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Newly-constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the program.

## **2.J. DENIAL OR TERMINATION OF ASSISTANCE**

A PHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation.

When applicants with disabilities are denied assistance, the notice of denial must inform them of the PHA's informal review process and their right to request a hearing. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal hearing process.

When a tenant family's assistance is terminated, the notice of termination must inform them of the PHA's informal hearing process and their right to request a hearing and reasonable accommodation.

When reviewing reasonable accommodation requests, the PHA must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to the PHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the PHA must make the accommodation.

## **2.K. OVERVIEW OF LEP**

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal Register*.

The PHA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this administrative plan, LEP persons are housing applicants and tenants and parents and family members of applicants and tenants.

In order to determine the level of access needed by LEP persons, the PHA will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the PHA and costs. Balancing these four factors will ensure meaningful

access by LEP persons to critical services while not imposing undue burdens on the PHA.

LHA Policy

*See Appendix F*

## **2.L. ORAL INTERPRETATION**

In a courtroom, a hearing, or situations in which health, safety, or access to important benefits and services are at stake, the PHA will generally offer, or ensure that the family is offered through other sources, competent services free of charge to the LEP person.

LHA Policy

*The LHA has hired and trained bilingual staff to be available to act as interpreters and translators. The LHA has staff members who are fluent in Spanish, Khmer and Portuguese. Where feasible and possible, the LHA will encourage the use of qualified community volunteers.*

*Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to any language services offered by the LHA. The interpreter may be a family member or friend.*

## **2.M. WRITTEN TRANSLATION**

Translation is the replacement of a written text from one language into an equivalent written text in another language.

LHA Policy

*In order to comply with written-translation obligations, the LHA will provide written translations of vital documents for each eligible LEP language group which constitutes 25 percent or 1,000 persons, as needed. Translation of other documents, if needed, can be provided orally; or the LHA will explore the coordination of translation services with area community service groups in order to meet program requirements.*

## **2.N. IMPLEMENTATION PLAN**

After completing the four-factor analysis and deciding what language assistance services are appropriate, the PHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If the PHA determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to the PHA's program and services.

LHA Policy

*The LHA has adopted a written LEP Plan (See Appendix F). Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into any revision of the written plan.*

*In developing revisions to the written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance*

*measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.*

A person with a disability, as defined under federal civil rights laws, is any person who:

- Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or
- Has a record of such impairment, or
- Is regarded as having such impairment

The phrase “physical or mental impairment” includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

“Major life activities” includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

“Has a record of such impairment” means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major live activities.

“Is regarded as having an impairment” is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as the PHA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

**The definition of a person with disabilities does not include:**

- **Current illegal drug users**
- **People whose alcohol use interferes with the rights of others**
- **Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the LRPH program**

The above definition of disability determines whether an applicant or tenant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the \$400 elderly/disabled household deduction, the \$480 dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the LRPH program, yet an accommodation is needed to provide equal opportunity.

## **CHAPTER 3: ELIGIBILITY**

### **INTRODUCTION**

The PHA is responsible for ensuring that every individual and family admitted to the LRPH program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by the PHA to confirm eligibility and determine the level of the family's assistance.

To be eligible for the LRPH program:

- The applicant family must:
  - Qualify as a family as defined by HUD and the PHA.
  - Have income at or below HUD-specified income limits.
  - Qualify on the basis of citizenship or the eligible immigrant status of family members.
  - Provide social security number information for family members as required.
  - Consent to the PHA's collection and use of family information as provided for in PHA-provided consent forms.
- The PHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the PHA.

### **3.A. OVERVIEW**

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the assisted unit. This part provides information that is needed to correctly identify family and household members, and to apply HUD's eligibility rules.

### **3.B. FAMILY AND HOUSEHOLD**

The terms *family* and *household* have different meanings in the LRPH program.

#### **Family**

To be eligible for assistance, an applicant must qualify as a family. *Family* is defined by HUD as a single person or a group of persons, a family with a child or children, two or more elderly or disabled persons living together, and one or more elderly or disabled persons, with one or more live-in aides. The PHA has the discretion to determine if any other group of persons qualifies as a family.

#### *LHA Policy*

*Each family must identify the individuals to be included in the family at the time of application and must update this information if the family's composition changes.*

*To qualify as a family when proposed family members are not related by blood, marriage, adoption, or other operation of law, the LHA will require applicants to certify that each individual's income and other resources will be available to meet the needs of the family.*

#### **Household**

*Household* is a broader term that includes additional people who, with the PHA's permission, live in a unit, such as live-in aides, foster children, and foster adults.

### **3.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY**

#### **Family Break-up**

The PHA has discretion to determine which members of a family continue to receive assistance if the

family breaks up. However, if a court determines the disposition of property between members of the assisted family in a divorce or separation decree, the PHA is bound by the court's determination of which family members continue to receive assistance.

#### LHA Policy

*When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.*

*If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.*

*In the absence of a judicial decision, or an agreement among the original family members, the LHA will determine which family retains their placement on the waiting list, or will continue to receive assistance taking into consideration the following factors: (1) the interest of any minor children, including custody arrangements, (2) the interest of any ill, elderly, or disabled family members, (3) any possible risks to family members as a result of domestic violence or criminal activity, and (4) the recommendations of social service professionals.*

#### **Remaining Member of a Tenant Family [24 CFR 5.403]**

The HUD definition of family includes the *remaining member of a tenant family*, which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

If dependents are the only “remaining members of a tenant family” and there is no family member able to assume the responsibilities of the head of household, see Chapter 6 for the policy on “Caretakers for a Child.”

#### **3.D. HEAD OF HOUSEHOLD [24 CFR 5.504(b)]**

*Head of household* means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a co-head or spouse.

#### LHA Policy

*The family may designate any qualified family member as the head of household.*

*The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.*

#### **3.E. SPOUSE, CO-HEAD, AND OTHER ADULT**

A family may have a spouse or co-head, but not both [HUD-50058 IB, p. 13].

*Spouse* means the marriage partner of the head of household.

#### LHA Policy

*A marriage partner includes the partner in a "common law" marriage as defined in state law. The term "spouse" does not*



*apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.*

A *co-head* is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one co-head.

*LHA Policy*

*Minors who are emancipated under state law may be designated as a co-head.*

*Other adult* means a family member, other than the head, spouse, or co-head, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.

**3.F. DEPENDENT [24 CFR 5.603]**

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, co-head, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

**Joint Custody of Dependents**

*LHA Policy*

*Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or tenant family 50 percent or more of the time.*

*When more than one applicant or tenant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the PHA will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.*

**3.G. FULL-TIME STUDENT [24 CFR 5.603]**

A full-time student (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution. [See Chapter 7 also on Verification].

Identifying each FTS is important because (1) each family member that is an FTS, other than the head, spouse, or co-head, qualifies the family for a dependent deduction and (2) the income of such an FTS is treated differently from the income of other family members.

**3.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100 and 5.403]**

**Elderly Persons**

An *elderly person* is a person who is at least 62 years of age.

**Near-Elderly Persons**

A *near-elderly person* is a person who is at least 50 years of age but below the age of 62.

### **Elderly Family**

An *elderly family* is one in which the head, spouse, co-head, or sole member is an elderly person. Identifying elderly families is important because these families qualify for special deductions from income as described in Chapter 6.

### **3.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403]**

#### **Persons with Disabilities**

Under the LRPH program, special rules apply to persons with disabilities and to any family whose head, spouse, or co-head is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

As discussed in Chapter 2, the PHA must make all aspects of the LRPH program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

#### **Disabled Family**

A *disabled family* is one in which the head, spouse, or co-head is a person with disabilities. Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 6.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent the PHA from denying assistance for reasons related to alcohol and drug abuse following policies found in Part III of this chapter, or from terminating assistance following the policies in Chapter 12.

### **3.J. GUESTS [24 CFR 5.100]**

A *guest* is a person temporarily staying in the unit with the consent of a member of the household who has express or implied authority to so consent.

#### LHA Policy

*A guest can remain in the assisted unit no longer than 21 consecutive days or a total of 21 cumulative calendar days during any 12 month period.*

*Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than 50 percent of the time, are not subject to the time limitations of guests as described above.*

*A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 40 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.*

### **3.K. FOSTER CHILDREN AND FOSTER ADULTS**

*Foster adults* are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609].

The term *foster child* is not specifically defined by the regulations.

Foster children and foster adults that are living with an applicant or assisted family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603 and HUD-50058 IB, p. 13].

#### LHA Policy

*A foster child is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.*

*A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of LRP space standards according to 24 CFR 982.401.*

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3.I.L.

### **3.I. ABSENT FAMILY MEMBERS**

Individuals may be absent from the family, either temporarily or permanently, for a variety of reasons including educational activities, placement in foster care, employment, illness, incarceration, and court order.

#### **Definitions of Temporarily and Permanently Absent**

##### LHA Policy

*Generally an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.*

#### **Absent Members of the Military**

##### LHA Policy

*When someone who has been considered a family member and is an active member of the military and is away from home, the person will continue to be considered a family member unless information becomes available to the PHA indicating that the person has established a separate household or the family declares that the person has established a separate household.*

#### **Absent Students**

##### LHA Policy

*When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the LHA indicating that the student has established a separate household or the family declares that the student has established a separate household.*

### **Absences Due to Placement in Foster Care [24 CFR 5.403]**

Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

#### LHA Policy

*If a child has been placed in foster care, the PHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.*

### **Absent Head, Spouse, or Co-Head**

#### LHA Policy

*An employed head, spouse, or co-head absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.*

### **Family Members Permanently Confined for Medical Reasons**

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted.

#### LHA Policy

*The LHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.*

### **Return of Permanently Absent Family Members**

#### LHA Policy

*The family must request LHA approval for the return of any adult family members that the LHA has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter.*

### **3.M. LIVE-IN AIDE**

*Live-in aide* means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

The PHA must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by the family member with disabilities.

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations [24 CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

#### LHA Policy

*A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or*

case worker, that the live-in aide is essential and qualified for the care and well-being of the elderly, near-elderly, or disabled family member.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services. This will be required at admission and at re-examination. In addition, all live-in aides will be subject to the same admission screening as tenancy applicants and may be rejected as a result of such screening.

The LHA will not approve a particular person as a live-in aide, and may withdraw such approval if:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to the LHA or to another PHA in connection with housing choice voucher or public housing assistance under the 1937 Act.

Within 10 business days of receiving a request for a live-in aide, including all required documentation related to the request, the LHA will notify the family of its decision in writing.

### **3.N. INCOME ELIGIBILITY AND TARGETING**

#### **Income Limits**

HUD is required by law to set income limits that determine the eligibility of applicants for HUD's assisted housing programs. The income limits are published annually and are based on HUD estimates of median family income in a particular area or county, with adjustments for family size.

#### **Types of Low-Income Families**

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

*Very low-income family.* A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

*Extremely low-income family.* A family whose annual income does not exceed 30 percent of the median income for the area, adjusted for family size.

HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary.

#### **Using Income Limits for Eligibility**

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family must be one of the following:

- A *very low-income* family
- A *low-income* family that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the LRPH program.

*LHA Policy*

*The LHA will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were offered a unit by the LHA.*

- A low-income family which qualifies for assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173
- A low-income or moderate-income family which is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101

HUD permits the PHA to establish additional categories of low-income families which may be determined eligible. The additional categories must be consistent with the PHA plan and the consolidated plans for local governments within the PHA's jurisdiction.

*LHA Policy*

*The LHA has not established any additional categories of eligible low-income families.*

**Using Income Limits for Targeting**

At least 40% of the families admitted to the PHA's program during a PHA fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if the PHA demonstrates that it has made all required efforts, but has been unable to attract an adequate number of qualified extremely low-income families.

Families continuously assisted under the 1937 Housing Act and families living in eligible low-income housing which are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not subject to the 40 percent restriction.

**3.O. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]**

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or non-citizens that have eligible immigration status. At least one family member must be a citizen, national, or non-citizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with the PHA's Limited English Proficiency Plan [Appendix F], the notice must be in a language that is understood by the individual if the individual is not proficient in English.

**Declaration [24 CFR 5.508]**

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible non-citizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible non-citizens. For citizens, nationals and eligible non-citizens the declaration must be signed personally by the head, spouse, co-head, and any other family member 18 or older, and by a parent or guardian for minors. The family must

identify in writing any family members who elect not to contend their immigration status (see Ineligible Non-citizens below). No declaration is required for live-in aides, foster children, or foster adults.

### ***U.S. Citizens and Nationals***

In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit the PHA to request additional documentation of their status, such as a passport.

#### *LHA Policy*

*Family members who declare citizenship or national status will be required to provide additional documentation to prove citizenship.*

### ***Eligible Non-citizens***

In addition to providing a signed declaration, those declaring eligible non-citizen status must sign a verification consent form and cooperate with PHA efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible non-citizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

### ***Ineligible Non-citizens***

Those non-citizens who do not wish to contend their immigration status are required to have their names listed on a non-contending family members listing, signed by the head, spouse, or co-head (regardless of citizenship status), indicating their ineligible immigration status. The PHA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to non-citizen students is prohibited [24 CFR 5.522]. This prohibition extends to the non-citizen spouse of a non-citizen student as well as to minor children who accompany or follow to join the non-citizen student. Such prohibition does not extend to the citizen spouse of a non-citizen student or to the children of the citizen spouse and non-citizen student. Such a family is eligible for prorated assistance as a mixed family.

### ***Mixed Families***

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible non-citizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be prorated, and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 16 for a discussion of informal hearing procedures.

### ***Ineligible Families [24 CFR 5.514(d), (e), and (f)]***

A PHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the PHA that the individual or at least one family member is eligible [24 CFR 5.512(a)].



#### LHA Policy

*The LHA will not provide assistance to a family before the verification of at least one family member being eligible.*

*When the LHA determines that an applicant family does not include any citizens, nationals, or eligible non-citizens, during the verification process, the family will be sent a written notice within 10 business days of the determination.*

*The notice will explain the reasons for the denial of assistance, that the family may be eligible for pro-ration of assistance, and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the LHA. The informal hearing with the PHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.*

*Informal hearing procedures are contained in Chapter 16 and Appendix B.*

#### **Timeframe for Determination of Citizenship Status [24 CFR 5.508(g)]**

For new occupants joining the assisted family the PHA must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, the PHA must grant such an extension for no more than 30 days [24 CFR 5.508(h)].

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

#### LHA Policy

*The LHA will verify the status of applicants at the time other eligibility factors are determined.*

#### **3.P. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218]**

For every family member age 6 or older the family must provide documentation of a valid Social Security Number (SSN) or a certification stating that no SSN has been issued. If a family member who is required to execute a certification is less than 18 years old, the certification must be executed by the individual's parent or guardian [24 CFR 5.216(j)]. Assistance cannot be provided to a family until all SSN documentation requirements are met. A detailed discussion of acceptable documentation is provided in Chapter 7.

If a new member who is at least six years of age is added to the family, the new member's SSN documentation must be submitted at the family's next interim or regular reexamination, whichever comes first. If any member of the family who is at least six years of age obtains a previously undisclosed SSN, or has been assigned a new SSN, the documentation must be submitted at the family's next regularly scheduled reexamination.

The PHA must deny assistance to an applicant family if they do not meet the SSN disclosure, documentation and verification, and certification requirements contained in 24 CFR 5.216.



### **3.Q. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230]**

HUD requires each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign form HUD-9886, Authorization for the Release of Information.

Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

The PHA must deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F.

### **3.R. OVERVIEW DENIAL OF ASSISTANCE**

A family that does not meet the following eligibility criteria discussed above, must be denied assistance. In addition, HUD requires or permits the PHA to deny assistance based on certain types of current or past behaviors of family members.

#### **Forms of Denial**

Denial of assistance includes any of the following:

- Not placing the family's name on the waiting list,
- Denying or withdrawing a unit offer,
- Not approving a request for tenancy

#### **Prohibited Reasons for Denial of Assistance**

HUD rules prohibit denial of assistance to the program based on any of the following criteria:

- Age, disability, race, color, religion, sex, or national origin. (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the PHA's jurisdiction
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in a family self-sufficiency program

### **3.S. MANDATORY DENIAL OF ASSISTANCE**

HUD requires the PHA to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. HUD permits but does not require the PHA to admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).

#### **LHA Policy**

*The LHA may admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if the LHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the LHA, or the person who committed the crime, is no longer living in the household.*

- The PHA determines that any household member is currently engaged in the use of illegal drugs.

LHA Policy

*Currently engaged in is defined as any use of illegal drugs during the previous twelve (12) months.*

- The PHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

LHA Policy

*In determining reasonable cause, the LHA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol.*

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program

### **3.T. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE**

HUD permits, but does not require the PHA to deny assistance for the reasons discussed in this section.

#### **Criminal Activity**

HUD permits, but does not require, the PHA to deny tenancy if the PHA determines that any household member is currently engaged in, or has engaged in during a reasonable time before the family would receive admission to housing, certain types of criminal activity.

LHA Policy

*If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past five years, the family will be denied tenancy.*

- Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].
- Violent criminal activity, defined by HUD as 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 [24 CFR 5.100].
- Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or
- Criminal activity that may threaten the health or safety of property owners and management staff, and persons performing contract administration functions or other responsibilities on behalf of the LHA (including a LHA employee or a LHA contractor, subcontractor, or agent).

Immediate vicinity means within a three-block radius of the premises.

*Evidence of such criminal activity includes, but is not limited to:*

- Conviction for drug-related or violent criminal activity within the past 10 years.*
- Any arrests for drug-related or violent criminal activity within the past 10 years.*
- Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 5 years.*

*In making its decision to deny assistance, the LHA will consider the factors discussed in Section 3.III.E. Upon consideration of such factors, the LHA may, on a case-by-case basis, decide not to deny assistance.*

### **Criminal Records**

Before a PHA denies admission to the PHAs public housing program on the basis of a criminal record, the PHA must notify the household of the proposed action to be based on the information and must provide the subject of the record and the applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record. The PHA may not pass along to the applicant the costs of a criminal records check.

#### *LHA Policy*

*See Appendix G "Criminal Offender Record Information Policy"*

### **3.U. SCREENING OF APPLICANTS**

#### **Previous Behavior in Assisted Housing**

HUD authorizes the PHA to deny assistance based on the family's previous behavior in assisted housing:

#### *LHA Policy*

*The LHA **will not** deny assistance to an otherwise eligible family because the family previously failed to meet its obligations under a Family Self-Sufficiency (FSS) program or the Welfare to Work program.*

*The LHA **will deny** assistance to an applicant family if:*

- The family does not provide information which the LHA or HUD determines is necessary in the administration of the program.*
- The family does not provide complete and true information to the LHA.*
- Any family member has been evicted from federally-assisted housing in the last three years.*
- Any LHA has ever terminated assistance under the program for any member of the family.*
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.*

- The family owes rent or other amounts to any LHA in connection with the HCV, Certificate, Moderate Rehabilitation or Public Housing programs, unless the family repays the full amount of the debt prior to being selected from the waiting list.
- If the family has not reimbursed any PHA or the LHA for amounts the PHA or the LHA paid to an owner under a HAP contract for rent, or damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.
- The family has breached the terms of a repayment agreement entered into with the LHA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.
- A family member has engaged in or threatened violent or abusive behavior toward LHA personnel.

Abusive or violent behavior towards PHA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to deny assistance, the LHA will consider the factors discussed in Section 3.III.E. Upon consideration of such factors, the LHA may, on a case-by-case basis, decide not to deny assistance.

### **Screening for Eligibility**

PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the LRPH program. This authority assists the PHA in complying with HUD requirements and PHA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records the PHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

PHAs are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided.

If the PHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission. [24 CFR 5.903(f) and 5.905(d)].

#### LHA Policy

*The LHA will conduct CORI screening to determine an applicant family's criminal history as per policy in Appendix G.*

## **Screening for Suitability as a Tenant**

The PHA may opt to conduct additional screening to determine whether an applicant is likely to be a suitable tenant. The PHA is responsible for screening and selection of the family to occupy the authority's unit. The PHA may consider a family's history with respect to factors such as: payment of rent and utilities, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

### LHA Policy

The LHA will conduct additional screening to determine an applicant family's suitability for tenancy. It is the LHA's policy that all applicants being admitted to the LRPH program should be screened in accordance with HUD's regulations (24 CFR Part 960) and sound management practices. During screening the LHA will require applicants to demonstrate ability to comply with essential provisions of the lease as summarized below.

Note that screening for placement on the waiting list and for preferences on that list, is limited to basic eligibility such as income, citizenship, residential location, job status, disability, family composition and criminal history. **The more detailed screening policy outlined below is utilized at the time a household on the waiting list is being invited for admission to occupancy.**

#### 1. All applicants must demonstrate through an assessment of current and past behavior the ability:

- to pay rent and other charges as required by the lease in a timely manner;
- to care for and avoid damaging the unit and common areas;
- to use facilities and equipment in a reasonable way;
- to create no health, or safety hazards, and to report maintenance needs;
- not to interfere with the rights and peaceful enjoyment of others, and to avoid damaging the property of others;
- not to engage in criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents or staff; and not to engage in drug-related criminal activity on or near LHA premises;
- to comply with necessary and reasonable rules and program of HUD and the LHA; and,
- to comply with health and safety codes.

#### 2. How the LHA will check ability to comply with essential lease requirements:

Information to be considered in completing applicant screening shall be reasonably related to assessing the conduct of the applicant and other family members listed on the application, in present and prior housing. The history of applicant conduct and

behavior must demonstrate that the applicant family can reasonably be expected not to:

- a. Interfere with other residents in such a manner as to diminish their peaceful enjoyment of the premises by adversely affecting their health, safety, or welfare;
- b. Adversely affect the physical environment or financial stability of the project;
- c. Violate the terms and conditions of the lease;
- d. Require services from LHA staff that would alter the fundamental nature of the LHA's program.
- e. The LHA will conduct a detailed interview of all applicants using an interview checklist. The form will ask questions based on the essential elements of tenancy. Answers will be subject to third party verification.
- f. The LHA will complete a credit check and a rental history check on all applicants.
- g. Payment of funds owed to the LHA is part of the screening evaluation. Payment of outstanding balances is an opportunity for the applicant to demonstrate an improved track record. The LHA will consider any past balances owed the LHA by the applicant for any program that the LHA operates. The LHA expects these balances to be paid in full (either in a lump sum or over time) before initiating the full screening process. The LHA will not admit families who owe back balances.
- h. The LHA will complete a criminal background check on all applicants including other adult members in the household or any member for which criminal records are available.
- i. The LHA may conduct a home visit on an applicant, if from references and other information, the LHA deems such a visit necessary. The purpose of such a home visit is to confirm information supplied by the applicant and gleaned from references, in determining the applicant's compliance with screening criteria. All applicants shall have at least two days' advance written notice of a home visit. Prior lease compliance criteria will be checked, such as:
  - Evidence of destruction of property
  - Unauthorized occupants
  - Evidence of criminal activity
  - Conditions inconsistent with application information
- j. The LHA's examination of relevant information respecting past and current habits or practices will include contact with the previous two landlords to determine prior tenant performance in terms of lease responsibilities. In addition it will include but is not limited to, an assessment of:

- The applicant's past performance in meeting financial obligations, especially rent.
- A record of disturbance of neighbors (disturbances sufficient to warrant a police call) destruction of property, or living or housekeeping habits at present or prior residences which may adversely affect the health, safety, or welfare of other tenants or neighbors.
- Any history of criminal activity on the part of any applicant family member involving crimes of physical violence to persons or property and other criminal acts including drug-related criminal activity which would adversely affect the health, safety, or welfare of other residents or staff or cause damage to the unit or the development.
- A record of eviction from assisted housing within three years for drug related criminal activity.
- The applicant or any applicant family member has been determined to be illegally using a controlled substance or involuntary termination from residential programs (taking into account date and circumstances)

An applicant's intentional misrepresentation of any information related to eligibility, award of preference for admission, housing history, allowances, family composition or rent will result in rejection.

Applicants must be able to demonstrate the ability and willingness to comply with the terms of LHA's lease, either alone or with assistance which they can demonstrate that they have or will have at the time of admission. Availability of assistance is subject to verification by LHA.

### 3. Screening applicants who claim mitigating circumstances

If unfavorable information is received about an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct and to factors that might indicate a reasonable probability of favorable future conduct. To be factored into the LHA's screening assessment of the applicant, it must be possible to verify, mitigating circumstances.

Mitigating circumstances' are facts relating to the applicant's record of unsuitable rental history or behavior, which, when verified, would indicate both: (1) the reason for the unsuitable rental history and/or behavior; and (2) that the reason for the unsuitable rental history and behavior is no longer in effect or is under control, AND applicant's prospect for lease compliance is an acceptable one, justifying admission. Mitigating circumstances would overcome or outweigh information already gathered in the screening process.

If the mitigating circumstances claimed by the applicant relate to a change in disability, medical condition or course of treatment, LHA shall have the right to refer such information to



persons qualified to evaluate the evidence and verify the mitigating circumstance. LHA shall also have the right to request further information reasonably needed to verify the mitigating circumstance, even if such information is of a medically confidential nature. Such inquiries will be limited to the information necessary to verify the mitigating circumstances or, in the case of a person with disabilities, to verify a reasonable accommodation.

Examples of mitigating circumstances might include:

- Evidence of successful rehabilitation;
- Evidence of the applicant family's participation in social service or other appropriate counseling service.
- Evidence of successful and sustained modification of previous disqualifying behavior.

Consideration of mitigating circumstances does not guarantee that applicant will qualify for admission. The LHA will consider such circumstances in light of:

- the applicant's ability to substantiate through verification the claim of mitigating circumstances and his/her prospects for improved future behavior; and
- the applicant's overall performance with respect to all the screening requirements; and,
- the nature and seriousness of any criminal activity, especially drug related criminal activity that appears in the applicant's record.

#### 4. Qualified and Unqualified Applicants

Verified information will be analyzed and a determination made with respect to:

- Eligibility of the applicant as a family;
- Eligibility of the applicant with respect to income limits for admission;
- Eligibility of the applicant with respect to citizenship or eligible immigration status;
- Unit size required for the family;
- Preference category (if any) to which the family is entitled;
- Qualification of the applicant with respect to the applicant selection criteria.

Families determined to be qualified will be notified by the LHA of the approximate date of occupancy insofar as that date can be reasonably determined. Assistance to a family may not be delayed, denied or terminated on the basis of the family's ineligible immigration status unless and until the family completes all the verification and appeals processes to which



they are entitled under both INS and LHA procedures. The LHA will make every effort to accurately estimate an approximate date of occupancy. However, the date given by LHA does not mean that applicants should expect to be housed by, that date. The availability of a suitable unit to offer a family is contingent upon factors not directly controlled by the LHA, such as turnover rates and market demands as they affect bedroom sizes and project location.

Applicants determined unqualified for admission to the waiting list or later to occupancy will be promptly notified. These applicants will receive a Notice of Rejection from the LHA, stating the basis for such determination. The LHA shall provide such applicants with an opportunity for informal review of the determination as described in the procedure for informal reviews. The informal review for applicants should not be confused with the resident grievance process. Applicants are not entitled to use of the resident grievance process.

Applicants who are known to have a disability or handicap and have been determined eligible but who fail to meet the applicant selection criteria, will be offered an opportunity for a second meeting to have their cases examined to determine whether mitigating circumstances or reasonable accommodations will make it possible for them to be housed in accordance with the Screening Procedures.

### **3.V. CRITERIA FOR DECIDING TO DENY ASSISTANCE**

#### **Evidence**

##### LHA Policy

The LHA will use the concept of the preponderance of the evidence as the standard for making all admission decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

#### **Consideration of Circumstances [24 CFR 982.552(c)(2)]**

HUD authorizes the PHA to consider all relevant circumstances when deciding whether to deny assistance based on a family's past history except in the situations for which denial of assistance is mandated (see Section 3.III.B).

##### LHA Policy

The LHA will consider the following factors when making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents.

- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities.
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future.
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.

The PHA will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program approved by the LHA, or evidence of otherwise having been rehabilitated successfully.

### **Removal of a Family Member's Name from the Application**

HUD permits PHAs to impose as a condition of admission, a requirement that family members who participated in or were culpable for an action or failure to act which results in the denial of assistance, to not reside in the unit.

#### LHA Policy

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the assisted unit.

After admission to the program, the family must present evidence of the former family member's current address upon the LHA request.

### **Reasonable Accommodation**

If the family includes a person with disabilities, the PHA's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

#### PHA Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, the LHA will determine whether the behavior is related to the disability. If so, upon the family's request, the LHA will determine whether alternative measures are appropriate as a reasonable accommodation. The LHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance. See Chapter 2 and Appendix I for a discussion of reasonable accommodation.

### **3.W. NOTICE OF ELIGIBILITY OR DENIAL**

#### **Eligible for Assistance**

If the family is eligible for assistance, the PHA will notify the family when it extends the invitation to attend the briefing appointment, as discussed in Chapter 5.

If the PHA determines that a family is not eligible for the program for any reason, the family must be notified promptly. The notice must describe (1) the reasons for which assistance has been denied (2) the family's right to an informal review, and (3) the process for obtaining the informal review.. See Chapter 16, for informal review policies and procedures.

If a criminal record is the basis of the denial, a copy of the record must accompany the notice. In addition, a copy of the criminal record must be provided to the subject of the record.

Notice requirements related to denying assistance to non-citizens are contained in Section 3.II.B.

#### LHA Policy

*The family will be notified of a decision to deny assistance in writing within 10 business days of the determination.*

## **EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES**

### **Person with Disabilities [24 CFR 5.403]**

The term *person with disabilities* means a person who has any of the following types of conditions:

Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; *or*

In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C.6001(8)], which defines developmental disability in functional terms as:

- A severe, chronic disability of a person 5 years of age or older which:
- Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- Is manifested before the person attains age twenty-two;
- Is likely to continue indefinitely;
- Results in substantial functional limitations in three or more of the following areas of major life activity:

(i) self-care, (ii) receptive and responsive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; *and*

- Reflects the person’s need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated; except that such term, when applied to infants and young children, means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.”

Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps.

### **Individual with Handicaps [24 CFR 8.3]**

*Individual with handicaps* means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such

an impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

- (1) Physical or mental impairment includes:
  - (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
  - (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.
- (2) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- (3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
- (4) *Is regarded as having an impairment* means:
  - (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;
  - (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
  - (c) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

## **CHAPTER 4: APPLICATIONS, WAITING LIST AND TENANT SELECTION**

### **INTRODUCTION**

When a family wishes to receive LRPH assistance, the family must submit an application which provides the PHA with the information needed to determine the family's eligibility. HUD requires the PHA to place all families that apply for assistance on a waiting list. When a LRPH unit becomes available, the PHA must select families from the waiting list in accordance with HUD requirements and PHA policies as stated in the administrative plan and the annual plan.

The PHA is required to adopt a clear approach to accepting applications, placing families on the waiting list, selecting families from the waiting list and must follow this approach consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the PHA to receive preferential treatment. Funding earmarked exclusively for families with particular characteristics may also alter the order in which families are served.

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that the PHA affirmatively further fair housing goals in the administration of the program. Adherence to the selection policies described in this chapter ensures that the PHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and PHA policies for taking applications, managing the waiting list and selecting families for LRPH. The policies outlined in this chapter are organized into three sections, as follows:

#### **4.A. APPLYING FOR LRPH**

Any family that wishes to receive LRPH assistance must apply for admission to the program. HUD permits the PHA to determine the format and content of applications, as well how such applications will be made available to interested families and how applications will be accepted by the PHA.

##### LHA Policy

*When accepting applications after opening the waiting list, the LHA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.*

*Families may obtain applications from the LHA's office when the waiting list is opened and according to the advertised procedures at that time. Families may apply for the Low Rent Public Housing Program during normal business hours at the following locations:*

*350 Moody Street, Lowell, MA*

*580 Chelmsford Street, Lowell, MA*

*198 South Street, Lowell, MA*

*21 Salem Street, Lowell MA*

*Completed applications may be returned to the LHA by mail, or submitted in person during normal business hours.*

*Additionally, the LHA has implemented a web based application process. At each location listed above, applications may be completed with the assistance of LHA staff or by utilizing private kiosks with computers in the office. Preliminary applications are also available on the LHA website ([www.lowellhousingauthority.org](http://www.lowellhousingauthority.org)) and can be accessed through the internet.*

*Upon the successful submission of a preliminary application, a confirmation number will be issued. Following this, an Entity I.D. number will be assigned to the family. This Entity I.D. number will then be utilized to make changes to or check the status of the pre-application. Pre-applications are available in English and Spanish.*

*All applications must be complete in order to be accepted by the LHA for processing. If an application is incomplete, the LHA will notify the family of the additional information required. Special accommodations will be made for persons with disabilities.*

#### **4.B. ACCESSIBILITY OF THE APPLICATION PROCESS**

##### **Elderly and Disabled Populations [24 CFR 8]**

The PHA must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard PHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). The PHA must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or the PHA must provide an alternate approach that provides full access to the application process. Chapter 2 provides a full discussion of the PHA's policies related to providing reasonable accommodations for people with disabilities.

##### **Limited English Proficiency**

PHAs are required to take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the PHA's policies related to ensuring access to people with limited English proficiency (LEP). [See Appendix F]

#### **4.C. PLACEMENT ON THE WAITING LIST**

The PHA must review each complete application received and make a preliminary assessment of the family's eligibility. The PHA must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations. Where the family is determined to be ineligible, the PHA must notify the family in writing. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list other than what preferences the family may qualify for and which would place the family in a different position other than date and time.

## **Ineligible for Placement on the Waiting List**

### LHA Policy

*If the LHA can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, the LHA will send written notification of the ineligibility determination within 10 business days of receiving a complete application. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review and explain the process for doing so (see Chapter 16).*

## **Eligible for Placement on the Waiting List**

### LHA Policy

*The LHA will send written notification of the preliminary eligibility determination. For web-based applications, a receipt, listing a confirmation number, will be issued to an applicant who submits a pre-application. Receipts can also be printed by those applying via the internet (LHA website), upon successful submission of the application.*

*Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list.*

*Applicants will be placed on the waiting list according to the date and time of receipt of the application or by lottery assignment and according to the preferences they are entitled to at that time.*

## **4.D. ORGANIZATION OF THE WAITING LIST**

The PHA's waiting list must be organized in such a manner to allow the PHA to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this plan.

The waiting list must contain the following information for each applicant listed:

- Applicant name;
- Family unit size;
- Date and time of application;
- Qualification for any local preference;
- Racial or ethnic designation of the head of household.

HUD requires the PHA to maintain a single waiting list for the LRPH program unless it serves more than one county or municipality or unless it has been approved for site based waiting lists. Such PHAs are permitted, but not required, to maintain a separate waiting list for each county or municipality served and for each development approved for a site based waiting list.

### LHA Policy

*The LHA will maintain a site-based waiting list for each development in the LRPH program. A household may choose to be placed on more than one waiting list.*



HUD directs that a family that applies for assistance must be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher or moderate rehabilitation program the PHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs. HUD permits, but does not require, that PHAs maintain a single merged waiting list for their public housing, HCV and other subsidized housing programs. A family's decision to apply for, receive, or refuse other housing assistance must not affect the family's placement on the waiting list, or any preferences for which the family may qualify.

LHA Policy

*The LHA will not merge the waiting lists with the waiting lists for any other program the LHA operates.*

#### **4.E. OPENING AND CLOSING THE WAITING LIST**

##### **Closing the Waiting List**

A PHA is permitted to close the waiting list if it has an adequate pool of families based on turnover rates. Alternatively, the PHA may elect to continue to accept applications only from certain categories of families that meet particular preferences or funding criteria.

LHA Policy

*The LHA will close the waiting list when the estimated waiting period for housing assistance for applicants on the list reaches 12 months for the most current applicants. Where the LHA has particular preferences or funding criteria which require a specific category of family, the LHA may elect to continue to accept applications from these applicants while closing the waiting list to others.*

##### **Reopening the Waiting List**

If the waiting list has been closed, it cannot be reopened until the PHA publishes a notice in local newspapers of general circulation, minority media, and other suitable media outlets. The notice must comply with HUD fair housing requirements and must specify who may apply, and where and when applications will be received.

LHA Policy

*The LHA will open the waiting list at such times when the Admissions Department and the Housing Operations Department mutually agree that the pool of applicants is insufficient to meet the general demand for units, the specific demand for a special program such as HOPE VI or specific regulatory and other requirements such as targeting and deconcentration. The LHA will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.*

*The LHA will give public notice by publishing the relevant information in suitable media outlets, including the Lowell Sun and El Mundo. The PHA will also utilize the services of the Lowell Telecommunications Network, if available.*

#### **4.F. FAMILY OUTREACH**

The PHA must conduct outreach as necessary to ensure that the PHA has a sufficient number of

applicants on the waiting list to use the resources it has been allotted.

Because HUD requires the PHA to serve a specified percentage of extremely low income families, the PHA may need to conduct special outreach to ensure that an adequate number of such families apply for assistance.

PHA outreach efforts must comply with fair housing requirements. This includes:

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets which reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

PHA outreach efforts must be designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low income population
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

#### LHA Policy

*The LHA will monitor the characteristics of the population being served and the characteristics of the population as a whole in the LHA's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.*

*In this respect, as the LHA uses site based waiting lists, it will conduct an independent audit of its development characteristics every three years and an annual demographic analysis as required by the PHA Plan regulations. This demographic analysis will monitor any trends which would result in uneven concentration of any racial and ethnic groups or other groups as defined under the Fair Housing Regulations governing the LRPH. Should there be a trend which might result in undue ethnic concentration in a development, the LHA will take remedial action in its marketing program.*

#### **4.G. REPORTING CHANGES IN FAMILY CIRCUMSTANCES**

##### LHA Policy

*While the family is on the waiting list, the family must immediately inform the LHA of changes in contact information, including current residence, mailing address, and phone number and any changes in claimed preferences. The changes must be submitted in writing.*

#### **4.H. UPDATING THE WAITING LIST**

HUD requires the PHA to establish policies to use when removing applicant names from the waiting list.

##### **Purging the Waiting List**

The decision to withdraw an applicant family which includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to a PHA request for

information or updates because of the family member's disability, the PHA must reinstate the applicant family to their former position on the waiting list.

#### LHA Policy

*The waiting list will be updated at least annually to ensure that all applicants and applicant information is current and timely.*

*To update the waiting list, the LHA will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the LHA has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.*

*The family's response must be in writing and may be delivered in person or by mail. Responses should be postmarked or received by the LHA not later than 15 business days from the date of the LHA letter.*

*If the family fails to respond within 15 business days, the family will be removed from the waiting list without further notice.*

*If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.*

*If the notice is returned by the post office with a forwarding address, the family is removed from the waiting list for failure to respond and is so notified if possible. The Division Director, may reinstate the family if s/he determines the lack of response was due to a LHA error, or to circumstances beyond the family's control.*

### **Removal from the Waiting List**

#### LHA Policy

*If at any time an applicant family is on the waiting list, the LHA determines that the family is not eligible for assistance (see Chapter 3) the family will be removed from the waiting list.*

*If a family is removed from the waiting list because the LHA has determined the family is not eligible for assistance, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review of the LHA's decision (see Chapter 16).*

### **4.I. SELECTION**

Families are selected from the waiting list according to the policies provided in this chapter.

### **4.J. SELECTION METHOD**

PHAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the PHA will use.

## Local Preferences

PHAs are permitted to establish local preferences, and to give priority to serving families which meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the PHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the PHA plan and the consolidated plan, and must be based on local housing needs and priorities which can be documented by generally accepted data sources.

### LHA Policy

*The need for public housing in Lowell exceeds the availability of funds for this purpose and a housing unit is a scarce resource which is in great demand. Housing is made available to those most in need and reflecting the priorities of the Lowell Housing Authority through the local preferences described below.*

### **Local Preferences**

- *Involuntarily displaced from a dwelling unit in the municipality of Lowell by natural disaster, by fire or by government action.*
- *Working head of household or working spouse (who has averaged 20 hours of work a week for at least six months), or a person 62 years old or older or a person unable to work because of the extent of their disability.*
- *A legal resident of Lowell or a person working in Lowell an average of 20 hours a week or more or a person with a job offer to work in Lowell with a minimum of 20 hours a week of work.*
- *A veteran as verified by the Department of Veteran Affairs or an individual who has served in any branch of the military and remains in active status*
- *Households which contribute to meeting household goals (broad range of incomes)*
- *Households which contribute to meeting income requirements (targeting)*
- *Residents required to move because of capital improvements.*
- *Residents of Julian Steele Apartments*

### **Ranking Preferences**

**Priority 1** Involuntarily displaced from a dwelling unit in the municipality of Lowell including victims of domestic violence who have been relocated as verified by police.

**Priority 2** Working head of household or working spouse, or person 62 years old or older or a person unable to work because of the extent of their disability.

**Priority 3** A legal resident of Lowell, or a person working in Lowell, or a person with a job offer to work in Lowell.

**Priority 4** A Veteran as verified by the Department of Veteran Affairs or an individual who has served in any branch of the military and remains in active status.

**Priority 5** Households which contribute to meeting income goals (broad range of incomes). Households which contribute to meeting income requirements (targeting). Residents required to move because of modernization. Residents of Julian Steele Apartments

Preferences are assigned using a weighting table below. Applicants may have multiple preferences. All preference selections are made using this weighting system and if applicants have the same weight, then lottery designation or date and time are used to select. For those without any preferences, selections are made by lottery designation or date and time of the application.

The weighting table is:

#	Preference	Weight
1	Involuntarily displaced from a dwelling unit in the municipality of Lowell by natural disaster, by fire, by unwarranted landlord action and by government action, including capital programs of the LHA.	200
2	Working head of household or working spouse, or a person 62 years old or older, or a person unable to work because of the extent of their disability	185
3	A legal resident of Lowell, or a person working in Lowell, or a person with a job offer to work in Lowell	130
4	A victim of domestic violence who has been relocated and as verified by the police	81
5	A veteran as verified by the Department of Veteran Affairs or an individual who has served in any branch of the military and remains in active status	4
Total Preference Points Possible		600

### Income Targeting Requirement

HUD requires that extremely low-income (ELI) families make up at least 40% of the families admitted to the LRPH program during the PHA's fiscal year. ELI families are those with annual incomes at or below 30% of the area median income. To ensure this requirement is met, a PHA may skip non-ELI families on the waiting list in order to select an ELI family. In addition, if the HCV program exceeds its minimum targeting requirement of 75% ELI admissions, the minimum LRPH targeting threshold may be reduced by the lesser of 10% of LRPH admissions for the fiscal year; 10% of admissions to the HCV program for the fiscal year; or the number of low income [>30% of AMI] families commencing occupation in the fiscal year in census tracts with a poverty rate greater than 29%.

In addition, the PHA must monitor its developments in terms of concentration of low income or high income residents. If a 'covered' development requires a deconcentration of either low income or high income families, the PHA may skip families on the waiting list in order to satisfy the deconcentration requirement.

#### LHA Policy

*The LHA will monitor progress in meeting the ELI requirement throughout the fiscal year. It should be noted that the Lowell Housing Authority reserves the right to skip applicants who are not Extremely Low Income (<30% of Median Income for the County)*

if and when it is apparent that the agency will not meet the minimum target of 40% of new voucher holders being Extremely Low Income for the agency's fiscal year. It may also skip families where a development has been determined to be 'concentrated' in order to either raise or lower the average household income of that development.

## **Order of Selection**

The PHA system of preferences may select families either according to the date and time of application, or by a random selection process, within preference groups.

### LHA Policy

In general, families will be selected from the waiting list ranked by preference and then by date and time. If families have the same date and time, then those families will be selected by a randomly generated order.

Subsequent to verification of the information provided in the full application, the LHA will group the applications into two tiers.

Tier 1 will include all applicants with incomes that do not exceed 30 % of median income for the Lowell area (NOTE: Families in this income category are termed Extremely Low-Income (ELI) families).

Tier 2 will include all applicants with incomes that exceed 30 % of median income but do not exceed 80 % of median income for the area (Such families are termed Low-Income Families).

Within each tier, families with local preferences will be listed first. Those preference-holders meeting the ranking preference described in this Chapter and then will be filled first by earliest date of pre-application (including lottery allocated dates and position), followed by preference-holders not meeting the ranking preference ordered by earliest date of pre-application (including lottery allocated dates and position).

In order to assure that the statutory income-targeting requirement that "not less than 40 % of the families admitted to a LHA's LRPH program during the LHA fiscal year from the LHA waiting list be ELI families", 4 of the initial 10 referrals to briefings shall be families on the waiting list who are Tier 1 families and 6 of the initial 10 referrals to briefings shall be Tier 2 families that are preference-holders. If there is not a sufficient number of Tier 2 preference-holders, one or more of the referrals which were to be initially Tier 2 families will Tier 1 preference-holders.

In addition, if the agency's deconcentration analysis indicates that there are any developments which require targeted selection of below average or above average income families then a further tiering of applications will be done.

Tier 3 will include all covered applicants whose incomes are less than 85% of the average income of all covered families.

*Tier 4 will include all covered applicants whose incomes are more than 115% of the average income of all covered families.*

*As units become available for any covered development under the deconcentration analysis, then in addition to the targeting tiers and procedures, skipping will be applied to admit only those applicants who are also in Tier 3 or Tier 4 as may be required.*

*The LHA's Executive Director may determine that the extreme urgency of need of a holder of a preference is such that a unit must be leased to that family immediately, without regard to dates of pre-application or tier. In such event, the LHA will document the reasons for selecting such*

#### **4.K. NOTIFICATION OF SELECTION**

When a family has been selected from the waiting list, the PHA must notify the family.

##### *LHA Policy*

*The LHA Admissions Office will notify the family by first class mail when it is selected from the waiting list. The notice will inform the family of the procedures which must be followed in terms of completing the selection process.*

*If a notification letter is returned to the LHA, the family will be removed from the waiting list. A notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any known alternate address.*

#### **4.L. THE SELECTION VERIFICATION PROCESS**

HUD recommends that the PHA obtain the information and documentation needed to make an eligibility determination through a private interview. Being invited to attend an interview does not constitute admission to the program.

Reasonable accommodation will be made for persons with disabilities who are unable to attend an interview due to their disability.

##### *LHA Policy*

*The family must provide the information by a specified date, necessary to establish the family's eligibility, its preference status and the appropriate accommodation, as well as completing required forms, providing required signatures and submitting required documentation.*

*Such information must be delivered in person or by certified mail to the admissions office within 10 business days of the issuance of the letter, which return date will be printed on the invitation to continue the admissions process.*

*If any materials are missing, the LHA will provide the family with a written list of items in person or by mail, which are to be submitted and a deadline no later than 5 business days following the original due date, by which they must be submitted. Failure to submit the missing documents by the due date will result in termination of the processing and removal from the*



*waiting list. These procedures are set forth in a document supplied by the LHA to the family upon notification of selection.*

#### **4.M. OCCUPANCY STANDARDS**

HUD guidelines require that LHA's establish reasonable occupancy standards for the determination of unit size. The Fair Housing Act prohibits HUD from directly or indirectly establishing national occupancy standards. Thus the standards used for the unit size are governed by the minimum unit size requirements of local habitation codes. The LHA does not determine who shares a bedroom/sleeping room, HUD states that a reasonable standard is 2 persons per bedroom but that a 1 person per bedroom standard is also reasonable. The LHA's subsidy standards for determining unit size shall be applied in a manner consistent with Fair Housing guidelines.

##### LHA POLICY

*State and Lowell habitation codes require the following standards for occupancy;*

##### GUIDELINES FOR DETERMINING UNIT SIZE

<i>Unit Size</i>	<i>Persons in Household</i>	<i>Persons in Household</i>
<i>(Minimum #)</i>	<i>(Minimum #)</i>	<i>(Maximum #)</i>
<i>0 Bedroom</i>	<i>1</i>	<i>2</i>
<i>1 Bedroom</i>	<i>1</i>	<i>2</i>
<i>2 Bedrooms</i>	<i>2</i>	<i>4</i>
<i>3 Bedrooms</i>	<i>3</i>	<i>6</i>
<i>4 Bedrooms</i>	<i>4</i>	<i>8</i>
<i>5 Bedrooms</i>	<i>5</i>	<i>10</i>
<i>6 Bedrooms</i>	<i>6</i>	<i>12</i>

*The LHA shall grant exceptions from the standards if the family requests and the LHA determines the exceptions are justified by the relationship, age, sex, health or disability of family members, or other individual circumstances*

*Persons who cannot occupy a unit because of its location or because of other reasons because of a medical or health reason must provide verification with a written report and letter of need by a doctor.*

*If the LHA makes an error in the bedroom size designation the family will not be penalized for refusing the unit and will remain in their position on the waiting list. If their admissions process had been terminated because of that error and there is a vacant unit for the corrected designation, the LHA shall resume the admissions process.*

*Based on these standards, the LHA will verify family composition from the documents submitted and determine if the vacant unit/s being offered are appropriate for the household. If they are not, the admissions process will be terminated as per the procedure in 4-N below.*



#### **4.N. COMPLETING THE ADMISSION PROCESS**

The PHA must verify all information provided by the family (see Chapter 7). Based on verified information, the PHA must make a final determination of eligibility (see Chapter 3) and must confirm that the family qualified for any special admission, targeted admission, or selection preference that affected the order in which the family was selected from the waiting list.

##### LHA Policy

*If the PHA determines that the family is ineligible, the LHA will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 16).*

*If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list, the family will be returned to the appropriate position on the waiting list to which they are then entitled. The LHA will notify the family in writing that it has been returned to the waiting list and will specify the reasons for it.*

## **CHAPTER 5: BRIEFINGS AND ASSIGNMENTS**

### **INTRODUCTION**

This chapter explains the briefing and unit assignment process. When a family is determined to be eligible for the LRPH program, the PHA must ensure that the family fully understands the way the program operates and the family's obligations under the program. This is accomplished through both an oral briefing and provision of a briefing packet containing written documentation of information the family needs to know. Once the family is fully informed of the program's requirements, the PHA issues the family a unit assignment. The assignment includes the unit size the family qualifies for based on the PHA's subsidy standards, as well as the date of unit availability for occupancy.

### **5.A. BRIEFING**

The LHA generally conducts these briefings at group meetings. Applicants who provide prior notice of inability to attend a group briefing will automatically be scheduled for the next briefing. Applicants who fail to attend a scheduled briefing without prior notification and approval by LHA may be denied the leasing of a unit, if the LHA determines that the circumstances were such that prior notification could have been made. Families who attend group briefings and still have the need for further explanation will be requested to contact the LHA. Where special circumstances exist, the LHA may provide individual briefings in lieu of group meetings. If necessary because of an applicant's disability, the LHA will conduct individual briefings at the applicant's home.

At the briefing, the PHA must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973) and LEP requirements. It will ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2.

#### PHA Policy

*Briefings will be conducted in group meetings whenever possible (typically when 2 or more people are being briefed in a two week period).*

*Generally, the head of household is required to attend the briefing. If the head of household is unable to attend, the LHA may approve another adult family member to attend the briefing.*

*Families which attend group briefings and still need individual assistance will be referred to an appropriate PHA staff person.*

*Briefings will be conducted in English or other languages, as required by Section 504 or by the LHA's LEP policy.*

### **Notification and Attendance**

#### LHA Policy

*Families will be notified of their eligibility for a unit at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.*

*If the notice is returned by the post office with no forwarding address, a notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any alternate address provided on the initial application.*

*Applicants who fail to attend a scheduled briefing and provide a justification in writing which is acceptable to the LHA, will automatically be scheduled for another briefing. The LHA will notify the family of the date and time of the second scheduled briefing. Applicants whose justification is not accepted or who fail to attend the second scheduled briefing, without LHA approval, will be denied assistance (see Chapter 3).*

*Justification based on a verified medical condition preventing attendance, or based on a verified employer demand preventing attendance or on any other verified emergency, will constitute acceptable justification.*

*The LHA Oral Briefing will cover the following topics as a minimum:*

- The standard lease and the terms and obligations of the LHA and of the tenant;*
- The Flat Rent Choice*
- The Community Service Requirement*
- The Grievance Procedures*
- The Pet Policy*
- Any LHA Homeownership Program*
- The obligations of the tenant for maintenance and other unit upkeep and procedures related to occupancy issues and questions*
- The programs of the LHA with respect to self-sufficiency*

*The LHA Briefing Packet will contain the following printed information as a minimum:*

- Information on each development including a map, location of services, school district information, commercial and retail centers, employment opportunities, special programs offered by the LHA at the location.*
- "Flat Rent Choice"*
- "Community Service Requirement"*
- "Pet Policy"*

## **5.B. FAMILY OBLIGATIONS**

Obligations of the family are described in the LRPH regulations and in the lease itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. The PHA must inform families of these obligations during the oral briefing and the same information must be included in the briefing packet. When the family's unit is approved and the lease is executed, the family must meet those obligations in order to continue participating in the program and occupying the unit. Violation of any family obligation may result in termination of the lease, as described in Chapter 12.

### **Time Frames for Reporting Changes Required By Family Obligations**

### LHA Policy

*Unless otherwise noted below, when family obligations require the family to respond to a request or notify the LHA of a change, notifying the LHA of the request or change within 10 business days is considered prompt notice.*

*When a family is required to provide notice to the LHA, the notice must be in writing.*

### **Family Obligations**

Following is a listing of a tenant family's obligations under the LRPH program:

- The family must supply any information that the LHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the LHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any UPCS breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

### LHA Policy

*If the unit is made uninhabitable by fire or other casualty not caused by the household or any guest of the household, or where the LHA performs substantial improvements or alterations to the unit, the lease shall terminate and the LHA will execute a lease with the household for the first available similar unit. Until such a unit is available, the LHA will provide the household with temporary housing at no cost to the family, except that the family will continue to pay the approved TTP.*

*If the premises are made uninhabitable by fire or other casualty caused by the household or any guest of the household and the household requests in writing authorization to re-occupy the premises upon completion of the renovation, the household will be required to enter into a Repayment Agreement for the amount of the deductible in the LHA fire insurance policy.*

*If the household declares no interest in further occupancy or refuses to pay the deductible, the LHA will add the deductible cost to the lease account and then will proceed with termination of the lease.*

- The family must allow the LHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.
- The family must notify the LHA before moving out of the unit.

#### LHA Policy

*The family must comply with lease requirements regarding written notice to the LHA.*

- The family must promptly give the LHA a copy of any code violation notice.
- The family must use the unit for residence by the family members or other on the lease. The unit must be the family's only permanent residence.
- The composition of the assisted family residing in the unit must be approved by the LHA. The family must promptly notify the LHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request LHA approval to add any other family member as an occupant of the unit.

#### LHA Policy

*The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The LHA will determine eligibility of the new member in accordance with the policies in Chapter 3.*

- The family must promptly notify the LHA in writing if any family member no longer lives in the unit.
- If the LHA has given approval, a foster child or a live-in aide may reside in the unit. The LHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when LHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 and Chapter 11.
- The family must not sublease the unit, assign the lease, or transfer the unit.

#### LHA Policy

*Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed on the lease.*

- The family must supply any information requested by the LHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the LHA when the family is absent from the unit.

#### LHA Policy

*Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the LHA at the start of the extended absence.*

- The family must pay utility bills and provide and maintain any appliances that the LHA is not required to provide under the lease.
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. (See Chapter 12 for HUD and LHA policies related to drug-related and violent criminal activity).

- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. (See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse).
- An assisted family or member of the family must not receive another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- All family members (except those who exempt) must perform 8 hours of community service per month.

LHA Policy

*See Appendix E, Community Service Policy*

### **5.C. REFERRAL TO THE ASSIGNED SITE AND UNIT**

At the end of the Briefing, applicants will meet with Housing Management staff to secure answers to any questions not dealt with. In addition at that time they will be issued a letter of introduction and packet for the site to which they have been assigned. This will include the name of the Property Manager and the phone number and an appointment date and time to be no longer than 7 days from the date of the briefing.

LHA Policy

*The family being admitted is given 3 days to make contact with the Property Manager. The following will happen at the site visit:*

- *The unit will be shown to the resident. If the unit is not ready and a similar unit can be shown the family will see that unit.*
- *If the family accepts the unit, it will sign a form that it has viewed the unit and has found it satisfactory. If any work remains to be done on the unit, a 'punch list' of such items will be attached to the form.*
- *Prior to move-in, the Lowell Health Department must make an inspection of the unit with the Property Manager and issue a certificate of approval.*
- *An appointment is made for the family to move in.*
- *Upon move-in, the family is given an individual orientation to the unit and development and the local site procedures.*

## **CHAPTER 6: INCOME AND TOTAL TENANT PAYMENT DETERMINATIONS**

Accurate calculation of Annual Income is necessary to assure that families are within the eligibility income limits for the program *and* are not paying more or less money for rent and utilities than their obligation under the program regulations (see 24 CFR Parts 5 and 982). Section 5.609 provides a detailed explanation of what is included in Annual Income and what is excluded. Additional exclusions are contained in various HUD Notices. The regulations and Notices do not provide explicit guidance on how to "make all of the required determinations and allow PHAs discretion to define certain terms and develop standards. This Chapter addresses those areas where PHAs have such discretion.

### **6.A. CHOICE OF RENT**

Note: The LHA provides a choice between income based rents or flat rents.

At admission an applicant is permitted to make a choice between an income-based rent or a flat rent. An income-based rent is based on the family's adjusted income and must not exceed the TTP (See II. below) minus any applicable utility allowance for tenant paid utilities.

A flat rent is in a schedule developed by the LHA and does not include any utility reimbursement. It must be at least the minimum rent of \$50 established by the LHA.

At any time the family may switch from flat rent to income based rent in the case of financial hardship, as verified by the LHA Property Manager. [See Chapter 10.C for additional information]. In addition at the time of lease renewal (each year) the family may choose to switch their choice of rent payment. As noted in Chapter 11, the family's income is recertified each year for income-based renters and once every three years for flat renters. But family composition is re-certified annually or when there is a change.

*NOTE: Tenants choosing the flat rent option and being recertified less than annually are generally exempt from interim income reporting requirements listed below, as changes in income will not affect the flat rent payment amount. However, a change in income which would result in a change in eligibility for the program should be reported.*

### **6.B. TOTAL TENANT PAYMENT**

Total Tenant Payment (TTP) (see 24 CFR 5.628) is the term describing the minimum amount a tenant in the LRPH program must pay towards the gross rent for the unit the family is occupying. Gross rent consists of the Lease Rent - the rent the LHA is entitled to get under the lease and the amount of the established utility allowance for tenant-paid utilities (for income-based rent choosers only). TTP is the higher of: 10 % of monthly income, 30 % of monthly adjusted income, welfare rent, or PHA minimum rent.

### **6.C. MINIMUM RENT FOR LRPH**

The regulations permit a PHA to establish a minimum rent of up to \$50. The LHA has determined that its minimum rent for the LRPH program will be \$50. The term minimum rent includes the combined amount a family is required to pay towards rent and utilities, if tenant-paid.

### **6.D. HOUSEHOLD COMPOSITION AND INCOME**

#### **Overview**

This section in the plan discusses household composition only as it relates to income calculations. Additional information on household composition as it relates to eligibility is found in Chapter 3 of the plan.

### **Temporarily Absent Family Members**

HUD rules require the LHA to count family members approved to live in a unit, even if a family member is temporarily absent from the unit.

#### LHA Policy

*Generally an individual who is or is expected to be absent from the unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.*

### **Absent Students**

HUD does not specifically address students who are absent from a household. Although this issue would also apply to students under 18 years who are living away from the family, the major focus of this policy is to deal with students 18 and above who may or may not still be family members.

#### LHA Policy

*When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the LHA indicating that the student has established a separate household or the family declares that the student has established a separate household.*

### **Absences Due to Placement in Foster Care**

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

#### LHA Policy

*If a child has been placed in foster care, the LHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.*

### **Absent Head, Spouse, or Co-head**

#### LHA Policy

*An employed head, spouse, or co-head absent from the unit more than 180 consecutive days due to employment (including military service) will continue to be considered a family member.*

### **Family Members Permanently Confined for Medical Reasons**

HUD specifies that a family member permanently confined to a nursing home or hospital is no longer considered a family member. The model plan includes this safe harbor language and elaborates on this guidance by (1) establishing how the PHA will determine if the family member is permanently absent and (2) clarifying that if the permanently absent member is the only person who qualifies the family for the medical expense deduction, the family is no longer eligible for the medical expense deduction.



#### LHA Policy

The LHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or co-head qualifies as an elderly person or a person with disabilities.

### **Joint Custody of Dependents**

When a joint custody agreement causes a child to live in more than one location, the PHA must determine whether the child is a member of an assisted family.

#### LHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or tenant family 50 percent or more of the time.

When more than one applicant or tenant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the LHA will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

### **Caretakers for a Child**

This policy is intended to address those relatively rare and temporary circumstances in which children remain in a unit without a parent or designated guardian. This might happen in the case of the death of the parent. In such circumstances, the care arrangements for the child may be formal or informal.

#### LHA Policy

If neither a parent nor a designated guardian remains in a household the LHA will take the following actions.

(1) If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

(2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's

role is temporary. In such cases the LHA will extend the caretaker's status as an eligible visitor.

(3) At any time that custody or guardianship legally has been awarded to a caretaker, the head of household on the lease will be transferred to the caretaker.

(4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

## **6.E. ANTICIPATING ANNUAL INCOME**

The PHA is required to count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date" [24 CFR 5.609(a)(2)].

### **Basis of Annual Income Projection**

The PHA generally will use current circumstances to determine anticipated income for the coming 12-month period. However, under certain conditions, HUD authorizes the PHA to use other than current circumstances to anticipate income.

#### LHA Policy

When the LHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the LHA will review and analyze historical data for patterns of employment, paid benefits and receipt of other income and use the results of this analysis to establish annual income. Anytime current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the LHA to show why the historic pattern does not represent the family's anticipated income.

If the LHA verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the LHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the LHA's policy in Chapter 11 does not require interim reexaminations for other types of changes.

Social Security recipients receive a letter in December, notifying them of changes to their SS benefits for the ensuing year. This letter shall be used as well, for anticipated income. [See Chapter 7.P].

### **Using Electronic Income Verification (EIV) to Project Income**

In its verification guidance, HUD lists up-front income verification (EIV) as the highest method of

income verification. It further states: "Whenever HUD makes available wage, unemployment and SSA information, the PHA should use the information as part of the reexamination process." The plan follows this recommendation, adopting as PHA policy guidance issued by HUD in using EIV in conjunction with family-provided documents to anticipate annual income.

#### LHA Policy

*LHA procedures for anticipating annual income will include the use of EIV methods approved by HUD in conjunction with family-provided documents dated within the last 60 days of the LHA review date.*

*The LHA will follow "HUD Guidelines for Projecting Annual Income When Up-Front Income Verification (EIV) Data Is Available" in handling differences between EIV and family-provided income data. The guidelines depend on whether a difference is substantial or not. HUD defines substantial difference as a difference of \$200 or more per month.*

**No Substantial Difference.** *If EIV information for a particular income source differs from the information provided by a family by less than \$200 per month, the LHA will follow these guidelines:*

*If the EIV figure is less than the family's figure, the LHA will use the family's information.*

*If the EIV figure is more than the family's figure, the LHA will use the EIV data unless the family provides documentation of a change in circumstances to explain the discrepancy (e.g., a reduction in work hours). Upon receipt of acceptable family-provided documentation of a change in circumstances, the LHA will use the family-provided information.*

**Substantial Difference.** *If EIV information for a particular income source differs from the information provided by a family by \$200 or more per month, the LHA will follow these guidelines:*

*The LHA will request written third-party verification from the discrepant income source in accordance with 24 CFR 5.236(b)(3)(i).*

*When the LHA cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, or suspected fraud), the LHA will review historical income data for patterns of employment, paid benefits, and receipt of other income.*

*The LHA will analyze all EIV, third-party, and family-provided data and attempt to resolve the income discrepancy.*

*The LHA will use the most current verified income data and if appropriate, historical income data to calculate anticipated annual income.*

#### **6.F. EARNED INCOME [24 CFR 5.609(b) and (c)]**

This section of the plan lists types of **earned** income and specifies whether they are included in or excluded from annual income.

##### ***Wages and Related Compensation [24 CFR 5.609(b)(1)]***

The regulation at 24 CFR 5.609(b)(1) requires the PHA to include in annual income all forms of “compensation for personal services.” While some forms, like regular wages and salaries, may be fairly easy to anticipate, other forms, like bonuses and commissions, may vary considerably from one pay period to the next.

##### ***LHA Policy***

*For persons who regularly receive bonuses or commissions, the LHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the LHA will use the prior year amounts. In either case the family may provide, and the LHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the LHA will count only the amount estimated by the employer.*

##### ***State and Local Employment Training Programs [24 CFR 5.609(c)(8)(v)]***

Incremental earnings and benefits to any family member resulting 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 are excluded from annual income.

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 training program.

##### ***LHA Policy***

*The LHA defines training program as a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual’s ability to obtain employment. It should have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education.*

*The LHA defines incremental earnings and benefits as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program.*

*In calculating the incremental difference, the LHA will use as the pre-enrollment income the total annualized amount of the family member’s welfare assistance and earnings reported on the family’s most recently completed HUD-50058.*

*End of participation in a training program must be reported in accordance with the LHA’s interim reporting requirements.*

### ***HUD-Funded Training Programs [24 CFR 5.609(c)(8)(i)]***

For consistency, the model plan recommends using the same definition of *training program* for HUD-funded training programs as for state and local employment training programs.

#### **LHA Policy**

*To qualify as a training program, the program must meet the definition of training program provided above for state and local employment training programs.*

## **6.G. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617]**

### **Eligibility**

No PHA policy decisions are required.

### **Calculation of the Disallowance**

The EID regulations require the PHA to compare the current income of a family member who is eligible for the EID with the “prior income” of that family member and exclude all or part of the difference that is “a result of employment” [24 CFR 5.617(c)(1) and (2)]. To ensure consistency, the PHA must clarify the meaning of *prior income*.

#### **LHA Policy**

*The LHA defines prior income, or prequalifying income, as the family member’s last certified income prior to qualifying for the EID.*

### ***Initial 12-Month Exclusion***

The EID regulations state that the initial 12-month exclusion period begins “on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment” [24 CFR 5.617(c)(1)]. However, in frequently asked questions on the EID, HUD has stated that, for tracking and administrative purposes, a PHA may begin the EID on the first day of the month following new employment or an increase in earnings.

#### **LHA Policy**

*The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.*

### ***Second 12-Month Exclusion and Phase-In***

No PHA policy decisions are required.

### ***Lifetime Limitation***

Because the end of a family member’s eligibility for the full or partial EID may not coincide with the family’s annual reexamination cycle, the PHA must decide whether to impose special interim reporting requirements related to the EID. Even though general reexamination requirements are covered in Chapter 11, the plan also addresses this issue in the EID section.

#### **LHA Policy**

*During the 48-month eligibility period, the LHA will schedule and conduct an interim reexamination each time there is a change in the family member’s annual income that affects or is affected by the EID (e.g., when the family member’s income falls to a level*

*at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).*

## **6.H. BUSINESS INCOME [24 CFR 5.609(b)(2)]**

24 CFR 5.609(b)(2) indicates that net income from a business or profession must be included in annual income.. PHA policies are required in the following areas:

- Definitions for calculating business income
- Treatment of negative net income
- Withdrawals from a business
- Co-owned businesses

### **Definitions for Calculating Business Income**

HUD uses several financial terms in the regulation but does not define them.

#### **Business Expenses**

Calculation of net income requires that business expenses be deducted, but the regulation provides no list of allowable business expenses.

##### LHA Policy

*To determine business expenses that may be deducted from gross income, the LHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.*

#### **Business Expansion**

HUD rules specify that the cost of business expansion may not be used to determine net income from a business but does not define *business expansion*.

##### LHA Policy

*Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate a business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.*

#### **Capital Indebtedness**

HUD rules specify that amortization of capital indebtedness cannot be counted as a business expense for the purpose of determining net income. The language included in the model plan explains what this means and clarifies how capital indebtedness is handled in rent calculations.

##### LHA Policy

*Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the LHA will allow as a business expense interest, but not principal, paid on capital indebtedness.*

### **Negative Business Income**

The plan borrows language from HUD Handbook 4350.3 [p. 5-10] to clarify that no income will be counted if business income is negative and that losses cannot offset other income.

### **Withdrawal of Cash or Assets from a Business**

The regulation requires the PHA to include in annual income the value of cash or assets withdrawn from a business unless the withdrawal reimburses a family member for investments the family has made in the business. However, it gives no guidance about what constitutes an investment that may be reimbursed.

#### *LHA Policy*

*Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of \$2,000 to help a business get started, the LHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.*

### **Co-owned Businesses**

The regulation and HUD guidance do not provide information about how to treat a business that is co-owned by someone who is not a member of the family.

#### *LHA Policy*

*If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.*

## **6.I. ASSETS [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]**

### **Overview**

There is no asset limitation for participation in the LRPH program. However, HUD requires that the PHA include in annual income the “interest, dividends, and other net income of any kind from real or personal property” [24 CFR 5.609(b)(3)]. This section provides guidance on how different types of assets are valued and how income from these assets is established.

The section begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset. Each type of asset covered in the plan is identified below. Only those that require a PHA policy are discussed.

### **General Policies**

#### ***Income from Assets***

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. The plan provides a policy clarifying how the PHA will deal with situations in which something other than current circumstances is used to determine income from an asset.

#### *LHA Policy*

*Anytime current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to the LHA to show why the asset income*



determination does not represent the family's anticipated asset income.

#### ***Valuing Assets***

No PHA policy decisions are required but see and follow HUD regulation.

#### ***Lump-Sum Receipts***

No PHA policy decisions are required but see and follow HUD regulation

#### ***Imputing Income from Assets***

No PHA policy decisions are required but see and follow HUD regulation.

#### ***Determining Actual Anticipated Income from Assets***

No PHA policy decisions are required but see and follow HUD regulation.

#### ***Withdrawal of Cash or Liquidation of Investments***

No PHA policy decisions are required but see and follow HUD regulation.

#### ***Jointly Owned Assets***

##### LHA Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the LHA will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the LHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the LHA will prorate the asset evenly among all owners.

#### ***Assets Disposed Of for Less than Fair Market Value***

HUD regulations require the PHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below. HUD permits the PHA to set a threshold below which assets disposed of for less than fair market value will not be counted.

##### LHA Policy

The LHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$5,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual re-certifications, the family may request an interim recertification to eliminate consideration of the asset(s).

Assets placed by the family in non-revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

#### ***Separation or Divorce***

The regulation also specifies that assets are not considered disposed of for less than fair market value if



they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives “important consideration” not measurable in dollar terms. The regulation does not specify what important consideration might be.

#### LHA Policy

*All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.*

#### *Foreclosure or Bankruptcy*

No PHA policy decisions are required. but see and follow HUD regulation.

#### *Family Declaration*

#### LHA Policy

*Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The LHA may verify the value of the assets disposed of if other information available to the LHA does not appear to agree with the information reported by the family.*

#### **Types of Assets**

##### ***Checking and Savings Accounts***

The PHA must count amounts in a family’s savings and checking accounts as assets. The plan establishes how the value of these assets will be determined and how the anticipated income from these assets will be calculated.

#### LHA Policy

*In determining the value of a checking account, the LHA will use the average monthly balance for the last six months.*

*In determining the value of a savings account, the LHA will use the current balance.*

*In determining the anticipated income from an interest-bearing checking or savings account, the LHA will multiply the value of the account by the current rate of interest paid on the account.*

##### ***Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds***

When family assets are held in investment accounts, calculating asset value and anticipated income can be difficult because of fluctuations in value and rates of return. The plan provides a clarification of HUD policy related both to how assets are valued and how income is determined.

#### LHA Policy

*In determining the market value of an investment account, the LHA will use the value of the account on the most recent investment report.*

*How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For*

assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), the LHA will calculate asset income based on the earnings for the most recent reporting period.

### ***Equity in Real Property or Other Capital Investments***

Equity is the estimated current market value of an asset (such as a house) less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset.

The plan lists types of property and capital investment that are not counted and explains how assets and income are determined for two types of capital investment: (1) family ownership of a mortgage or deed of trust and (2) joint ownership of real property with someone outside the family unit.

#### LHA Policy

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the PHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

### ***Trusts***

No PHA policy decisions are required but see and follow HUD regulation.

### ***Retirement Accounts***

No PHA policy decisions are required but see and follow HUD regulation.

### ***Personal Property***

HUD rules exclude from assets necessary items of personal property such as furniture and automobiles [24 CFR 5.603(b)]. However, they do not exclude personal property held as an investment. The plan establishes how the PHA will value personal property held as an investment and what items of personal property it will consider necessary.

#### LHA Policy

In determining the value of personal property held as an investment, the LHA will use the family's estimate of the value. However, the LHA also may obtain an appraisal if appropriate to confirm the value of the asset. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary personal property consists of items such as clothing, furniture, household furnishings, jewelry that is not held as an investment, and vehicles, including those specially equipped for persons with disabilities.

### ***Life Insurance***

No PHA policy decisions are required but see and follow HUD regulation.

HUD regulations specifically exclude from annual income a few forms of periodic payments. All other forms must be included. The model plan lists the main categories that are included as well as the specific types that are excluded. It also addresses the treatment of lump-sum amounts that represent the delayed start of a periodic payment.

#### **Periodic Payments Included in Annual Income**

No PHA policy decisions are required but see and follow HUD regulation.

#### **Lump-Sum Payments for the Delayed Start of a Periodic Payment**

HUD requires that PHAs include in annual income most lump sums and prospective amounts that are received as the result of delays in the processing of ongoing forms of periodic income. However, the regulation specifically exempts deferred social security and SSI lump-sum payments from this requirement. Deferred lump-sum payments from these sources are **not** counted as income whether they are paid in a single lump sum or in prospective monthly amounts [24 CFR 5.609(c)(14)].

There are three issues the PHA must address related to lump sums received as a result of the delayed start of a periodic payment:

- When must the family report receipt of the payments?
- When the lump sum is reported, will the PHA make a retroactive adjustment of the family's share or include the amount in prospective rent calculations?
- If the family owes the PHA as a result of a retroactive calculation, under what circumstances will the PHA offer a repayment agreement?

#### LHA Policy

*When a delayed-start payment is received and reported during the period in which the LHA is processing an annual reexamination, the LHA will adjust the family share and LHA subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with the LHA.*

*See Chapter 11 for information about a family's obligation to report lump-sum receipts between annual reexaminations.*

*See Chapter 13 for policies related to repayment agreements.*

#### **Periodic Payments Excluded from Annual Income**

No PHA policy decisions are required but see and follow HUD regulation.

#### **6.J. PAYMENTS IN LIEU OF EARNINGS**

No PHA policy decisions are required but see and follow HUD regulation.

#### **6.K. WELFARE ASSISTANCE**

The plan identifies welfare assistance as a type of income that must be counted. It also summarizes the rules for counting welfare income when a sanction has been imposed by a welfare agency for noncompliance with certain requirements.

- The regulation at 24 CFR 5.609(b)(6)(ii) gives special rules for counting welfare assistance in "as-paid" welfare localities. Since "as-paid" localities are the exception, not the rule, the model plan does not include these special rules. Therefore PHAs whose jurisdictions include as-paid welfare localities must add the rules to this plan.

- Each as-paid locality works somewhat differently, and many are subject to court-ordered modifications to the basic policy. Hence the PHA may need to consult with legal counsel to determine the specific language that must be included in the plan.

***Special Rules for As-Paid Welfare Localities [24 CFR 5.609(b)(6)(ii)]***

- *An as-paid welfare assistance system is used in the PHA's jurisdiction.*
- *In an as-paid jurisdiction a family receives an amount from a welfare agency specifically for shelter and utilities, and that amount is adjusted based upon the actual amount the family pays for shelter and utilities. The welfare assistance amount specifically designated for rent and utilities is called the "welfare rent." Because an as-paid welfare assistance system is used, a special calculation of public assistance income is required for welfare recipients who receive HCV assistance.*
- *To determine annual income for public assistance recipients in as-paid localities, the PHA will include: (1) the amount of the family's grant for other than shelter and utilities and (2) the maximum amount the welfare department can pay for shelter and utilities for the family's size (i.e., the welfare rent). This may be different from the amount the family is actually receiving.*

### **Alimony and Child Support**

The PHA must count alimony or child support amounts awarded as part of a divorce or separation agreement *unless* the PHA verifies that the payments are not being made. The PHA must determine what documentation is required to show that the family receives less than the court-ordered amount.

LHA Policy

*The LHA will count court-awarded amounts for alimony and child support unless the LHA verifies that (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments.*

*Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.*

### **Regular Contributions or Gifts**

The PHA must count as income regular monetary and nonmonetary contributions or gifts from someone outside the family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

LHA Policy

*Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.*

*Non-monetary contributions will be valued at the cost of purchasing the items, as determined by the LHA. For contributions that may vary from month to month (e.g., utility payments), the LHA will include an average amount based upon past history.*

## **6.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME**

No PHA policy decisions are required but see and follow HUD regulations.

Notre: In calculating annual income for a family, the low-income subsidy to assist low-income persons in paying for their Medicare prescription drug plan costs must be excluded as annual income for the purpose of calculating any rent or assistance.

## **6.M. DEDUCTIONS OVERVIEW**

There are five mandatory deductions from annual income provided for in the regulations at 24 CFR 5.611.

These deductions include:

\$480 for each dependent

\$400 for any elderly family or disabled family

Unreimbursed medical expenses

Unreimbursed disability assistance expenses that enable a family member to work

Reasonable child care expenses that enable a family member to seek work, be employed, or pursue his or her education

### **Anticipating Expenses**

In the same way that the PHA must anticipate income for the coming year, it must also anticipate family circumstances to determine the deductions for which a family qualifies.

#### LHA Policy

*Generally, the LHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non school periods and cyclical medical expenses), the LHA will estimate costs based on historic data and known future costs.*

*If a family has an accumulated debt for medical or disability assistance expenses, the LPHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The LHA may require the family to provide documentation of payments made in the preceding year.*

## **6.N. DEPENDENT DEDUCTION**

No PHA policy decisions are required but see and follow HUD regulation.

## **6.O. ELDERLY OR DISABLED FAMILY DEDUCTION**

No PHA policy decisions are required but see and follow HUD regulation.

## **6.P. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i) and 5.603(b)]**

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

PHA policies are required in two areas related to medical expenses:

- Definition of *medical expenses*
- Classifying medical and disability expenses when either could apply

### **Definition of Medical Expenses**

HUD recommends that PHAs use IRS Publication 502, *Medical and Dental Expenses*, as the standard for defining what qualifies as a medical expense but requires PHAs to develop their own policies addressing this issue.

Note however, that the amount of unreimbursed out-of-pocket expenses for prescription drugs, must be treated as a standard medical deduction when determining the family's medical expenses deduction. Persons with a Medicare prescription drug plan may be required to pay a premium up to \$37 and this premium will be counted as a medical deduction. However, many of those receiving the low-income subsidy will not be required to pay a premium. Not all prescription drugs are covered under the Medicare prescription drug plans; therefore, a person may be paying full price for some prescription drugs and a reduced amount for other prescription drugs. The standard medical deduction as described at 24 CFR 5.609(c)(4) 5.611(a)(3) continues to be the sum of allowable medical expenses that exceed 3% of annual income.

#### *LHA Policy*

*The most current IRS Publication 502, Medical and Dental Expenses, will be used to determine the costs that qualify as medical expenses and provides a chart that summarizes the expenses.*

### **Families Which Qualify for Both Medical and Disability Assistance Expenses**

In elderly or disabled households, it is possible that the same expense could be considered either a medical expense or a disability assistance expense. The PHA must clarify for staff how these expenses will be handled.

#### *LHA Policy*

*This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.*

*When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the LHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.*

### **6.Q. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 5.611(a)(3)(ii)]**

Unreimbursed disability assistance expenses may be deducted to the extent that the sum of those expenses and any medical expenses for which a family is eligible exceed three percent of annual income.

HUD recommends that PHAs further define and describe eligible auxiliary apparatus. The plan elaborates on the following topics:

- Implementing the earned income limit, including determining which family is enabled to work
- Defining eligible, necessary, and reasonable disability expenses
- Classifying medical and disability expenses

### **Earned Income Limit on the Disability Assistance Expense Deduction**

When more than one family member is enabled to work, the PHA must establish whose earned income to count when determining the cap on disability expenses. The earned income used to limit the deduction is earned income before any exclusions or disallowances are taken (column 7d of form HUD-50058).

### LHA Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the LHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the LHA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.

## **Eligible Disability Expenses**

### ***Eligible Auxiliary Apparatus***

Although HUD provides examples of auxiliary apparatus, some additional explanation is recommended.

### LHA Policy

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

### ***Eligible Attendant Care***

When a family includes a person with disabilities, the family determines the type of attendant care, if any, that is appropriate for the person. HUD has not provided detailed guidance on the types of attendant care that are eligible for deduction. To ensure consistency, the PHA should elaborate on what this care includes.

### LHA Policy

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the LHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family



*member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.*

### ***Payments to Family Members***

No policy decisions required but see and follow HUD regulation.

### **Necessary and Reasonable Expenses**

The regulation requires disability assistance expenses to be “necessary” and “reasonable,” but HUD provides no further definition of these terms. It is not appropriate for PHA staff to determine the medical or care needs of a person with disabilities. Therefore the person’s family, not the PHA, must determine the type of attendant care or auxiliary apparatus that is necessary. However, the PHA must still determine whether the cost of the disability assistance is reasonable.

#### *LHA Policy*

*The LHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the LHA will collect information from organizations that provide services and support to persons with disabilities. A family may present and the LHA will consider, the family’s justification for costs that exceed typical costs in the area.*

### **Families Which Qualify for Both Medical and Disability Assistance Expenses**

In elderly or disabled households, it is possible that the same expense could be considered either a medical expense or a disability assistance expense. The PHA must clarify for staff how these expenses will be handled.

#### *LHA Policy*

*This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.*

*When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the LHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.*

## **6.R. CHILD CARE EXPENSE DEDUCTION**

HUD provides a definition of *child care expenses* in the regulations at 24 CFR 5.603(b), and additional guidance is found in HUD’s verification guidance. The PHA must clarify implementation issues including:

- How the family qualifies for each eligible activity
- How the earned income limit on child care that enables a family member to work is administered
- What child care expenses are eligible, reasonable, and necessary

### **Qualifying for the Deduction**

#### ***Determining Who Is Enabled to Pursue an Eligible Activity***

Reasonable child care expenses that enable a family member to be gainfully employed, to seek work, or



to pursue his or her education can be deducted from annual income.

HUD leaves to the PHA the determination of who is enabled to work, seek employment, or further his or her education. When this section uses the term *eligible activity*, it means one or more of these three purposes.

LHA Policy

*The family must identify the family member(s) enabled to pursue an eligible activity. The term eligible activity in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).*

*In evaluating the family's request, the LHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.*

The plan clarifies how the PHA will determine whether the family qualifies based upon the type of eligible activity.

LHA Policy

*If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the child care expense being allowed by the LHA.*

***Furthering Education***

The PHA must define the types of educational activities that would qualify a family for child care based upon furthering education.

LHA Policy

*If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.*

***Being Gainfully Employed***

The PHA must determine whether a family qualifies for the child care expense deduction because a family member is gainfully employed.

LHA Policy

*If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.*

### ***Earned Income Limit on Child Care Expense Deduction***

When more than one family member may be enabled to work, the PHA must determine whose earned income to count when determining the cap on child care expenses. The earned income used to limit the deduction is earned income after any disallowances or exclusions are applied (column 7f of form HUD-50058).

#### *LHA Policy*

*When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the LHA generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.*

### ***Eligible Child Care Expenses***

HUD permits each assisted family to determine the type of child care to be provided. The PHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care.

To ensure consistency, the PHA specifies:

- What activities are included under the definition of *child care*
- How the PHA will determine whether child care expenses are necessary and reasonable

### ***Allowable Child Care Activities***

#### *LHA Policy*

*For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.*

*The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.*

*If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the LHA will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.*

### ***Necessary and Reasonable Costs***

HUD regulations require child care expenses to be “necessary” and “reasonable,” but HUD provides no further definition of these terms. It is not appropriate for PHA staff to determine the child care needs of individual children. Therefore the family, not the PHA, must determine the type of child care that is necessary. However, PHA staff must still evaluate whether the timing and duration of the child care are consistent with the eligible activities and whether the costs are reasonable for the type of care being provided.

#### LHA Policy

*Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.*

*To establish the reasonableness of child care costs, the PHA will use the schedule of child care costs from the local welfare agency. Families may present, and the LHA will consider, justification for costs that exceed typical costs in the area.*

### **6.S. RENT CALCULATIONS**

This presents the regulatory formula for calculating total tenant payment (TTP). The application of utility allowances are covered separately above.

Only three policy decisions must be made by the PHA:

- (1) The PHA must specify whether any part of its jurisdiction is an “as-paid” welfare locality.
  - (2) The PHA must establish a minimum rent from \$0 to \$50.
  - (3) The PHA must determine to whom utility reimbursement payments will be made.
- Each of these decisions is discussed below.

#### **TTP Formula [24 CFR 5.628]**

A family’s total tenant payment (TTP) is the greatest of:

- 30 percent of the family’s monthly adjusted income
- 10 percent of the family’s monthly gross income
- The welfare rent (in as-paid jurisdictions only)
- The minimum rent (established by the PHA)

#### ***Welfare Rent [24 CFR 5.628]***

The third item considered when determining TTP is the welfare rent, which is defined at 24 CFR 5.628(a)(3) as follows: “If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the family’s actual housing costs, is specifically designated by such agency to meet the family’s housing costs, the portion of those payments which is so designated [is considered the welfare rent].”

24 CFR 5.628 requires the PHA to enter a welfare rent as part of the TTP formula when welfare assistance in the jurisdiction is provided “as paid.” *As paid* refers to a system in which a separate amount within a family’s welfare grant is specifically designated for shelter and utilities and is adjusted based upon the family’s actual housing costs.

LHA Policy

*Welfare rent does not apply in this locality.*

**Note:** The as-paid system also requires a special calculation of annual income.

**Minimum Rent [24 CFR 5.630]**

HUD requires the PHA to establish a minimum rent that may be from \$0 to \$50.

Minimum rent applies only when the PHA-established minimum rent is the highest amount in the TTP calculation. HUD regulations provide for hardship exemptions from minimum rent. See below for a discussion of hardship policies.

LHA Policy

*The minimum rent established for the Lowell Housing Authority is \$50.*

**Utility Reimbursement [24 CFR 982.514(b)]**

When the PHA subsidy exceeds a family's rent to owner, the family is due a utility reimbursement. HUD permits the PHA to make the utility payment to the family or directly to the utility provider.

LHA Policy

*The LHA will make utility reimbursements to the program tenant.*

**6.T. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]**

**Overview**

The financial hardship exemption applies only to the payment of the minimum rent and not to a family's inability to pay based upon other elements of the TTP formula. HUD identifies four types of hardship in the regulations and permits the PHA to add other hardship criteria.

When a family requests a financial hardship exemption, the steps required by the regulations depend on whether the PHA determines that the request is valid and whether the hardship will be temporary or long-term. HUD's requirements and PHA decision points are described below.

**HUD-Defined Financial Hardship**

HUD-defined hardships specified in 24 CFR 5.630(b) include:

- (1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a non-citizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

LHA Policy

*A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.*

*For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.*

- (2) The family would be evicted because it is unable to pay the minimum rent.

#### LHA Policy

*For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or tenant-paid utilities.*

- (3) Family income has decreased because of changed family circumstances, including the loss of employment.

No PHA policy decisions are required but see and follow HUD regulation.

- (4) A death has occurred in the family.

#### LHA Policy

*In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).*

- (5) The family has experienced other circumstances determined by the PHA.  
The PHA is permitted to establish additional hardship criteria.

#### LHA Policy

*The LHA has not established any additional hardship criteria.*

### **Implementation of Hardship Exemption**

#### ***Determination of Hardship***

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request. When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP.

The family's share is not automatically reduced to zero in hardship cases.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary (expected to last 90 days or less) or long-term.

The regulation is silent on submission requirements and only requires that the PHA make its determination "promptly" [24 CFR 5.630(b)(2)(ii)(B)]. The plan specifies family submission requirements and requires the PHA to make a decision within 30 days of the family's request.

#### LHA Policy

*To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.*

*The LHA will make the determination of hardship within 30 calendar days.*

#### ***No Financial Hardship***

The regulation requires that if there is no financial hardship, the PHA must reinstate the minimum rent and require the family to repay the amounts suspended on terms and conditions set by the PHA [24 CFR 5.630(b)(2)(iii)(A)].

#### LHA Policy

*The LHA will require the family to repay the suspended amount within 30 calendar days of the LHA's notice that a hardship exemption has not been granted.*

#### **Temporary Hardship**

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed and the hardship is now a long-term hardship. The plan permits the PHA and the family to agree on a repayment schedule in accordance with the PHA's policy.

#### LHA Policy

*The PHA will enter into a repayment agreement in accordance with the procedures found in Chapter 13 of this plan.*

#### **Long-Term Hardship**

If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. Repayment of the minimum rent for the period of the long-term hardship is not required.

The plan specifies when the hardship ends. The policy addresses hardships based upon loss of income and hardship-related expenses.

#### LHA Policy

*The hardship period ends when any of the following circumstances apply:*

- (1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.*
- (2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship will continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.*
- (3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.*

#### **6.U. APPLYING UTILITY ALLOWANCES**

This does not apply to 'Flat Rent' tenants

The Utility Allowance is intended to help defray the costs of utilities not included in the rent and is

subtracted from Total Tenant Payment to establish the family's rent to the agency for income based rental calculations. The allowances are based on actual rates and average consumption studies, not on a family's actual consumption. The Utility Allowance applicable to a family is based on the actual unit size selected.

Where families provide their own range and refrigerator, the LHA will establish an allowance adequate for the family to purchase or rent a range or refrigerator, even if the family already owns either appliance. Allowances for ranges and refrigerators will be based on the lesser of the cost of leasing or purchasing the appropriate appliance over a 12-month period.

#### **Reasonable Accommodation**

The Utility Reimbursement is the portion of the rent which exceeds the amount of the rent to the LHA. The LHA has elected not to pay the Utility Reimbursement to the utility supplier. It is LHA policy that the Utility Reimbursement will be paid by monthly check or direct deposit payment directly to the family. Generally, the LHA will require a family member to pick up the Utility Reimbursement check in person. Where special circumstances exist, or as a reasonable accommodation, the LHA will mail the check to the family.

#### **Utility Allowance Revisions**

At admission, interim and annual reexamination, the PHA must use the PHA current utility allowance schedule. Also See Chapter 16.

##### *LHA Policy*

*Revised utility allowances will be applied to a family's rent calculations at admission, at interim and at the annual reexamination which is effective after the allowance is adopted.*

*For a family which moves to Flat Rents, all utility allowances will be discontinued when the flat rent becomes effective.*

#### **6.V. PRORATED ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.520]**

No PHA policy decisions are required.

## **CHAPTER 7: VERIFICATION**

### **INTRODUCTION**

The PHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and program tenants must cooperate with the verification process as a condition of receiving assistance.

The PHA must not pass on the cost of verification to the family.

The PHA will follow the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the PHA.

### **7.A. FAMILY CONSENT TO RELEASE OF INFORMATION [CFR 5.230]**

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 982.551].

#### **Consent Forms**

It is required that all adult applicants and tenants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

#### **Penalties for Failing to Consent [24 CFR 5.232]**

If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants and terminate assistance of tenants. The family may request an informal review (applicants) or informal hearing (tenants) in accordance with PHA procedures.

#### **HUD's Verification Hierarchy**

HUD authorizes the PHA to use five methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification. In order of priority, the forms of verification that may be used are:

- Electronic (EIV) or Up-front Income Verification (UIV) whenever available
- Third-party Written Verification
- Third-party Oral Verification
- Review of Documents
- Self-Certification



Each of the verification methods is discussed in subsequent sections below. The full notice PIH 2004-1 should be studied carefully, especially pp. 11-14 which provide a table of guidance with respect to how each method may be used.

### **Requirements for Acceptable Documents**

#### *LHA Policy*

*Any documents used for verification must be the original (not photocopies), must be the most current and generally must be dated within 60 calendar days of the date they are provided to the LHA. The documents must not be damaged, altered or in any way illegible.*

*Faxes and print-outs from web pages are considered original documents.*

*The LHA staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.*

*Any family self-certifications must be made in a format acceptable to the LHA and must be signed in the presence of a LHA representative or LHA notary public.*

### **File Documentation**

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

### **7.B. UP-FRONT INCOME VERIFICATION (UIV) OR ELECTRONIC VERIFICATION (EIV)**

EIV or Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. EIV/UIV will be used to the extent that these systems are available to the PHA.

The PHA must restrict access to and safeguard EIV/UIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.

#### *LHA Policy*

*[See Appendix C "EIV Security Procedures"]*

There may be legitimate differences between the information provided by the family and EIV/UIV-generated information. No adverse action can be taken against a family until the PHA has independently verified the EIV/UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the PHA.

### **Definition of Substantial Difference**

EIV/UIV information is used differently depending upon whether there is a *substantial difference* between information provided by the family and the EIV/UIV information. In "HUD Guidelines for Projecting Annual Income When UIV Data is Available" [HUD website, April 2004], HUD recommends using \$200 per month as the threshold for a substantial difference.

#### LHA POLICY

*The LHA will use \$200/month as the threshold for substantial difference.*

See Chapter 6 for the PHA's policy on the use of EIV/UIV to project annual income and for the PHA's threshold for substantial difference.

#### **When No Substantial Difference Exists**

If EIV/UIV information does not differ substantially from family information, the EIV/UIV documentation may serve as third-party written verification.

#### **When a Substantial Difference Exists**

When there is a substantial difference between the information provided by the EIV/UIV source and the family, the PHA must request another form of third-party written verification and use any other verification methods (in priority order) to reconcile the difference(s).

### **7.C. THIRD-PARTY WRITTEN AND ORAL VERIFICATION**

#### **Reasonable Effort and Timing**

Unless third-party verification is not required as described below, HUD requires the PHA to make at least two unsuccessful attempts to obtain third-party verification before using another form of verification .

#### LHA Policy

*The LHA will diligently seek third-party verification using a combination of written and oral requests of verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.*

*The LHA may mail, fax, e-mail, or hand deliver third-party written verification requests and will accept third-party responses using any of these methods. The LHA will send a written request for verification to each required source within 5 business days of securing a family's authorization for the release of the information and give the source 10 business days to respond in writing. If a response has not been received by the 11<sup>th</sup> business day, the LHA will request third-party oral verification.*

*The LHA will make a minimum of two attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file. Regarding third-party oral verification, LHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.*

*When any source responds orally to the initial written request for verification the LHA will accept the oral response as oral verification but will also request that the source complete and return any verification forms that were provided.*

*If a third party agrees to confirm in writing the information provided orally, the LHA will wait no more than 5 business days for the information to be provided. If the information is not provided by the 6<sup>th</sup> business day, the LHA will use any information provided orally in combination with reviewing family-provided documents.*

### **When Third-Party Information is Late**

When third-party verification has been requested and the timeframes for submission have been exceeded, the PHA will use the information from documents on a provisional basis. If the PHA later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, the PHA will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of the PHA's interim reexamination policy.

### **When Third-Party Verification is Not Required**

#### ***Primary Documents***

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

#### ***Certain Assets and Expenses***

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

The PHA will determine that third-party verification is not available if the asset or expense involves an insignificant amount, making it not cost-effective or reasonable to obtain third-party verification.

#### *LHA Policy*

*The LHA will use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than \$5,000 annually and the family has original documents that support the declared amount.*

### ***Certain Income, Asset and Expense Sources***

The PHA will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification. For example, the PHA will rely upon review of documents when the PHA determines that a third party's privacy rules prohibit the source from disclosing information. Another example would be where the Social Security Administration (SSA) has refused to respond to requests for third-party verification.

#### *LHA Policy*

*The LHA also will determine that third-party verification is not available when there is a service charge for verifying an asset or expense and the family has original documents that provide the necessary information.*

*If the family cannot provide original documents, the LHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.*

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost.

## **7.D. REVIEW OF DOCUMENTS**

### **Using Review of Documents as Verification**

If the PHA has determined that third-party verification is not available or not required, the PHA will use documents provided by the family as verification.

The PHA may also review documents when necessary to help clarify information provided by third parties. In such cases the PHA will document in the file how the PHA arrived at a final conclusion about the income or expense to include in its calculations.

## **7.E. SELF-CERTIFICATION**

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the PHA.

### LHA Policy

*The LHA may require a family to certify that a family member does not receive a particular type of income or benefit.*

*The self-certification must be made in a format acceptable to the LHA and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a LHA representative or notary public.*

## **7.F. VERIFICATION OF LEGAL IDENTITY**

### LHA Policy

*The LHA will require families to furnish verification of legal identity for each household member.*

<b>Verification of Legal Identity for Adults</b>	<b>Verification of Legal Identity for Children</b>
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicles identification card U.S. military discharge (DD 214) U.S. passport Employer identification card	Certificate of birth Adoption papers Custody agreement Health and Human Services ID School records

*If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.*

*If none of these documents can be provided and at the LHA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the LHA and be signed in the presence of a LHA representative or LHA notary public.*

*Legal identity will be verified on an as needed basis.*

## **7.G. SOCIAL SECURITY NUMBERS [24 CFR 5.216]**

For every family member age 6 or older, the family must provide documentation of a valid social security number (SSN), or a self-certification stating that no SSN has been issued. The self-certification must be executed personally by any family member 18 or older, or by a parent or guardian for a minor.

#### LHA Policy

*It is the policy of the LHA to collect SS #s for all children below the age of 6.*

*The LHA will also accept the following documents as evidence if the SSN is provided on the document:*

- Driver's license*
- Other identification card issued by a federal, state, or local agency, a medical insurance company or provider, or employer or trade union*
- Payroll stubs*
- Benefit award letters from government agencies; retirement benefit letters; life insurance policies*
- Court records (real estate, tax notices, marriage and divorce, judgment or bankruptcy records)*

If the family reports an SSN but cannot provide acceptable documentation of the number, the PHA will require a self-certification stating that documentation of the SSN cannot be provided at this time. The PHA will require documentation of the SSN within 60 calendar days from the date of the family member's self-certification mentioned above. If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided.

#### LHA Policy

*The LHA will instruct the family to obtain a duplicate card from the local Social Security Administration (SSA) office.*

*For individuals who are at least 62 years of age and are unable to submit the required documentation of their SSN within the initial 60-day period, the LHA will grant an additional 60 calendar days to provide documentation.*

Social security numbers must be verified only once during continuously-assisted occupancy.

If any family member obtains an SSN after admission to the program, the new SSN must be disclosed at the next regularly scheduled reexamination. In addition, if a child reaches the age of 6 and has no SSN, the parent or guardian must execute a self-certification stating that the child has no SSN at the next regularly scheduled reexamination.

The social security numbers of household members, such as live-in aides, must be verified for the purpose of conducting criminal background checks.

#### **7.H. DOCUMENTATION OF AGE**

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

#### LHA Policy

*If an official record of birth or evidence of social security retirement benefits cannot be provided, the LHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.*

Age must be verified only once during continuously-assisted occupancy.

## **7.I. FAMILY RELATIONSHIPS**

Applicants and program tenants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

### LHA Policy

*Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.*

## **Marriage**

### LHA Policy

*Certification by the head of household is normally sufficient verification. If the LHA has reasonable doubts about a marital relationship, the PHA will require the family to document the marriage.*

*A marriage certificate generally is required to verify that a couple is married.*

*In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).*

## **Separation or Divorce**

### LHA Policy

*Certification by the head of household is normally sufficient verification. If the LHA has reasonable doubts about a separation or divorce, the LHA will require the family to document the divorce, or separation.*

*A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.*

*A copy of a court-ordered maintenance or other court record is required to document a separation.*

*If no court document is available, documentation from a community-based agency will be accepted.*

## **Absence of Adult Member**

### LHA Policy

*If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).*

## **Foster Children and Foster Adults**

#### LHA Policy

*Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.*

### **7.J. VERIFICATION OF STUDENT STATUS**

A student must be of legal age or an emancipated minor under the state law. The PHA must obtain proof of age such as a valid drivers' license, identification card issued by a federal, state, or local agency, identification issued by a medical insurance company, birth certificate, or other form of identification, as determined by the PHA.

The student must be income eligible for admission to the public housing program.

The PHA must verify all sources of reported family income, in accordance with 24 CFR 960.259 and 982.516.

#### LHA Policy

*The LHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:*

- The family claims full-time student status for an adult other than the head, spouse, or co-head, or*
- The family claims a child care deduction to enable a family member to further his or her education.*

*Each college student within a household must provide a written/signed certification that the student does or does not anticipate receiving financial support from the student's parent(s) or guardian(s) and the amount of support*

*The LHA will verify, via independent third-party verification all amounts anticipated to be received outside of the family during the 12-month period following admission and the effective date of the annual reexamination.*

*The college student must have established a household separate from his/her parents or legal guardians for at least one year prior to applying to public housing, voucher, or certificate programs. The LHA will verify this by obtaining evidence of separate households by reviewing/verifying the address information that predates the student's application by a minimum of one year*

*The college student must not be claimed as a dependent by parent(s) or legal guardian(s) on their Internal Revenue Services (IRS) tax return. This may be verified by requesting a copy of the college student's Form 1040EZ, 1040A, or 1040 tax returns for the prior year by checking the box that asks whether the student's parents (or someone else) can claim him/her on their tax return (See box "5" for Form 1040EZ and box "6a" for Forms 1040A and 1040). The LHA may also, if practicable, review the college student's parents' or guardians' tax*



*return. The college student must supply any information that the LHA or HUD determines is necessary in administration of the public housing program (24 CFR 960.259).*

## **7.K. DOCUMENTATION OF DISABILITY**

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a tenant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at [www.os.dhhs.gov](http://www.os.dhhs.gov).

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

Inquiry into an applicant's ability to meet the requirements of ownership or tenancy

Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability

Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability

Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance

Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

The PHA will attempt to obtain information about disability benefits through the HUD EIV/UIV System when it is available, or HUD's Tenant Assessment Subsystem (TASS). If the HUD EIV/UIV System or TASS is not available, the PHA will attempt to obtain third-party written/oral verification from the SSA. If third-party verification is not available, the family may provide an original SSA document that confirms the current benefits.

Verification of receipt of SSA benefits or SSI based upon disability is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions.

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

### **Family Members Not Receiving SSA Disability Benefits**

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

## **7.L. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]**

### **Overview**

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A



detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible non-citizen or an ineligible non-citizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g)(5)].

### **U.S. Citizens and Nationals**

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors. The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

### ***Documents Required***

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible non-citizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance.

### ***PHA Verification***

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS). The PHA will follow all USCIS protocols for verification of eligible immigration status.

## **7.M. VERIFICATION OF PREFERENCE STATUS**

The PHA must verify any preferences claimed by an applicant.

### ***LHA Policy***

*The LHA applies various preferences; therefore verification of preferences is required.*

Chapter 6 of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. The following provides PHA policies which supplement the general verification procedures specified above.

## **7.N. EARNED INCOME**

### **Tips**

### ***LHA Policy***

*Tip income is included if it is in a family member's W-2 by the employer*

## **7.O. BUSINESS AND SELF EMPLOYMENT INCOME**

### LHA Policy

The primary verification will be the federal and local tax returns of the business and owner.

Business owners and self-employed persons will be required to provide:

All schedules completed for filing federal and local taxes in the preceding year or

An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The LHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the LHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the LHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the LHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

## **7.P. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS**

### **Social Security/SSI Benefits**

#### LHA Policy

To verify the SS/SSI benefits of applicants, the LHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the LHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant has received the benefit verification letter they will be required to provide it to the LHA. [Also see Chapter 6.E].

To verify the SS/SSI benefits of tenants, the LHA will obtain information about social security/SSI benefits through the HUD EIV System or the Tenant Assessment Subsystem (TASS). If benefit

information is not available in HUD systems, the LHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) the LHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the tenant has received the benefit verification letter they will be required to provide it to the LHA.

## **Alimony and Child Care Payments**

### LHA Policy

The way the LHA will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it **receives regular payments**, verification will be sought in the following order.

If payments are made through a state or local entity, the LHA will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.

Third-party verification from the person paying the support

Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules

Copy of the latest check and/or payment stubs

Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If the family declares that it **receives irregular or no payments**, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts

If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

Note: Families are not required to undertake independent enforcement action.

## **7.Q. ASSETS AND INCOME FROM ASSETS**

### **Assets Disposed of for Less than Fair Market Value**

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation

### LHA Policy

The LHA will verify the value of assets disposed of only if:

*The LHA does not already have a reasonable estimation of its value from previously collected information, or  
The amount reported by the family in the certification appears obviously in error.*

Example 1: An elderly tenant reported a \$10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, re-verification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately \$5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

## **7.R. NET INCOME FROM RENTAL PROPERTY**

### LHA Policy

*The family must provide:*

*A current executed lease for the property that shows the rental amount or certification from the current tenant*

*A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the LHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.*

## **7.S. RETIREMENT ACCOUNTS**

### LHA Policy

*When third-party verification is not available the type of original document that will be accepted depends upon the family member's retirement status.*

*Before retirement, the LHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.*

*Upon retirement, the LHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.*

*After retirement, the LHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.*

## **7.T. INCOME FROM EXCLUDED SOURCES**

A detailed discussion of excluded income is provided in Chapter 6.

The PHA must obtain verification for income exclusions only if, without verification, the PHA would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, the PHA will confirm that PHA records verify the child's age but will not send a verification request to the restaurant. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

#### LHA Policy

*The LHA will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, the LHA will report the amount to be excluded as indicated on documents provided by the family.*

### **7.U. ZERO ANNUAL INCOME STATUS**

Families claiming to have no annual income will be required to execute verification forms to determine that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household.

### **7.V. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS**

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

#### **Dependent Deduction**

See Chapter 6 for a full discussion of this deduction. The PHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or co-head of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

#### **Elderly/Disabled Family Deduction**

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 for a discussion of the deduction. The PHA will verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

### **7.W. MEDICAL EXPENSE DEDUCTION**

Policies related to medical expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described above.

#### **Amount of Expense**

PHAs must verify the amount of unreimbursed out-of-pocket expenses the applicant or tenant will have for prescription drugs, as well as the amount of the premium for their prescription drug plan. Third party verifications must be obtained when possible or the file must be documented why such third party verification was not available. Medicare beneficiaries required to pay a premium have the option to pay the premium directly to the plan provider or have the premium deducted from their social security. Regardless of whom they pay the premium to, the premium is an allowable medical expense. Medicare beneficiaries will receive statements about their prescription drug spending for months in which they have prescription drug spending. If there is no activity in a given month, the plan is not obligated to send an explanation of benefits. Tenants may provide the statements they receive to help verify how much they spend on prescription drugs. Attachment 2, Medicare Part D Coverage and Assistance Chart, may assist

in determining when deductibles, co-pays and premiums apply.

#### LHA Policy

*Medical expenses will be verified through:*

- *Third-party verification form signed by the provider, when possible*
- *If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or statements or receipts from the provider will be used. In this case the LHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The LHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.*
- *If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months*

In addition, the PHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

#### **Eligible Household**

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities. The PHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in this Chapter.

#### **Qualified Expenses**

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 for the PHA's policy on what counts as a medical expense.

#### **Unreimbursed Expenses**

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

#### LHA Policy

*The family may be required to certify that the medical expenses are not paid or reimbursed to the family from any source. The LHA will provide a certification form to be completed by the family.*

#### **Expenses Incurred in Past Years**

#### LHA Policy

*When anticipated costs are related to on-going payment of medical bills incurred in past years, the LHA will verify:*

*The anticipated repayment schedule*

*The amounts paid in the past, and*

*Whether the amounts to be repaid have been deducted from the family's annual income in past years*

## **7.X. DISABILITY ASSISTANCE EXPENSES**

Policies related to disability assistance expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described above.

### **Amount of Expense**

#### ***Attendant Care***

##### *LHA Policy*

*Expenses for attendant care will be verified through:*

*Third-party verification by the provider, when possible*

*If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source*

*If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months*

#### ***Auxiliary Apparatus***

##### *LHA Policy*

*Expenses for auxiliary apparatus will be verified through:*

*Third-party verification of anticipated purchase costs of auxiliary apparatus*

*If third-party is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months*

*If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months*

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7.II.F above).
- The expense permits a family member, or members, to work (as described in Chapter 6).
- The expense is not reimbursed from another source (as described in Chapter 6).

### **Family Member is a Person with Disabilities**

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See above).

### **Family Member(s) Permitted to Work**

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

##### *LHA Policy*

*The LHA will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating that the*



*person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See Chapter 6).*

*If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.*

### **Unreimbursed Expenses**

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

#### *LHA Policy*

*The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.*

### **7.Y. CHILD CARE EXPENSES**

Policies related to child care expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described above. In addition, the PHA must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

### **Eligible Child**

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13.

### **Unreimbursed Expense**

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

#### *LHA Policy*

*The child care provider will be asked to certify that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.*

*The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.*

### **Pursuing an Eligible Activity**

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

#### *LHA Policy*

#### *Information to be Gathered*



The LHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

#### Seeking Work

In the event third-party verification is not available, the LHA will provide the family with a form on which the family member must record job search efforts. The LHA will review this information at each subsequent reexamination for which this deduction is claimed.

#### Furthering Education

The LHA will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered.

#### Gainful Employment

The LHA will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

### **Allowable Type of Child Care**

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

#### LHA Policy

The LHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6.

The PHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The LHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

### **Reasonableness of Expenses**

Only reasonable child care costs can be deducted.

#### LHA Policy

The actual costs the family incurs will be compared with the LHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the LHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

## **7.Z. VERIFICATION OF LOCAL AND RANKING PREFERENCES**

### LHA Policy

Working Families—Verification form signed by employer or designated official of company indicating date applicant started work; the number of hours per week that the applicant is working; if the applicant has been working and the employer has them enrolled or independently they are enrolled in educational, training, or upward mobility programs resulting in a combination of work and training.

Non-employed applicants with adult members enrolled in educational, training, or upward mobility programs, shall be considered working families. Verification will consist of copies of official transcripts, or written verification by registrar or other appropriate official of the educational, job training or upward mobility training institution that the adult family members are enrolled.

Victims of domestic violence – Written verification from the police, court or other law enforcement agency. Verification must be obtained from a landlord or other appropriate source that the abuser still resides at the unit. The family must certify that the abuser will not return to the household without the advance written approval of LHA. Approval will not be given unless LHA is provided with evidence that the family members have been through a counseling program and that the counselor and relevant service provider believe that the abusive behavior is not likely to reoccur and reconciliation is likely.

Involuntary Displacement not under the applicant's control – This will require the following:

For displacement due to government action including modernization, disposition or demolition of LHA housing, a verification by the LHA from the agency (or in the case of the LHA, the appropriate department) that such displacement did or is about to occur and that housing by the LHA is not duplicative of other relocation compensation provided by that agency.

For other involuntary displacement such as a natural disaster, independent verification and/or a determination by the Executive Director that this constitutes involuntary displacement. In all cases, if the Executive Director determines that the applicant is not eligible for housing assistance but that an emergency need exists, the applicant may be housed temporarily on a month by month basis.

Disability—Certification by a relevant health care provider (e.g., medical doctor, osteopath, psychologist, psychiatric social worker) that the individual meets the definition of person with disabilities contained in 24 CFR 5.403 and that the individual requires the special physical conditions (such as specially equipped unit, special location - eg., first floor, etc) requested.

**Ranking Preference** – The ranking preferences are the same as the preferences but given a different value. Therefore the documentation required for ranking is the same as that required for claiming a preference.

## **CHAPTER 8: HOUSING PHYSICAL CONDITION STANDARDS AND INSPECTION REQUIREMENTS**

### **8.A. PHYSICAL STANDARDS REQUIREMENTS**

#### **8.A.1 General HUD Requirements**

The physical condition standards are specified in 24 CFR Part 5 Subpart G and are the minimum criteria a dwelling unit must meet to ensure the health and safety of occupants of housing receiving HUD assistance. These minimum conditions do not supercede or replace any state or local laws regarding the physical conditions or requirement of housing which is owned or assisted by the LHA [24 CFR 5.703 (g)]. The LHA will conduct inspections prior to the execution of the lease, at least annually during assisted occupancy, and at other times as needed to determine if the unit meets the HUD Certified Uniform Physical Condition Standards (U.P.C.S.) requirements and state and local codes as specified by the Commonwealth of Massachusetts and the City of Lowell. All habitation standards can be categorized into the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site
- Sanitary condition
- Smoke Detectors

Additional guidance on these requirements is found in the following HUD resources:

- DSS/GR Guidelines in 24 CFR 902.23
- HUD Housing Inspection Manual for UPCS
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

#### **Tenant Preference Items**

HUD requires the PHA to enforce minimum standards but also requires that certain judgments about acceptability be left to the family. For example, the PHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic condition of the facilities is acceptable.

#### **Modifications to Provide Accessibility**

Under the Fair Housing Act of 1988 the PHA must not refuse the request of a family which contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications may be at the family's expense. The PHA may require restoration of the unit to its original condition if the modification would interfere with the next occupant's full enjoyment of the premises. The PHA may not increase a customarily required security deposit. However, the PHA may negotiate a restoration

agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The PHA may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained.[24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable UPCS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

#### LHA Policy

*The LHA will firstly offer another unit which meets the 'reasonable accommodations' test.*

### **8.A.2. Additional Local Requirements**

The PHA may impose additional quality standards as long as the additional criteria are not likely to adversely affect the health or safety of families. HUD approval is required if more stringent standards are imposed. HUD approval is not required if the PHA additions are clarifications of HUD's acceptability criteria or performance standards.

#### **Thermal Environment**

The PHA must define a "healthy living environment" for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

#### LHA Policy

*The heating system must be capable of maintaining an interior temperature of 68 degrees at night and 64 degrees during the day, from October 15<sup>th</sup> through April 15<sup>th</sup> as per the Commonwealth of Massachusetts' code.*

#### **Clarifications of HUD Requirements**

#### LHA Policy

*As permitted by HUD, the PHA has adopted the following specific requirements which elaborate on HUD standards.*

#### Walls

*In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.*

#### Windows

*Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.*

*Windows must be weather-stripped as needed to ensure a weather-tight seal.*

*Window screens must be in good condition (applies only if screens are present).*

#### Doors

All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact and have a threshold.

All interior doors must have no holes, have all trim intact, and be able to be opened without the use of a key.

#### Floors

All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be secured and made level. If they cannot be leveled, they must be replaced.

All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.

All floors should have some type of cove base, trim, or sealing for a "finished look." Vinyl cove base is permitted.

#### Sinks

All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

All sinks must have functioning stoppers.

#### Security

If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

#### Carbon Monoxide Detectors

Carbon Monoxide detectors must be present in all units and must be installed in accordance with state regulations.

### **8.A.3 Life Threatening Conditions**

HUD requires the PHA to define life threatening conditions and to notify the property manager or the family (whichever is responsible) of the corrections required. The responsible party must correct life threatening conditions within 24 hours of PHA notification.

#### LHA Policy

The following are considered life threatening conditions:

- Any condition which jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition which could result in shock or fire
- Absence of a working heating system when outside temperature is below 50 degrees Fahrenheit.
- Utilities [electricity, gas and water] not in service.

- *Conditions which present the imminent possibility of injury*
- *Obstacles which prevent safe entrance or exit from the unit*
- *Absence of a functioning toilet in the unit*
- *Inoperable smoke detectors*

*If a family fails to correct a family caused life threatening condition as required by the LHA, the LHA may terminate the family's lease.*

*The LHA will be required to repair an inoperable smoke or carbon monoxide detector. If the LHA determines that the family has intentionally disconnected it (by removing batteries or other means) the family will be charged for the service call.*

#### **8.A.4. Special Requirements For Children With Environmental Intervention Blood Lead Level [24 Cfr 35.1225]**

If a PHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in a unit has been identified as having an environmental intervention blood lead level, the PHA must complete a risk assessment of the dwelling unit. The risk assessment must be completed in accordance with program requirements, and the result of the risk assessment must be immediately provided to the Executive Director of the LHA. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the PHA.

Within 30 days after receiving the risk assessment report or the evaluation from the public health department, the PHA is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the PHA does not complete the "hazard reduction" as required, the dwelling unit is in violation of UPCS and HUD will take action.

PHA reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

#### **8.A.5. Standards for Repairs Life-Threatening Defects**

If a defect is life threatening, the manager (or the family if the breach is caused by the family) must correct the defect within no more than 24 hours of notification by the LHA of the defect.

##### *LHA Policy*

*In the event an inspection finds life threatening defects, the LHA will contact the responsible party as expeditiously as possible (e.g. by phone, or in person, a note to the file will document such contact) and follow-up with a written notification. The 24-hour time limit will be measured from time of initial contact. In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified expeditiously, or is unable to effect the repair within the 24-hour period, the LHA will notify the proper authorities.*

The LHA has defined the following as emergency or life-threatening conditions:

- Fires
- Gas leaks
- Fire alarms sounding
- Electrical power failure
- Elevator stoppage
- Broken water pipes
- Sewer blockages
- No heat during heating months (October 15<sup>th</sup> through April 15<sup>th</sup>)

#### **Other Defects**

Non life-threatening violations of codes and HUD standards can range from serious (e.g. lack of functioning toilet) to minor (e.g. a single burner on a 4-burner stove not operating properly).

##### LHA Policy

Where the LHA determines that a violation is serious (but not life-threatening), the LHA requires the responsible party to make the repairs within 72 hours of notification.

For other defects, the responsible party must correct the defect within no more than 20 calendar days from the date of notification.

### **8.B. INSPECTIONS**

Inspections are required before the lease is signed and the family takes occupancy and at least annually during the term of the contract. The family must allow the PHA to inspect the unit at reasonable times with reasonable notice.

#### **8.B.1 Types of Inspection**

##### LHA Policy

There are five types of inspections the LHA will perform:

*Initial/Move-in:* conducted upon the site visit of an eligible applicant. This inspection will be conducted by a certified inspector of the agency, by the Property Manager or assistant and by the applicant.

*Annual re-inspection:* an LHA certified inspector generally will conduct such inspections within 35 to 90 days prior to the anniversary of the last inspection.

*Special complaint or interim inspection:* conducted following a complaint by the family, Property Manager, or other public agency or third party. A special inspection will be conducted whenever the LHA obtains information that the unit appears to be in



violation of HUD or state and local codes and will be done by an LHA certified inspector.

Move-out/Vacate inspection: conducted for all move-outs on the same day as the tenant moves out (or in the case of 'skip-outs' within 24 hours of such unauthorized move-out).

Supervisory quality control inspections: conducted by a supervisor or other qualified person for a sample of recently completed inspections.

### **8.B.2. Scheduling Inspections**

#### LHA Policy

Inspections will be conducted on business days between the hours of 8:30 AM and 4:30 PM. Where special circumstances exist, the Property Manager may approve inspections on weekends or holidays and after 4:30 PM.

The LHA will notify the family in writing, or facsimile or email, where appropriate, at least 2 days prior to the date of the inspection, if the unit is occupied.

For reinspections after occupancy, the family is not required to be present.

### **8.B.3. Standards and Procedures for Re-Occupancy of a Unit**

#### LHA Policy

#### Vacancy Notification and Inspection Procedures

After a vacancy has been logged by the Property Manager, Admissions and Maintenance are notified. Then Maintenance should dispatch a crew to exterminate the unit and clean out all the debris and broom sweep the unit. In addition the locks should be changed.

The general operating routine should start with a request from the Property Manager to Maintenance to conduct an inspection of a recently vacated apartment by using the relevant unit inspection report forms (as revised to include state and local code requirements), to determine if the particular unit is appropriate for the Maintenance team to repair and restore or whether it needs to be referred to modernization. If the unit is appropriate for the maintenance site team, it formulates a report for scheduling of work required and converts the deficiency findings to work orders.

Immediately after the inspection has been completed the unit should be secured and Maintenance must arrange a meeting with the Property Manager, to establish an agreed upon schedule of activity, which will then enable Maintenance to prepare a scheduled completion date for re-occupancy. A copy will be left with the Property Manager and a copy sent to Admissions.

#### Restoration Procedures

To ensure quality of workmanship, Maintenance and the Property Manager should conduct a brief final inspection upon completion of the work either in conjunction with the applicant assigned the unit or prior to that date. After the work is accepted by the Property Manager, Maintenance will obtain actual hours and costs incurred from the work orders and determine the overall time and costs with a comparison with the original estimate of cost and scheduled completion date.

For all units which will be restored through the CFP the schedule will still be established in conjunction with the Property Manager and the reports on cost and time shall still be provided. The CFP Department and the Property Manager will jointly visit such listed unit/s, to discuss and determine the quality and extent of work to be performed, such as floor covering patching versus replacement, or item replacement versus repair, along with the anticipated costs of those decisions and the proposed schedule. No unit will be referred to CFP unless all parties are in agreement that this classification of the unit is correct.

#### Punch Lists

In general an applicant family will not be permitted to occupy a unit, move in furniture or appliances or activate utilities, until the unit is complete and all punch list items completed. However, if the joint inspection of the Property Manager, Maintenance and Applicant agree that the punch list items do not legally prevent occupancy under State or local codes and are of such a nature that they can be completed within 20 days, that list will be added to the lease with copies for all parties and occupancy permitted by the Applicant. However no Applicant will be required to occupy a unit under such 'punch list' conditions.

The Property Manager will also schedule the City of Lowell Board of Health for an inspection and approval of the unit for occupancy, prior to re-occupancy of the unit.

#### Quality Control

The basic quality control occurs with the joint inspection by the Property Manager, Maintenance and the applicant household.

#### Consequences if Repairs are not Made within Time-Frames Specified

During the inspection, the LHA inspector will determine whether the items not meeting codes are the responsibility of the manager or the family.

#### Family Responsibility.

The LHA will notify the family in writing if it determines that a code violation is the responsibility of the family and indicate the date by which the necessary repairs must be made.

The LHA will schedule a re-inspection of the unit on the first working day following the date indicated in the notification for completion of the repairs. If the family fails to make the

repairs, the LHA will notify the family that the lease will be terminated and that the family has the right to an informal hearing prior to termination.

However, the LHA may make the repairs itself and will charge back the cost of those to the tenant and failure to pay those will constitute a violation of the lease and subject the family to eviction.

## **8.C. POLICY AND PROCEDURES FOR PHYSICAL INSPECTIONS OF LOWELL HOUSING AUTHORITY PROPERTIES AND UNITS**

### LHA Policy

#### Policy and Procedure for Physical Inspections of LHA Units

Each unit will be inspected at least once per year by a Certified Uniform Physical Condition Standards (U.P.C.S.) Technician Inspector.

All emergency deficiencies found during the inspection will be corrected within 24 hrs. with a work order to record each correction.

All routine deficiencies will be corrected with a work order to record each repair within two (2) weeks of noted deficiency.

Vacant units ready for re-occupancy will be inspected by the U.P.C.S. Inspector with a report to the appropriate Property Manager.

All completed repairs must have a detailed work order.

The U.P.C.S. Inspector will note all Capital Fund Work Items (items considered to be beyond ordinary maintenance). This in turn will generate items to be added to the Capital Fund Budget.

The U.P.C.S. Inspector will continually re-inspect at least 5% of all LHA units.

#### Policy and Procedure for Physical Inspections of Common Areas, Sites, Buildings, Grounds, and Exterior Lighting

The U.P.C.S. Inspector will conduct site inspections of all LHA property noting all deficiencies along with safety hazards. Reports will be submitted to each Property Manager. This then becomes the Property Manager's responsibility to have all deficiencies corrected or addressed appropriately.

The U.P.C.S. Inspector will note all items to be considered as Capital Fund issues. These items will be incorporated in order of priority into the Capital fund Program Budget.

## **8.D PEST CONTROL POLICY**

### LHA POLICY

Control of pests and rodents is essential to maintain the safety and sanitation of dwelling units. The Lowell Housing Authority and our public housing residents must exert their best efforts to

ensure a clean and healthy living environment throughout all LHA public housing developments. These efforts must include effective pest control (of roaches, other insects, mice and other vermin). The following policies and practices are intended to mutually achieve effective pest control throughout LHA public housing developments.

#### GENERAL CLEANLINESS

The LHA - will exert best efforts to ensure that grounds, common areas and community facilities are clean and free of any garbage or debris which would attract or provide a food source for insects or vermin. Areas in and around garbage dumpsters and litter containers and community facilities in which food is served will be given special attention.

Residents - must exert best efforts to keep individual apartments clean and free of any garbage or debris that would attract or provide a food source for insects or vermin. Residents are also urged to report any knowledge of site conditions which would attract pests or of actual infestation by roaches, other insects, mice or other vermin. Residents are also encouraged to urge their neighbors to assist in keeping site grounds, common areas and public facilities as clean as possible, for example, place litter and non-household garbage in proper containers.

#### ANNUAL AND PERIODIC EXTERMINATION

The LHA - will conduct annual and periodic extermination of all apartments, common areas, basements and building exteriors. The extermination will be done by a private contractor who has been licensed by the State to perform the extermination work. Regular extermination schedules (usually by building) will be established by Property Managers. Property Managers will be responsible for notifying the residents within 48 hours prior to extermination of a dwelling unit.

Residents - may either be home or not home during the extermination of their dwelling unit.

#### SPECIAL EXTERMINATIONS

The LHA - will periodically conduct intensive exterminations to better control persistent infestation problems and vulnerable areas, and to respond to special emergent circumstances, such as nearby construction (which tends to drive mice and vermin from existing burrows into nearby properties). These special treatments will be conducted by a licensed private sector contractor.

Residents - are urged to inform site management staff of particular problem areas and of changed conditions which may require special pest control treatment.

#### CONDITION EVALUATION

The LHA - will include pest control observations during all apartment inspections and during the completion of routine work orders.

Residents - are urged to inform property managers, apartment inspectors and other LHA staff of any infestation problems.

#### *ENFORCEMENT*

The LHA - has included cleanliness and extermination requirements as part of the residential lease provisions in order to ensure a healthy living environment. Violations of extermination requirements will result in a Notice of Lease Violation and, if they persist, appropriate remedial action in court.

## **CHAPTER 9: GENERAL LEASING POLICIES**

### **9.A. PRE-LEASE AND OFFER TO LEASE SITE VISIT**

#### LHA Policy

Upon completion of the Briefing as outlined in Chapter 5, the applicant will meet with the Property Manager of the site chosen by the LHA for assignment of the family. This meeting will provide an opportunity for the family to meet staff, tour the site and see a typical unit to be occupied (if the specific unit is not ready for occupancy) or see the proposed unit.

During this visit of the family to the site there will be a discussion of the lease terms and development rules, covering the following topics as a minimum:

- Basic housekeeping focusing on preventive maintenance and utility conservation
- Operation of LHA equipment and appliances as may be appropriate
- Lease terms including recertification requirements
- Grievance procedures
- Ceiling rents and Flat rent versus Income-based rent
- Budgeting
- Maintenance work order system and definition of emergencies and expected response time for various categories of work orders
- Security, crime and police procedures
- Use of drugs and alcohol
- Fire and safety procedures
- Rent payment rules
- Pet policy
- Community Service Requirement

Then the unit will be offered to the applicant subject to a final inspection and lease execution including the required security deposits.

The offer will be made on an "Offering Form" which will detail the date of final inspection, the date of move-in, the date when activation of utilities can be made and the amount of the deposit to be made and the due date for the rent. In addition, the Pet Policy addendum will be completed, if the applicant intends to bring in a pet. If the adult members of the family are subject to the Community Service Requirement, the CSR form will be completed

for each adult member. If the unit is ready for inspection at the time of this visit and the applicant has the required deposits, the Offering Form will still be completed but the execution of the lease as outlined in B. will proceed.

Refusal To Lease: If the applicant is on the site waiting list and is offered a unit appropriately sized for that family and meeting any disability 'reasonable accommodations' and the family turns down or refuses the unit, then the family will be removed from the waiting list for that and all other sites.

## **9.B. EXECUTION OF LEASE**

### LHA Policy

If the unit is ready for occupancy and the applicant has signed the offer, the following actions will be taken:

- The unit will be inspected as detailed in Chapter 8 above and any "punch list" items which do not prevent occupancy will be attached to the lease with a time for completion not to exceed 20 days. If the inspection reveals items which prevent occupancy under local habitation codes, then a re-inspection date will be set with the family.
- The security and rental payment and other deposits will be receipted.
- The lease will be reviewed including the pet policy addendum if applicable and the CSR requirement addendum if applicable.
- The lease will be executed and the keys to the unit provided.

One original of the lease will be kept at the site and one will be provided the tenant.

## **9.C TRANSFERS**      **Adopted by the LHA Board of Commissioners – April 23, 2008, Amended April 10, 2014, July 6, 2018**

This is a comprehensive Transfer Policy established for public housing units operated by the Lowell Housing Authority. The purpose of this Policy is to ensure that the Authority meets the needs of all residents when there are situations in which a move from one unit to another is required. Within the context of this Policy, the types of transfers to be authorized and the priority granted for each type of transfers will be overviewed.

The Lowell Housing Authority will establish one Transfer List to be maintained by the Director of Public Housing Programs. All Property Managers will refer transfer requests to the Director, who will place the resident on the Transfer List in accordance with the established priorities. All transfer assignments will be made in compliance with the Policy as set forth in this document.

## **OCCUPANCY STANDARDS**

The Transfer Policy is based on the Occupancy Standards adopted by the Lowell Housing Authority. These Occupancy Standards provide a guideline for the minimum and maximum number of persons authorized to occupy an apartment. These standards are listed as follows:

Number of Bedrooms	Number of Persons	
	<u>Minimum</u>	<u>Maximum</u>
0	1	2
1	1	2
2	2	4
3	3	6
4	4	8
5	5	10
6	6	1

### **TYPES OF TRANSFERS**

The Lowell Housing authority will consider the following types of transfers in an effort to meet the needs of residents. Some transfers will be mandatory while others are optional. The following is an overview of the criteria that the Authority will utilize in the determination of the need for a transfer:

- 1 **EMERGENCY:** An Emergency Transfer will be granted if conditions exist in a unit, building or site, that pose an immediate threat to the health or safety of a resident or family members. Additionally, an emergency transfer may be granted when a resident is at risk of harm due to criminal elements at the property or in the neighborhood, or in the case of domestic violence. In these situations, transfer requests must be supported by an assessment from a law enforcement official and verified in writing. Emergency transfers will also be granted in order to alleviate a verified medical condition of a life-threatening nature. This includes requests for transfers based on the assessment of a rehabilitation center or nursing home, that a resident cannot leave a facility until a transfer is made available.

A Lowell Housing Authority resident who is a victim of physical harassment, extreme or repeated vandalism to personal property, or extreme or repeated verbal harassment, threats, intimidation, or coercion, which is bias motivated and which cannot be remedied in other ways such as LHA eviction of the people responsible for such harassment or other action, may qualify for an emergency transfer to another unit within the development or to another LHA development. Extreme or repeated instances of bias-motivated verbal harassment, threats, intimidation, or coercion may constitute grounds for an emergency transfer, even absent physical injury or property damage suffered by the victim of such verbal harassment, threats, intimidation or coercion. When a resident requests a transfer due to threats, violence or abuse containing bias indicators, the transfer request form must state that the transfer request is based upon an alleged civil rights violation. The transfer request form will be accepted at the Property manager's Office and must indicate the date the form was accepted. The resident will be provided with a copy of the form. The Property Manager should attach a written recommendation relative to the transfer request and should also attach a copy of the Civil Rights Violation Report Form.

The Property manager, in consultation with the Assistant Executive Director, will make a determination on the transfer request and will notify the resident within seven days of the request.



Upon approval, the Property manager will place the family on the transfer list within the development or on the transfer list for all other developments, as per the request of the resident.

If a transfer request is denied, a letter will be mailed to the resident listing the specific reasons for the decision. Resident have the opportunity the dispute this determination through the LHA Grievance Procedure, as found in this plan.

Lastly, an emergency transfer will be granted to victims of domestic abuse, dating violence, sexual assault, or stalking as per the Violence Against Women Act (VAWA) Emergency Transfer Plan found in Appendix I.

- 2     **REASONABLE ACCOMMODATION:** Transfers will be authorized when a resident needs to move to a different apartment as an accommodation to the resident's disability. This includes but is not limited to the need for a resident to occupy a ground floor unit because his/her disability prevents him/her from climbing stairs or a resident who requires a unit with certain physical features that cannot be provided in the current unit. The complete Reasonable Accommodation Policy of the Lowell Housing Authority can be found in the Administrative Plan for the Low Rent Public Housing Program.
- 3     **DEMOLITION, DISPOSITION, REVITALIZATION OR REHABILITATION:** Transfers coordinated for this purpose allow the Housing Authority to demolish, sell or complete major rehabilitation work at a building or at a development. These transfers will be done as part of an approved demolition/disposition or rehabilitation plan.
- 4     **OCCUPANCY STANDARDS (Over Housed and Under Housed):** These required transfers are made when a resident's family size has changed and the unit is too large or too small based on the Authority's Occupancy Standards.

The Lowell Housing Authority will only authorize transfers based on the above criteria. The Authority will not authorize resident initiated transfers that do not comply with these guidelines.

## **TRANSFER PRIORITIES**

Transfers will be offered based on the following priorities:

1.     Emergency
2.     Reasonable Accommodation
3.     Demolition, Disposition, Rehabilitation
4.     Occupancy Standards (Under Housed and Over Housed)

For each bedroom size, **one of every three vacancies** shall be assigned to a family from a Transfer List. In order to ensure that the priorities are being met in this process, the Property Manager will work with the Director of Public Housing Programs in determining the assignment of a transfer. Vacancies will be filled with residents who hold the highest priority.

The Property Manager will consult with the Director of Public Housing Programs to determine the resident with the highest priority and highest number (based on date and time of the transfer request) on each of the Transfer Lists. The resident holding the highest rating will be offered the transfer.

## **MANDATORY TRANSFERS**

Transfers will be considered mandatory if they are listed under the following priorities:

- Emergency
- Demolition/disposition/revitalization/rehabilitation
- Occupancy Standards (Under Housed and Over Housed)

Transfers offered to meet a Reasonable Accommodation request shall not be mandatory. In the case of an under housed situation, when a family is occupying a unit that is too small based on the family size and is in violation of city code requirements, the transfer will be considered mandatory. In the case of an over housed situation, the transfer will be considered mandatory. Residents have the opportunity to dispute a Mandatory Transfer utilizing the Lowell Housing Authority's grievance procedure as found in the Administrative Plan for the Low Rent Public Housing Program

## **ELIGIBILITY REQUIREMENTS FOR TRANSFERS**

The Lowell Housing Authority will require that residents meet certain requirements if they are seeking a transfer. The Authority shall not impose these requirements in an emergency situation. These requirements may also be waived at the discretion of the Property Manager or Director of Public Housing Programs. The Authority will impose the following requirements of the resident making the transfer request:

- The Family must not engage in criminal activity that threatens the health and safety of other residents.
- The family cannot owe back rent, damage charges or have a history of late rental payment. Also, the family may not be in arrears on any established repayment agreement. If the family is in arrears, the full balance must be paid prior to approval of the transfer. If repayment agreements are being paid in a timely manner, transfer requests shall be authorized.

Transfer request forms will be available at the office of the Public Housing Manager and the office of the Director of Public Housing Programs. All transfer request forms will first be reviewed by the Property Manager to determine if the transfer request is valid and in compliance with Transfer Policy criteria. If the transfer may be coordinated within the jurisdiction of the Property Manager, the resident will be placed on the Property Manager's transfer list. If there is a need to transfer out of the jurisdiction, the Transfer form will be forwarded to the Director of Public Housing Programs for placement on the Director's Transfer list.

## **TRANSFER ASSIGNMENTS**

Residents will be offered one transfer assignment. If the offer is refused by the resident, the Property Manager/Director of Public Housing Programs shall remove the family from the Transfer List. The unit will then be offered to the next resident on a transfer list. A transfer offer not accepted within one day of notification of such offer will be considered to have been refused. In the case of a Mandatory Transfer, refusal of a transfer assignment may result in legal action to terminate the lease of the resident. If medical or other documentation is presented which, in the opinion of the Executive Director, indicates that good

cause exists for a residents' refusal of a transfer assignment, another transfer assignment will be granted.

In under housed/over housed situations, transfers will be made within a development in accordance with occupancy guidelines. Transfer offers to other developments may be necessary when a family requires a unit size that does not exist in the development in which they reside. In the coordination of a transfer the Property Housing Manager and the Director of Public Housing Programs may consider special requests made by the family to situate in another development. Within each priority group, the elderly may limit a transfer request to only an elderly development.

## **COSTS ASSOCIATED WITH TRANSFERS**

The Lowell Housing Authority will assume reasonable costs associated with transfers initiated for purposes of demolition, disposition, revitalization and rehabilitation. In addition, costs associated with transfers coordinated due to building system failures and other emergency conditions that cannot be corrected within 24 hours will be paid by the Authority. In all other instances, the resident will assume the cost of the transfer.

## **CHAPTER 10: RENT STANDARDS AND ADJUSTMENTS**

### **10.A. FLAT RENTS**

**Amended June 11, 2014**

#### **10.A.1 Determining Flat Rents**

In accordance with the 2014 Appropriations Act, flat rents must be set at no less than 80 percent of the applicable Fair Market Rent (FMR). If a new flat rent amount for a unit will increase a family's existing rental payment by more than 35 percent, then the new flat rent shall be phased in, as necessary, to ensure that the family's existing rental payment does not increase by more than 35 percent annually. In determining the flat rent amount, the LHA will consider who is responsible for direct utility payments to utility companies and adjust the flat rent accordingly. If the family is responsible for making utility payments, the flat rent amount will be adjusted downward, utilizing an established utility allowance schedule, based on unit size and type of utility.

Annually, the LHA will calculate flat rents using a rent reasonableness methodology, as defined in 24 CFR, Part 960.253(b), for determining the flat rent based on the market rent of comparable units in the private, unassisted rental market. This method will consider the location, quality, size, unit type, unit age and any amenities. If the flat rent as determined by the rent reasonableness study is at least 80 percent of the FMR, the LHA will set flat rents at the amount determined by the rent reasonableness study. If the flat rent, as determined by the rent reasonableness study is less than 80 percent of the FMR, the LHA will set the flat rent at no less than 80 percent of the FMR. If the FMR decreases from the previous year, the LHA may, but is not required to lower the flat rent to 80 percent of the FMR. All flat rents are subject to utility allowance adjustments, for units where the family is responsible for utility payments.

For new admissions, the family may chose between the flat rent option and the income-based rent. For families already paying the flat rent amount, the LHA will offer any changes to the flat rent amount at the time of the next annual rent option, and permit the family to choose between the flat rent amount and the income-based rent.

Upon issuance of new FMRs by HUD, the LHA will:

- 1) Determine if the current flat rent is at least 80% of the new FMR

- 2) Update the flat rent amounts, if necessary, to meet the 80% requirement within a reasonable time but no later than 90 days of HUD publishing new FMRs.
- 3) Apply the new flat rents to all new admissions and to existing families at the time of the next rent option.

### **10.A.2 Flat Rent Re-Certification and Changes**

As described more fully in Chapter 6, tenants choosing the flat rent option are normally recertified annually for family composition and every three years for income. Generally changes in income will not affect the flat rent payment amount. However, a change in income which would result in a change in eligibility for the program should be reported.

### **10.B. INCOME-BASED RENTS**

A PHA may use any formula including a percentage of income for determining income based rents. However such a formula cannot result in a Total Tenant Payment [TTP] as defined in 24 CFR 5.628.

#### LHA Policy

*The LHA has chosen the 30% of adjusted income rule for determining income-based rents. See Chapter 6.*

### **10.C. RENT ADJUSTMENTS**

A resident may not switch rent payment methods except at the time of the annual renewal of lease or if the family meets hardship criteria.

#### LHA Policy

*To be eligible to switch from flat rents to income-based rents, a resident must demonstrate financial hardship as follows:*

1. *A decrease in family income*
  2. *An increase in expenses in the following areas;*
    - a) *medical expenses*
    - b) *educational expenses*
    - c) *occupational*
    - d) *child care*
  3. *Other, as determined by the Lowell Housing Authority*
- The LHA will make a determination evaluating the changed circumstances using the following criteria:*
- a. *The income change must increase the housing expenses to greater than 40% of income*
  - b. *Verification must document unreimbursed expenses for a minimum of a 4 week period*
  - c. *Rent will be changed within a "reasonable period"—generally within 30 days following verification of the change in circumstances*

## **CHAPTER 11: RE-EXAMINATIONS**

### **11.A. ANNUAL RE-EXAMINATION OF FAMILY INCOME AND COMPOSITION**

The PHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. However, for residents who choose the flat rent payment option, the annual re-examination is only required for household composition. Income is to be re-examined every three years. [24 CFR 960.253].

### **11.B. SCHEDULING ANNUAL RE-EXAMINATIONS**

The PHA must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period, and may require reexaminations more frequently.

#### LHA Policy

*The LHA will begin the annual reexamination process 90 - 120 days in advance of its scheduled effective date.*

*Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).*

*If the family transfers to a new unit, the LHA will perform a new annual reexamination.*

*The LHA also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.*

#### **Notification of and Participation in the Annual Reexamination Process**

The PHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA.

#### LHA Policy

*Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or co-head. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the LHA to request a reasonable accommodation (see Chapter 2).*

*Notification of annual reexamination interviews will be sent by mail and will contain the date, time and location of the interview. In addition, it will inform the family of the information and documentation which must be brought to the interview.*

*If the family is unable to attend a scheduled interview, the family should contact the LHA in advance of the interview to schedule a new appointment.*

*If a family fails to attend a scheduled interview without the LHA approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will*

*be sent to the family's address of record, and to any alternate address provided in the family's file.*

*An advocate, interpreter, or other assistant may assist the family in the interview process. The family and the LHA must execute a certification attesting to the role and assistance of any such third party.*

### **11.C. CONDUCTING ANNUAL RE-EXAMINATIONS**

As part of the annual reexamination process, families are required to provide updated information to the PHA regarding the family's income, expenses, and composition .

#### *LHA Policy*

*Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include An LHA re-examination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.*

*Any required documents or information which the family is unable to provide at the time of the interview must be provided within 7 days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.*

*If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be sent a notice of termination (See Chapter 12).*

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the PHA Standards (see Chapter 8), the PHA must transfer the family to an acceptable unit as soon as possible.

### **11.D. EFFECTIVE DATES**

The PHA must establish policies concerning the effective date of changes that result from an annual reexamination.

#### *LHA Policy*

*In general, an increase in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date and the family will be notified at least 30 days in advance. Due to the requirement that the notice be received 30 days in advance, all re-examinations will be*

completed and notices mailed, 35 days prior to the anniversary date.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and no 30-day notice is required.

If the LHA chooses to schedule an annual re-examination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the LHA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual re-examination, increases in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual re-examination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a decrease in the family share of the rent that results from an annual re-examination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease.

If the LHA chooses to schedule an annual re-examination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the LHA.

If the family causes a delay in processing the annual re-examination, decreases in the family share of the rent will be applied prospectively, from the first day of the month following completion of the re-examination processing.

Delays in re-examination processing are considered to be caused by the family if the family fails to provide information requested by the LHA by the date specified and this delay prevents the LHA from completing the re-examination as scheduled.

#### **11.E. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION**

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to family obligations under the program, the PHA has limited discretion in this area.

##### LHA Policy

The LHA will conduct interim re-examinations to account for any changes in household composition which occur between annual re-examinations.

##### **New Family Members Not Requiring Approval**

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition.

#### LHA Policy

*The family must inform the LHA in writing of the birth, adoption or court-awarded custody of a child within 10 business days.*

#### **New Family and Household Members Requiring Approval**

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member or other household member (live-in aide or foster child).

When any new family member is added, the PHA must conduct a reexamination to determine any new income or deductions associated with the additional family member and to make appropriate adjustments in the family's rent.

If a change in family size causes a violation of PHA or State or Local habitation code space standards (see Chapter 8), the PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must transfer the family and lease to the new unit.

#### LHA Policy

*Families must request LHA approval to add a new family member, live-in aide (as needed for reasonable accommodation of a disability), foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days, or 20 cumulative days, within a twelve month period, and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the LHA prior to the individual moving in the unit.*

*The LHA will not approve the addition of a new family or household member unless the individual meets the PHA's eligibility criteria (see Chapter 3).*

*The LHA reserves the right to not approve the addition of a foster child or foster adult if it will cause a violation of its space standards and there is no other suitable unit which the family can be transferred to.*

*If the LHA determines an individual meets the LHA's eligibility criteria as defined in Chapter 3, the PHA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to the LHA space standards, the approval letter will explain that the family will be required to move.*

*If the LHA determines that an individual does not meet the PHA's eligibility criteria as defined in Chapter 3, the PHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.*

*The LHA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.*

#### **Departure of a Family or Household Member**

Families must promptly notify the PHA if any family member no longer lives in the unit. Because household members are considered when determining the family unit (voucher) size, the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.



#### LHA Policy

*If a household member ceases to reside in the unit, the family must inform the LHA within 10 business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.*

*If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the LHA within 10 business days.*

### **11.F. CHANGES AFFECTING INCOME OR EXPENSES**

Interim re-examinations can be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

#### **PHA-Initiated Interim Re-examinations**

PHA-initiated interim re-examinations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

#### LHA Policy

*The LHA will conduct interim re-examinations in each of the following instances:*

*For families receiving the Earned Income Disallowance (EID), the LHA will conduct an interim re-examination at the start and conclusion of the second 12 month exclusion period (50 percent phase-in period).*

*If at the time of the annual re-examination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclical income), the LHA will schedule an interim re-examination to coincide with the end of the period for which it is feasible to project income.*

*If at the time of the annual re-examination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the LHA will conduct an interim re-examination.*

*The LHA may conduct an interim re-examination at any time in order to correct an error in a previous re-examination, or to investigate a tenant fraud complaint.*

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination.

#### ***Required Reporting***

HUD regulations give the PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

#### LHA Policy

Families are required to report any increase of \$200 or more in annual earned income, including new employment, within 10 business days of the date the change takes effect.

The LHA will only conduct interim re-examinations for families that qualify for the earned income disallowance (EID), and only when the EID family's share of rent will change as a result of the increase. In all other cases, the LHA will note the information in the tenant file, but will not conduct an interim re-examination unless the increase in income would result in a TTP greater than \$10/month for income based rent tenants only.

#### **Optional Reporting**

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination. The PHA must process the request if the family has chosen the income based rent option and reports a change that will result in a reduced family income or if the family has chosen the flat rent option and is experiencing financial hardship.

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

#### LHA Policy

If a family reports a change that it was not required to report and that would result in an increase in the family share of the rent, the PHA will note the information in the tenant file, but will not conduct an interim re-examination unless the increase in income would result in a TTP greater than \$10/month for income based rent tenants only.

If an income based rental family reports a change that it was not required to report and that would result in a decrease in the family's rent, the LHA will conduct an interim re-examination. Flat rent based tenants are exempt from this.

Families may report changes in income or expenses at any time.

### **11.G. PROCESSING THE INTERIM REEXAMINATION**

#### **Method of Reporting**

#### LHA Policy

The family may notify the LHA of changes either orally or in writing (mail, email or fax). If the family provides oral notice, the LHA may also require the family to submit the changes in writing.

Generally, the family will not be required to attend an interview for an interim re-examination. However, if the LHA determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the LHA will determine the documentation the family will be required to submit. The family

*must submit any required information or documents within 7 business days of receiving a request from the LHA. This time frame may be extended for good cause with LHA approval. The LHA will accept required documentation by mail, email, fax, or in person.*

### **Effective Dates**

The PHA must establish the time frames in which any changes that result from an interim reexamination will take effect. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family's rent, and whether the family reported any required information within the required time frames.

#### *LHA Policy*

*If the family's rent is to increase:*

*The increase generally will be effective on the first of the month following receipt of a notice to the family 30 days prior to the first of the following month.*

*If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.*

*If the family share of the rent is to decrease:*

*The decrease will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.*

### **11.H. CHANGES IN UTILITY ALLOWANCES**

In order to calculate the TTP amount correctly, changes in utility allowances may need to be updated and included in the PHA's calculations. Specific policies governing how utility allowances are applied are discussed below.

#### **Utility Allowances**

The family's rent calculations must reflect any changes in the family's utility arrangement with the PHA, or in the PHA's utility allowance schedule. Chapter 16 discusses how utility allowance schedules are established. At reexamination, the PHA must use the PHA current utility allowance schedule for income based rents. This does not apply to flat rents.

#### *LHA Policy*

*Revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.*

### **11.I. PAYMENT ADJUSTMENT NOTICE**

The PHA must notify the family of any changes in the amount of the TTP. The notice must include the amount and effective date of the new family rent

The family must be given an opportunity for an informal hearing regarding the PHA's determination of their annual or adjusted income, and the use of such income to compute the TTP.

PHA Policy

*The notice will state the procedures for requesting an informal hearing. The notification will indicate that if the family does not agree with LHA's determination the family may request an informal hearing, and specify that the deadline date to request a hearing is ten business days from the date of the notification. LHA will make every effort to send the rental adjustment notice at least 30 days before the effective date of the change. A copy of this notice, which also will indicate the changed rent amount, will be sent to the Property Manager.*

**11.J. DISCREPANCIES**

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of rents are discovered, corrections will be made in accordance with the policies in Chapter 13.

## **CHAPTER 12: TERMINATION OF LEASE**

HUD regulations specify the reasons for which a PHA can terminate a family's assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family.

The PHA may terminate a lease for a family because of the family's action or failure to act. Under the lease the PHA provides families with a written description of the family obligations under the program, the grounds under which the PHA can terminate the lease and the PHA's informal hearing procedures. This Chapter describes when the PHA is required to terminate a lease, when a family may terminate a lease and the PHA's policies for the denial of a new lease.

### **12.A. FAMILY NO LONGER REQUIRES ASSISTANCE – I.E., IT IS OVER INCOME**

PHAs may evict or terminate the tenancies of families who are over income. However, unless it is required to do so by local law, a PHA may not evict or terminate the tenancy of a family solely because the family is over the income limit for public housing or if the family has a valid contract for participation in an FSS program under 24 part 984. A PHA may not evict a family for being over the income limit for public housing if the family currently receives the earned income disallowance provided by 42 U.S.C. 1437a(d).

#### LHA Policy

*If a family is over income after occupancy, the LHA will not proceed with eviction for that reason only, except if the family misrepresented their income at the time of admission to the program.*

### **12.B. FAMILY CHOOSES TO TERMINATE LEASE**

The family may request that the PHA terminate the family's lease at any time.

#### LHA Policy

*The request to terminate a lease should be made in writing and signed by the head of household and/or co-head and submitted to the LHA 30 days in advance of the intended move-out date. In the case of the death or incapacity of the head of household the next of kin will be notified, provided access to the unit and complete a Release form. All outstanding obligations under the lease must be met, before the LHA will accept the lease termination.*

### **12.C. MANDATORY TERMINATION OF LEASE**

HUD requires the PHA to terminate assistance in several circumstances.

1. If any member of the family fails to sign and submit HUD or PHA required consent forms for obtaining information.
2. If no member of the family is a U.S. citizen or eligible immigrant.
3. If any family member violates the terms of the lease which constitute grounds for termination.
4. Any conviction for the manufacture of amphetamines on any federally assisted property at any time in the past or currently.
5. Actual physical abuse or violence against members of the household, against residents of the development or their guests or against PHA staff, its contractors or agents.
6. Registered sex offenders

## **12.D. OTHER PERMITTED GROUNDS FOR TERMINATION OF THE LEASE**

The PHA may terminate the tenancy only for

**Serious or repeated violation of material terms of the lease** such as failure to make payments due under the lease or failure to fulfill household obligations, as prescribed in the lease

### LHA Policy

*The following criteria will be used to decide if a serious or repeated violation of the lease will cause a termination of assistance:*

- If the Property Manager has documented serious or repeated violations of the lease.*
- If the Property Manager notifies the family of termination of the lease for serious or repeated lease violations and the family moves from the unit prior to the completion of court action, and*
- If there are police reports, neighborhood complaints or other third party information, and the LHA has verified the information.*

## **Being over the income limit for the program**

**Other good cause** such as criminal activity or alcohol abuse, discovery after admission of facts that made the tenant ineligible, discovery of material false statements or fraud by the tenant in connection with an application for assistance or with reexamination of income, failure of a family member to comply with service requirement provisions and failure to accept the PHA's offer of a lease revision to an existing lease, with written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect and with the offer specifying a reasonable time limit within that period for acceptance by the family.

If the LHA seeks to terminate the tenancy for criminal activity as shown by a criminal record, the LHA must notify the household of the proposed action to be based on the information and must provide the subject of the record and the tenant with a copy of the criminal record before a LHA grievance hearing [See Appendix B] or court trial concerning the termination of tenancy or eviction. The tenant must be given an opportunity to dispute the accuracy and relevance of that record in the grievance hearing or court trial. The PHA may not pass along to the tenant the costs of a criminal records check.

### ***Use of Illegal Drugs and Alcohol Abuse***

The PHA must establish standards which allow termination of tenancy if the PHA determines that a household member has engaged in abuse or pattern of abuse of alcohol which threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

The PHA must establish standards which allow termination of tenancy if the PHA determines that a tenant has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

### LHA Policy

*The LHA will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has*

a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents. Currently engaged in is defined as any use of illegal drugs during the previous twelve months.

The LHA will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

The LHA will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol and any eviction or notice to evict based on drug-related or violent criminal activity.

In making its decision to terminate assistance, the LHA will consider options and other factors described below. Upon consideration of such options and factors, the LHA may, on a case-by-case basis, choose not to terminate assistance.

If any tenant provides false or misleading information about illegal drug use, alcohol abuse or the rehabilitation of any illegal drug users or alcohol abusers, the LHA will terminate the tenancy of that tenant.

#### ***Other Authorized Reasons for Termination of Assistance***

HUD permits the PHA to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance.

##### LHA Policy

The LHA **will not** terminate a family's assistance because of the family's failure to meet its obligations under the LRPH Family Self-Sufficiency program.

The LHA **will** terminate a family's assistance if:

- The family has failed to comply with any family/lease obligations under the program.
- Any family member has been evicted from federally-assisted housing in the last three years.
- Any PHA has ever terminated assistance under the program for any member of the family.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family currently owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs.
- The family has not reimbursed any PHA for damages to the unit, or other amounts owed by the family under the lease.
- The family has breached the terms of a repayment agreement entered into with the LHA.

- A family member has engaged in or threatened violent or abusive behavior toward LHA personnel.
  - Abusive or violent behavior towards LHA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior. Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.
  - Actual physical abuse or violence will always be cause for termination.

*In making its decision to terminate assistance, the PHA will consider options and other factors described below. Upon consideration of such options and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.*

### ***Family Absence from the Unit***

The family may be absent from the unit for brief periods. The PHA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

#### *LHA Policy*

*If the family is absent from the unit for more than 180 consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent.*

### **Community Service Grounds for Refusing Renewal of Lease**

All adults residing in the unit except those who are exempt, are obligated to perform 8 hours of community service per month for a cumulative requirement of 96 hours for the term of the lease (one year) [24 CFR Part 5 Subpart F]. (See Appendix E).

Failure to perform the service within the 12 months of the lease term, requires that the PHA not renew the lease and that the family must move out.

## **12.E. ALTERNATIVES TO TERMINATION OF LEASE**

### **Change in Household Composition**

As a condition of continued assistance, the PHA may require that any household member who participated in or was responsible for an offense no longer reside in the unit.

#### *LHA Policy*

*As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon the LHA request.*

### **Repayment of Family Debts**

#### *LHA Policy*

*If a family owes amounts to the LHA, as a condition of continued occupancy, the LHA will require the family to repay the full*



amount or to enter into a repayment agreement, within 30 days of receiving notice from the LHA of the amount owed. See Chapter 16 for policies on repayment agreements.

## **12.F. CRITERIA FOR DECIDING TO TERMINATE LEASE**

### **Evidence**

For criminal activity, HUD permits the PHA to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted.

#### LHA Policy

The LHA will use the concept of the 'preponderance of evidence' as the standard for making all termination decisions.

'Preponderance of evidence' is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. 'Preponderance of evidence' may not be determined by the number of witnesses, but by the greater weight of all evidence

### **Consideration of Circumstances**

The PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

#### LHA Policy

The LHA will consider the following factors when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents
- The effects that termination of assistance may have on other members of the family who were not involved in the action or failure
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully
- The LHA will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully. Providing false or misleading information will be grounds for lease termination.

### **Reasonable Accommodation**

If the family includes a person with disabilities, the PHA's decision to terminate the family's assistance is

subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

LHA Policy

*If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, the LHA will determine whether the behavior is related to the disability. If so, upon the family's request, the LHA will determine whether alternative measures are appropriate as a reasonable accommodation. The LHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.*

**12.G. TERMINATION NOTICES**

If a family's lease is to be terminated, whether voluntarily or involuntarily, the PHA must give the family written notice that specifies:

- The reasons for which the lease is to be terminated,
- The effective date of the termination,
- The family's right to an informal hearing as described in Chapter 16 and Appendix B.

LHA Policy

*If the LHA seeks to terminate a lease for any reason other than non-payment of rent, the Property Manager shall hold an informal review with the tenant at which a written notice will be provided outlining the specific reasons for the proposed eviction including facts used by the LHA in coming to the decision. The tenant will be given an opportunity to reply to the reasons or explain them and will also be told that the tenant can appeal the decision in writing to the Hearing Panel, as provided in the Grievance Procedures [See Appendix B].*

*Massachusetts tenancy laws will govern when termination is initiated by the LHA. The notice to terminate will be sent to the family at least 30 calendar days prior to the effective date of the termination. The 30 day notice requirements (excluding non-payment of rent), will not be issued until 10 days after the informal review.*

*When a family requests to have its lease terminated, it must do so in writing to the LHA.*

If a criminal record is the basis of the termination, a copy of the record must accompany the notice. A copy of the criminal record also must be provided to the subject of the record.

When a PHA evicts an individual or family for criminal activity, the PHA must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

In the case of failure to pay rent the following procedures will apply:

LHA Policy

*The due date for rent payment is the first day of the month. Rent is overdue if not paid on or before the fifth business day*

*of the month. If not paid, the Property Manager will inform the tenant in writing that the rent is overdue and place the tenant on a rent delinquency roster.*

*If the tenant does not pay the rent or does not respond by the 8<sup>th</sup> day of the month to such a letter, the tenant will receive a hand delivered 14 day notice of lease termination.*

*Failure of the tenant to pay or enter into a payment agreement by the 15<sup>th</sup> day of the month will result in continuation of eviction proceedings according to the law.*

*Delinquent rent shall be deducted from any monies owing the former tenant. If the delinquency exceeds the amount owed to the tenant, the tenant's account will be forwarded to a rent collection agency to recover all monies owed the LHA.*

*All eviction proceedings will follow Massachusetts tenancy laws.*

#### **Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]**

The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or eligible immigration status; (2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or (3) the PHA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3) above, such termination must be for a period of at least 24 months.

The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and that they have the right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.

##### *LHA Policy*

*The notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination.*

#### **12.H. FAMILY LEASE OBLIGATIONS**

##### *LHA Policy*

- 1. The family must supply any information that the LHA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR, part 5). "Information" includes any requested certification, release or other documentation.*
- 2. The family must supply any information requested by the LHA or HUD for use in a regularly scheduled re-examination or interim*

- re-examination of family income and composition in accordance with HUD requirements.
3. The family must disclose and verify Social Security Numbers as provided by 24 CFR part 5 and must sign and submit consent forms for obtaining information in accordance with 24 CFR part 5 and 24 CFR, part 5.
  4. All information supplied by the family must be true and complete.
  5. The family is responsible for any violations of state and local habitability codes caused by the family.
  6. The family must allow the LHA to inspect the unit at reasonable times and after reasonable notice which is defined as at least 48 hours.
  7. The family may not commit any serious or repeated violation of the lease.
  8. The family must notify the Property Manager before the family moves out of the unit or terminates the lease on notice to the LHA.
  9. The family must use the unit for residency by the family. The unit must be the family's only residence.
  10. The composition of the family residing in the unit must be approved by the LHA. The family must promptly inform the LHA of the birth, adoption or court-awarded custody of a child. The family must request LHA approval to add any other family member as an occupant of the unit.
  11. The family must promptly notify the LHA if any family member no longer resides in the unit.
  12. If the LHA has given approval, a foster child or live-in aide may reside in the unit. If the family does not request approval, or LHA approval is denied, the family may not allow a foster child or live-in aide to reside with the assisted family, except if the LHA is ordered to do so by a court of law.
  13. Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family and are permitted by State and local codes.
  14. The family must not sublease or let the unit.
  15. The family must not assign the lease or transfer the lease.
  16. The family must supply any information or certification requested by the LHA to verify that the family is living in the unit, or relating to family absence from the unit, including any LHA requested information or certification on the purposes of family absences. The family must cooperate with the LHA for this purpose. The family must promptly notify the LHA of absence from the unit.

17. The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with the program.
18. The members of the family may not engage in drug-related criminal activity or violent criminal activity.
19. The members of the family may not engage in alcohol abuse which threatens the safety, health and enjoyment of the premises by others or the LHA staff.
20. A family, or members of the family, may not occupy LRPB while receiving another housing subsidy for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) Federal, State or Local housing assistance programs.
21. Every covered adult member of the family must perform 8 hours of community service as approved by the LHA each month.

## **12.I ENFORCING FAMILY LEASE OBLIGATIONS**

### LHA Policy

The term "Promptly", when used with Family Lease Obligations always means "within ten days". Termination of a lease is always optional except where this Plan or the regulations state otherwise.

Housing habitability code breaches: a certified inspector will determine whether a breach of the State or local habitability codes is the responsibility of the family. Families may be given a period of time not to exceed 30 days to cure such breaches, by the Executive Director.

Proposed additions to the family will be denied to:

Persons who have been evicted from other assisted housing.

Persons who have previously violated a family lease obligation under an assisted program and as listed in HUD regulations.

Persons who have been part of a family whose assistance or lease has been terminated under the LRPB or Voucher program for cause.

Persons who commit drug-related criminal activity or violent criminal activity.

Persons who do not meet the LHA's definition of family.

Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

Persons who have engaged in, or threatened, abusive or violent behavior toward LHA personnel or those in other PHAS.

Persons who have a history or pattern of drug or alcohol abuse and who are not participating in or who have not completed successfully a treatment program.

Family Member moves out: families are required to notify the LHA if any family member leaves the assisted household. When the family notifies the LHA they must furnish the following information:

The date the family member moved out.

The new address, if known, of the family member.

A statement as to whether the family member is temporarily or permanently absent

Limitation on Profit-making Activity in Unit:

If the LHA determines that the use of the unit as a business is not incidental to its use as a dwelling unit or if the business activity area utilized for a business results in the inability of the family to use any of the critical living areas, such as a bedroom, it will be considered a violation. In no circumstances shall such use be permitted if state or local codes forbid it.

### **False or Incomplete Information**

#### LHA Policy

When the LHA has clear, concrete, or substantial documentation (such as a permanent resident card or information form another agency) that contradicts the declaration of citizenship made by an applicant or tenant, an investigation will be conducted and the individual given an opportunity to present relevant information.

If the individual is unable to verify their citizenship, the LHA may give him/her an opportunity to provide a new declaration as an eligible immigrant or to elect not to contend their status. The LHA will then verify eligible status, deny, terminate, or prorate as applicable.

The LHA will deny or terminate leases based on the submission of false information or misrepresentations.

If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with the LHA either after the INS appeal or in lieu of the INS appeal.

After the LHA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated rent (if applicable) or, for tenants who qualify, for Temporary Deferral of Termination of the Lease.

If the family has misrepresented any facts that caused the LHA to undercharge rent the LHA may choose not to terminate and may offer to continue occupancy provided that the family executes a

Repayment agreement and makes payments in accordance with the agreement or reimburses the LHA in full.

If the family willingly and knowingly commits fraud or is involved in any other illegal scheme with any LHA staff person/s, the LHA will deny or terminate the lease. In making this determination the LHA will carefully consider the possibility of overt or implied intimidation of the family by the staff person and the family's understanding of the events.

### **Missed Appointments and Deadlines**

It is a Family Obligation to supply information, documentation, and certification as needed for the LHA to fulfill its responsibilities. The LHA schedules appointments and sets deadlines in order to obtain the required information. The Obligations also require that the family allow the LHA to inspect the unit and appointments are made for this purpose.

#### LHA Policy

An applicant or resident who fails to keep an appointment, or to supply information required by a deadline without notifying the LHA may be sent a Notice of Denial or Termination of the Lease for failure to provide required information, or for failure to allow the LHA to inspect the unit.

Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

1. Eligibility for Admissions
2. Verification Procedures
3. Briefings
4. Unit Inspections and Acceptance
5. Re-Eaminations
6. Appeals

For most purposes of this Plan the family will be given one opportunity before being issued a notice of termination or denial for breach of a family obligation.

## **12.J VIOLENCE AGAINST WOMEN ACT**

#### LHA Policy

The Lowell Housing Authority will not evict, or remove assistance from certain persons living in public housing if the asserted grounds for such action is an instance of domestic violence, dating violence, sexual assault, or stalking as those terms are defined in Section 3 of the United States Housing Act of 1937 as amended by the Violence Against Women and Justice Department Reauthorization Act 2005.

The LHA may bifurcate a lease in order to evict, remove, or terminate the assistance of the offender while allowing the victim, who is a tenant or lawful occupant, to remain. In addition, the LHA will provide information to any other PHA

concerning a victim under the Act subject to confidentiality requirements.

Before complying, the LHA may ask an individual for documentation that he or she is or has been a victim of domestic \*violence\*, dating \*violence\*, or stalking, subject to certain statutory requirements related to confidentiality and the types of documentation that may be used.

The full policy can be found in Appendix I.



## **CHAPTER 13: CLAIMS, MOVE-OUT AND CLOSE-OUT INSPECTIONS**

This Chapter describes the LHA's policies, procedures and standards for leases. Leases have provisions for the family's liability to the LHA when families move out. The lease has a provision for damages and for court, legal and rental losses when a family is evicted.

### **13.A. LHA CLAIMS**

#### LHA Policy

*It is the LHA's policy to meet the informational needs of families and to communicate the program rules in order to avoid family debts. Before a debt is assessed against a family the file must contain documentation to support the LHA's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the family or other interested parties.*

*When families owe money to the LHA it will make every effort to collect it. It will use a variety of collection tools to recover debts including, but not limited to:*

- Requests for lump sum payments*
- Civil suits*
- Repayment agreements*
- Abatements*
- Reductions*
- Collection agencies*
- Credit bureaus*

*Under leases the LHA may make claims for damages, unpaid rent and vacancy loss (vacancy losses include court, legal and lost revenue costs when a person vacates the unit due to eviction or leaving the unit without notice).*

*LHA claims for payment for unpaid rent, damages, court costs, legal costs or vacancy loss will be reviewed for accuracy and completeness and compared with records in the file. The LHA establishes standards by which to evaluate claims, but the burden of proof rests with the family.*

*The tenant is ultimately responsible to reimburse the LHA for claims of the LHA. The LHA will have the right to retain any and all deposits to settle the claims and to sue for the balance if any.*

### **13.B. UNPAID RENT**

#### LHA Policy

*Unpaid rent only applies to the rent while the tenant is in residence under the lease.*

Separate agreements for other items which may be specified in the lease are considered a tenant obligation under the lease.

### **13.C. MOVE-OUT AND CLOSE-OUT INSPECTIONS**

#### LHA Policy

Move-out inspections are performed after the tenant has vacated the unit. These inspections are performed to assess the condition of the unit. Move-out inspections will be conducted by Lowell Housing Authority's certified inspection staff.

The LHA's Initial Inspection of the unit at original lease time or the latest annual inspection, will include a "conditions" report which will be compared to the conditions found during the move-out inspection.

When a tenant 'skips out' without notifying the LHA, the Property Manager will notify the tenant of the proposed inspection within 24 hours of learning of the move-out and will complete it within 2 business days of the discovery of the move-out.

When a tenant provides notice of the move-out, the Property Manager will notify the tenant that an inspection will be conducted on the day of the move-out. If the tenant is not present the move-out inspection will not be rescheduled.

A refund of deposits by the tenant (if any) will not be approved until the move-out inspection is completed, except that if the tenant gave proper notice according to the lease terms and the LHA failed to make a move-out inspection prior to or on the move-out day.

In the event that the LHA is unable to inspect the unit within two days of move-out, the tenant will be permitted to use date-stamped photographs to refute any claims of damages by the LHA.

No transfer to another unit will be offered by the LHA until the Property Manager has inspected the unit and issued an Acceptable Condition Report.

### **13.D. PROCESSING CLAIMS**

#### LHA Policy

Any amount owed by the tenant to the LHA for unpaid rent or damages will first be deducted from any deposits that the LHA may have collected under its program rules. If any deposits are insufficient to reimburse the LHA for the unpaid tenant rent, or other amounts which the family owes under the lease, the LHA may sue for reimbursement from the tenant up to the limits for the claim.

The LHA reviews claims for unpaid rent, damages or vacancy loss and makes a preliminary determination of the amount payable. The family is informed that a claim is pending (notice sent to last known address). The notification will state the preliminarily

determined amount, the type of claim and describe the procedure for contesting the claim.

The LHA will offer the family 15 days to contest the claim. If the family disputes the claim, the LHA will schedule an informal hearing with the tenant in order to resolve the differences.

If the tenant falls to attend the hearing the LHA will proceed with its original determination.

After a determination has been made the LHA will notify the family, in writing, of the decision. If it has been determined that the family owes money the LHA will pursue collection to repay either in a lump sum or through a payment agreement. The notice will warn the family that they may be denied future participation in any HUD assistance program anywhere in the USA if they do not reimburse the LHA as required.

The LHA will require proof that the tenant has complied with State and local laws applicable to security deposits before making payment on any claim.

All notices to tenants during the processing of a claim must include proof of mailing or of personal delivery.

Costs of filing eviction to remove the tenant, or any other legal fees, will be reimbursed.

### **13.E. REPAYMENT AGREEMENT FOR FAMILIES**

#### LHA Policy

A Repayment Agreement, as used in this Plan, is a document entered into between the LHA and a tenant who owes a debt to the LHA. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of repayment, any special provisions of the agreement and the remedies available to the LHA upon default of the agreement. It is attached to the lease as an amendment to the lease and must be executed by the same parties to the original lease agreement.

The maximum length of time the LHA will enter into a repayment agreement with a family is the balance of the current lease term, but may be extended if and when the lease is renewed. In some circumstances, it may be appropriate to have a repayment agreement term which is not coterminous with the lease term. In those cases, the term must be approved by the Executive Director.

Repayment Agreements will be executed between the LHA and the head of household only.

Monthly payments may be decreased in cases of hardship with the prior notice of the family, verification of the hardship and the approval of the Property Manager.

No move will be approved until the debt is paid in full unless the move is the result of the following causes and the Repayment Agreement is current

- family size exceeds the occupancy standards

- a natural disaster

If the family has a Repayment Agreement in place and incurs an additional debt to the LHA, the LHA will not enter into more than one Repayment Agreement at that time with the same family and additional amounts owed by the family will be added to the existing repayment agreement.

if a Payment Agreement is in arrears more than 30 days any new debts must be paid in full.

There are some circumstances in which the LHA will not enter into a repayment agreement. They are:

- if the family already has a Repayment Agreement in place.
- if the LHA determines that the family committed program fraud.

### **13.F. LATE PAYMENTS**

#### LHA Policy

A payment will be considered to be in arrears if the:

payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday the due date will be at the close of the next business day.

family's repayment agreement is in arrears the LHA will require the family to pay the balance in full, or pursue civil collection of the balance due and terminate the lease.

If the family requests a move to another unit or to another program such as the Housing Choice Voucher program and has a repayment agreement in place for the payment of a claim and the repayment agreement is not in arrears, the family will be required to pay the balance in full prior to transfer.

If the family repays the past due amount they will be permitted to move.

### **13.G. DEBTS OWED FOR DAMAGE CLAIMS**

#### LHA Policy

If a family owes money to the LHA for damages paid by the LHA, it will enter into a Repayment Agreement.

### **13.H. DEBTS DUE TO FRAUD/NON-REPORTING OF INFORMATION**

#### LHA Policy

HUD's definition of program fraud and abuse is a single act or pattern of actions which constitutes false statements, omissions, or concealment of a substantive fact, made with intent to deceive or mislead and that results in use of LHA funds in violation of program requirements.

*Families who owe money to the LHA due to the family's failure to report increases in income will be required to repay in accordance with the guidelines in the Repayment Section of this Chapter.*

*Families who owe money to the LHA due to program fraud will be required to repay in accordance with the guidelines in the Repayment Section of this Chapter.*

*If a family owes an amount that equals or exceeds \$5,000.00 as a result of program fraud, the case may be referred to the Inspector General at the Executive Director's discretion. Where appropriate, the LHA will refer the case for criminal prosecution.*

## **CHAPTER 14: PROGRAM INTEGRITY**

### **INTRODUCTION**

The PHA is committed to ensuring that government funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

### **14.A. PREVENTING ERRORS AND PROGRAM ABUSE**

#### LHA Policy

*The LHA anticipates that the vast majority of families, third party managers and PHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.*

*To ensure that the LHA's LRPH program is administered effectively and according to the highest ethical and legal standards, the LHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.*

*The LHA will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.*

*The LHA will provide each applicant and resident with information which explains the types of actions a family must avoid and the penalties for program abuse.*

*The LHA will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key LHA forms and form letters which request information from a family.*

*LHA staff will be required to review and explain the contents of all HUD and LHA forms prior to requesting family member signatures.*

*The LHA will provide each LHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.*

*For purposes of this chapter the term error refers to an unintentional error or omission. Program abuse or fraud refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.*

### **14.B. DETECTING ERRORS AND PROGRAM ABUSE**

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.

#### **Quality Control and Analysis of Data**

Under the Public Housing Assessment Program (PHAS), HUD requires the PHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure physical code compliance. (See Chapter

17 for additional information about PHAS requirements).

LHA Policy

*In addition to the PHAS quality control requirements, the LHA will employ a variety of methods to detect errors and program abuse.*

*The LHA routinely will use available sources of electronic income verification to compare with family-provided information.*

*At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.*

*The LHA will compare family-reported income and expenditures to detect possible unreported income.*

**Independent Audits and HUD Monitoring**

OMB Circular A-133 requires all PHAs which expend \$500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

LHA Policy

*The LHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the LHA's error detection and abuse prevention efforts.*

**Individual Reporting of Possible Errors and Program Abuse**

LHA Policy

*The LHA will encourage staff, program tenants, and the public to report possible program abuse.*

**14.C. INVESTIGATING ERRORS AND PROGRAM ABUSE**

**When the PHA Will Investigate**

LHA Policy

*The LHA will review all referrals, specific allegations, complaints and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the LHA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.*

*The LHA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.*

**Consent to Release of Information**

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require families to give consent to the release of additional information.

## **Analysis and Findings**

### LHA Policy

The LHA will base its evaluation on a "preponderance of evidence" collected during its investigation.

"Preponderance of evidence" is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. "Preponderance of evidence" may not be determined by the number of witnesses, but by the greater weight of all evidence

For each investigation the LHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the LHA, and (3) what corrective measures or penalties will be assessed.

## **Consideration of Remedies**

All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

### LHA Policy

In the case of family-caused errors or program abuse, the LHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of independent third party managers of LHA properties who caused errors or program abuse, the LHA will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

## **Notice and Appeals**

### LHA Policy

The LHA will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the LHA determined the error or program abuses, (3) the remedies to be employed, and (4) the families right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

## **14.D. UNDER OR OVERPAYMENTS**

A subsidy under or overpayment includes (1) an incorrect family rent established for the family and (2) an incorrect utility reimbursement to a family.

## **Corrections**



Whether the incorrect rental determination is an overpayment or underpayment, the PHA must promptly correct the family rent and any utility reimbursement prospectively.

LHA Policy

*Increases in the family rent will be implemented only after the family has received 30 days notice.*

*Any decreases in family rent will become effective the first of the month following the discovery of the error.*

## **Reimbursement**

Whether the family is required to reimburse the PHA or the PHA is required to make retroactive payments to the family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

### **14.E. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE**

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect rental determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

#### **Family Reimbursement to PHA**

LHA Policy

*In the case of family-caused errors or program abuse, the family will be required to repay any under payments. The LHA may, but is not required to, offer the family a repayment agreement. If the family fails to repay the funds, the LHA will terminate the family's assistance in accordance with the policies in Chapter 12. The LHA will not reimburse the family for any rental or other over-charges when the overcharge clearly is caused by the family.*

## **Prohibited Actions**

An applicant or tenant in the LRPH program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

LHA Policy

*Any of the following will be considered evidence of family program abuse:*

- *Offering bribes or illegal gratuities to the LHA Board of Commissioners, employees, contractors, or other LHA representatives*
- *Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to the LHA on the family's behalf*

- *Use of a false name or the use of falsified, forged, or altered documents*
- *Intentional misreporting of family information or circumstances (e.g. income, family composition)*
- *Omitted facts that were obviously known by a family member (e.g., not reporting employment income)*
- *Admission of program abuse by an adult family member*

*The LHA may determine other actions to be program abuse based upon a preponderance of the evidence and as defined in other chapters.*

### **Penalties for Program Abuse**

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay excess amounts paid by the PHA, as described earlier in this section.
- The PHA may require, as a condition of continuing occupancy, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for tenants).
- The PHA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The PHA may refer the family for state or federal criminal prosecution.

### **14.F. PHA-CAUSED ERRORS OR PROGRAM ABUSE**

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the LRPH program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect subsidy determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, (2) assigning and inappropriate unit size to a family and (3) errors in calculation.

### **Repayment to the PHA**

A family is not required to repay an underpayment of rent or an overpayment of a utility allowance if the error or program abuse is caused by PHA staff.

### **PHA Reimbursement to Family**

The PHA must reimburse a family for any underpayment of an allowance, regardless of whether the underpayment was the result of staff-caused error or staff program abuse.

### **Prohibited Activities**

#### LHA Policy

*Any of the following will be considered evidence of program abuse by LHA staff:*

- *Failing to comply with any program requirements for personal gain*

- Failing to comply with any program requirements as a result of a conflict of interest relationship with any applicant, tenant, or third party
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the LHA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of LHA activities, policies, or practices
- Misappropriating or misusing funds
- Destroying, concealing, removing, or inappropriately using any records related to the program
- Committing any other corrupt or criminal act in connection with any federal housing program

#### **14.G. CRIMINAL PROSECUTION**

##### LHA Policy

When the LHA determines that program abuse by a family or LHA staff member has occurred and the amount of underpayment meets or exceeds the threshold for prosecution under local or state law, the LHA will refer the matter to the appropriate entity for prosecution. When the amount of underpayment meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the program will be referred to the appropriate local, state, or federal entity.

## **CHAPTER 15: SPECIAL HOUSING TYPES**

Reserved for special programs such as Mixed Financing.

## **CHAPTER 16: PROGRAM ADMINISTRATION**

### **INTRODUCTION**

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan.

### **16.A. PROGRAM STANDARDS AND SCHEDULES**

Although many of the program's requirements are established centrally by HUD, the program's regulations recognize that some flexibility is required to allow the PHA to adapt the program to local conditions. This part discusses how the PHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

### **16.B. FLAT RENTS**

Flat rents are discussed in Chapter 6

### **16.C. UTILITY ALLOWANCES**

See also Chapter 6.

A PHA-established utility allowance schedule is used in determining family share and PHA share for income based rental calculations. This does not apply to 'Flat Rent' tenants. The PHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the PHA must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with UPCS. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the PHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type.

### **Air Conditioning**

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

[LHA Policy](#)

[See Appendix D.](#)

### **Reasonable Accommodation**

Program regulations require a PHA to approve a utility allowance amount higher than shown on the PHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the

PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

### **Utility Allowance Revisions**

The PHA must review its schedule of utility allowances each year and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.

The PHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

#### *LHA Policy*

*Copies of the utility allowance schedules are available for review in the LHA's offices during normal business hours.*

*Families, staff, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.*

*The LHA will maintain documentation to support its annual review of utility allowance schedules. This documentation will be retained for at least 3 years.*

### **16.D. GRIEVANCE PROCEDURES**

When the PHA makes a decision that has an impact on a family, the family is often entitled to appeal the decision. For applicants and tenants, the appeals process starts with an informal review, can go to an informal hearing and finally to court action. Generally speaking, most of the terms and conditions of occupancy including grievance procedures are included in the lease.

PHAs are required to include in their administrative plans, informal review and hearing procedures for applicants and tenants.

### **16.E. INFORMAL REVIEWS**

Informal reviews are provided for program applicants and tenants. Informal reviews are intended to provide a "minimum hearing requirement", and need not be as elaborate as the hearing requirements. (24CFR966.54).

Any grievance shall be personally presented, either orally or in writing, to the PHA office or to the office of the project in which the complainant resides so that the grievance may be discussed informally and settled without a hearing. A summary of such discussion shall be prepared within a reasonable time and one copy shall be given to the tenant and one retained in the PHA's tenant file. The summary shall specify the names of the tenants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and shall specify the procedures by which a hearing may be obtained if the complainant is not satisfied.

Informal reviews are *not* used for the following issues:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- A determination of the family unit size under the PHA occupancy standards

- A PHA determination that the unit is not in accordance with its physical standards due to family size or composition

LHA Policy

*The LHA will offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the PHA waiting list; denying a preference for the waiting list; or withdrawing a unit offer; refusing to enter into a lease.*

*The LHA will also offer an informal review to tenants who file a written complaint or grievance.*

**Notice to the Applicant**

The PHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the PHA decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

**Scheduling an Informal Review**

LHA Policy

*A request for an informal review must be made in writing and delivered to the LHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the LHA's denial of assistance.*

*The LHA must schedule and send written notice of the informal review within 10 business days of the family's request.*

**Informal Review Procedures**

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the PHA.

The person conducting the review will make a recommendation to the PHA, but the PHA is responsible for making the final decision as to whether assistance should be granted or denied.

**Informal Review Decision**

The PHA must notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

LHA Policy

*In rendering a decision, the LHA will evaluate the following matters:*

*Whether or not the grounds for denial were stated factually in the Notice.*

*If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.*

*The LHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the LHA will uphold the decision to deny assistance.*

*If the facts prove the grounds for denial, and the denial is discretionary, the LHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.*

*The LHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.*

#### **16.F. INFORMAL HEARINGS FOR TENANTS**

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a tenant family. A tenant is defined as a family that has been admitted to the PHA's LRPH program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and PHA policies.

The PHA is not permitted to terminate a family's lease until the time allowed for the family to request an informal hearing has elapsed and any requested hearing has been completed. Termination of lease for a tenant may include any or all of the following:

#### **Decisions Subject to Informal Hearing**

Circumstances for which the PHA must give a tenant family an opportunity for an informal hearing are as follows:

- Determination of the family's annual or adjusted income and the computation of the housing rental payment.
- Appropriate utility allowance used from schedule for income-based rents.
- Family unit size determination under LHA occupancy standards.
- Determination that the tenant family is under-occupied in their current unit and a request for exception is denied.
- Determination that a disabled person is required to perform Community Service.
- Determination to terminate a lease for any reason.

#### **LHA Policy**

*The LHA will only offer tenants the opportunity for an informal hearing when required to by the regulations.*

#### **Informal Hearing Procedures**

##### ***Notice to the Family***

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance and the determination of the family unit size, the PHA must notify the family that they may ask for an explanation of the basis of the determination and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's lease, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision and a statement of the deadline for the family to request an informal hearing.



#### LHA Policy

In cases where the LHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

The proposed action or decision of the LHA.

A brief statement of the reasons for the decision including the regulatory reference.

The date the proposed action will take place.

A statement of the family's right to an explanation of the basis for the LHA's decision.

A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.

A deadline for the family to request the informal hearing.

To whom the hearing request should be addressed.

A copy of the LHA's hearing procedures.

#### ***Scheduling an Informal Hearing***

When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

#### LHA Policy

A request for an informal hearing must be made in writing and delivered to the LHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the LHA's decision or notice to terminate assistance.

The LHA must schedule and send written notice of the informal hearing to the family within 10 business days of the family's request.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the LHA may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the LHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The LHA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

#### ***Pre-Hearing Right to Discovery***

Tenants and the PHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing.

The family must be allowed to copy any such documents at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at the PHA offices before the hearing, any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

LHA Policy

*The family will be allowed to copy any documents related to the hearing at a cost of \$.25 per page. The family must request discovery of LHA documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date*

***Tenant's Right to Bring Counsel***

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

***Informal Hearing Officer***

Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

LHA Policy

*The LHA has designated the following to serve as hearing officers:*

*Executive Director*

***Attendance at the Informal Hearing***

LHA Policy

*Hearings may be attended by a hearing officer and the following applicable persons:*

*A LHA representative and any witnesses for the LHA*

*The tenant and any witnesses for the tenant*

*The tenant's counsel or other representative*

*Any other person approved by the LHA as a reasonable accommodation for a person with a disability*

***Conduct at Hearings***

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA's hearing procedures.

LHA Policy

*The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be*

excused from the hearing at the discretion of the hearing officer.

### **Evidence**

The PHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

#### LHA Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

**Oral evidence:** the testimony of witnesses

**Documentary evidence:** a writing which is relevant to the case, for example, a letter written to the LHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

**Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

**Real evidence:** A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either the LHA or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

### **Hearing Officer's Decision**

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.

#### LHA Policy

In rendering a decision, the hearing officer will consider the following matters:

**LHA Notice to the Family:** The hearing officer will determine if the reasons for the LHA's decision are factually stated in the Notice.

**Discovery:** The hearing officer will determine if the LHA and the family were given the opportunity to examine any relevant documents in accordance with LHA policy.

**LHA Evidence to Support the LHA Decision:** The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the LHA's conclusion.

**Validity of Grounds for Termination of Assistance (when applicable):** The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and LHA policies. If the grounds for termination are not specified in the regulations or in compliance with LHA policies, then the decision of the LHA will be overturned.

The hearing officer will issue a written decision to the family and the LHA no later than 10 business days after the hearing. The report will contain the following information:

**Hearing information:**

- Name of the tenant;
- Date, time and place of the hearing;
- Name of the hearing officer;
- Name of the PHA representative; and
- Name of family representative (if any).

**Background:** A brief, impartial statement of the reason for the hearing.

**Summary of the Evidence:** The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

**Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

**Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the LHA's decision.

**Order:** The hearing report will include a statement of whether the LHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the LHA to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct the PHA to restore the tenant's program status.

## ***Procedures for Rehearing or Further Hearing***

### *LHA Policy*

*The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the LHA will take effect and another hearing will not be granted.*

*In addition, within 10 business days after the date the hearing officer's report is mailed to the LHA and the tenant, the LHA or the tenant may request a rehearing or a further hearing. Such request must be made in writing and postmarked or hand-delivered to the hearing officer and to the other party within the 10 business day period. The request must demonstrate cause, supported by specific references to the hearing officer's report, why the request should be granted.*

*A rehearing or a further hearing may be requested for the purpose of rectifying any obvious mistake of law made during the hearing or any obvious injustice not known at the time of the hearing.*

*It shall be within the sole discretion of the LHA to grant or deny the request for further hearing or rehearing. A further hearing may be limited to written submissions by the parties, in the manner specified by the hearing officer.*

## ***PHA Notice of Final Decision***

The PHA is not bound by the decision of the hearing officer for matters in which the PHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If the PHA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

### *LHA Policy*

*The LHA will mail a "Notice of Final Decision" including the hearing officer's report, to the tenant and their representative. This Notice will be sent by first-class mail, postage pre-paid with an affidavit of mailing enclosed. The tenant will be mailed the original "Notice of Final Decision" and a copy of the proof of mailing. A copy of the "Notice of Final Decision" along with the original proof mailing will be maintained in the LHA's file.*

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal

process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

#### **Notice of Denial or Termination of Assistance**

As discussed in Chapters 3 and 11, the notice of denial or termination of assistance for non-citizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of rent.
- In the case of a tenant, the criteria and procedures for obtaining relief and the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

#### **USCIS Appeal Process [24 CFR 5.514(e)]**

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and the proof of mailing.

##### *LHA Policy*

*The LHA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.*

*The family must provide the LHA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.*

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

##### *LHA Policy*

*The LHA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving*

*notice of the USCIS decision regarding the family's immigration status.*

### **Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial or termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to tenant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

The informal hearing procedures for applicant families are described below.

### ***Informal Hearing Officer***

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

### ***Evidence***

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

#### *LHA Policy*

*The family will be allowed to copy any documents related to the hearing at a cost of \$.25 per page copy. The family must request discovery of LHA documents no later than 12:00 p.m. on the business day prior to the hearing.*

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the PHA, and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

### ***Representation and Interpretive Services***

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the PHA, as may be agreed upon by the two parties.

### ***Recording of the Hearing***

The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to provide a transcript of the hearing.

#### *LHA Policy*

*The LHA will not provide a transcript of an audio taped hearing.*

### ***Hearing Decision***

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

**Retention of Documents [24 CFR 5.514(h)]**

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for an USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

**16.G. OVERVIEW PHAS**

The Public Housing Assessment Program (PHAS) is a tool that allows HUD to measure PHA performance in key areas to ensure program integrity and accountability. PHAS scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual PHAS indicators, as well as overall PHAS ratings, can affect the PHA in several ways.

**16.H. OVERVIEW OF RECORD KEEPING**

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the PHA must ensure that all applicant and tenant files are maintained in a way that protects an individual's privacy rights.

**16.I. RECORD RETENTION**

During the term of each lease, and for at least three years thereafter, the PHA must keep:

- A copy of the executed lease;
- The application from the family.

In addition, the PHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and tenants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting PHA budget and financial statements for the program;
- Records to document the basis for PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.



If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents.

## **16.J. RECORDS MANAGEMENT**

PHAs must maintain applicant and tenant files and information in accordance with the regulatory requirements described below.

### LHA Policy

*All applicant and tenant information will be kept in a secure location and access will be limited to authorized LHA staff.*

*LHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.*

### **Privacy Act Requirements [24 CFR 5.212 and Form-9886]**

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and tenants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and tenants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

### **Enterprise Income Verification (EIV) (Upfront Income Verification (UIV)) Records**

PHAs that access EIV data through HUD's EIV System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in *Upfront Income Verification (UIV) System PHA Security Procedures*, Version 1.1, issued April 4, 2004.

### LHA Policy

*See Appendix C "EIV Security Procedures".*

### **Criminal Records**

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The PHA must establish and implement a system of records management which ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)]. PHAs are required to comply, on a case-by-case basis, with information requests from Federal, State or local law enforcement officers regarding possible fugitive felons and/or a parole or probation violators. The PHA must supply upon legitimate request (1) the current address, (2) Social Security number and (3) photograph (if applicable) of any recipient of assistance. A Federal, State or local enforcement officer must submit a request that is (1) written, (2) on law enforcement agency letterhead, and (3) is signed by the requesting officer and his or her immediate supervisor. The request for information must provide the name of the fugitive felon and/or parole or probation violator being sought and may include other

personal information used for identification.

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a PHA other than under 24 CFR 5.905.

[\*LHA Policy\*](#)

[\*See Appendix G\*](#)

### **Medical/Disability Records**

PHAs are not permitted to inquire about the nature or extent of a person's disability. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.

### **16.K. OVERVIEW REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL**

The PHA has certain responsibilities relative to children with environmental intervention blood lead levels which are receiving public housing assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the PHA is subject to.

### **16.L. REPORTING REQUIREMENT [24 CFR 35.1225(e)]**

The PHA must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

[\*LHA Policy\*](#)

[\*The LHA will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.\*](#)

### **16.M. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]**

At least quarterly, the PHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If the PHA obtains names and addresses of environmental intervention blood lead level children from the public health department(s), the PHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the PHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the PHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

## **CHAPTER 17: HOMEOWNERSHIP PROGRAMS**

Reserved

## **APPENDICES**

**Appendix A By-Laws of the Lowell Housing Authority**

**Appendix B EIV Security Procedures**

**Appendix C Air Conditioner Policy**

**Appendix D Maintenance Charges**

**Appendix E Community Service Policy**

**Appendix F Criminal Offender Record Information Policy**

**Appendix G Pet Policy**

**Appendix H Violence Against Women Act Policy**

**Appendix I Civil Rights Violation Policy**

## **OTHER PROCEDURES OF THE LHA**

### **Other Internal Management Procedures Utilized By The Lowell Housing Authority And Approved By The Board Of Commissioners But Not Made Part Of This Administrative Plan**

1. Capitalization Policy
2. Computer Policy
3. Cost Savings Initiative Plan
4. Disposition Policy
5. Emergency Case Plan
6. Employee Performance Evaluation System
7. Employee Privacy Policy
8. HCV Equal Opportunity Housing Plan
9. Fence Policy
10. Fire Damaged Apartment Policy
11. Inventory Control
12. Investment Policy
13. Model Safety Policy
14. Personnel Policy
15. Resident Use of LHA Property
16. Scrap Disposition Policy
17. Collective Bargaining Agreement
18. Safety Belts Policy
19. Workplace Smoking Policy
20. LHA Van Policy
21. Waterbed Policy

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**APPENDIX A BY-LAWS OF THE LOWELL HOUSING AUTHORITY**

ADOPTED: 12/13/00  
02/13/02  
03/07/05

## **APPENDIX A BY-LAWS OF THE LOWELL HOUSING AUTHORITY**

### **ARTICLE I – THE AUTHORITY**

**Section 1 – Name of Authority:** The name of the Authority shall be “The Lowell Housing Authority.”

**Section 2 – Seal of Authority:** The seal of the Authority shall be in the form of a circle and shall bear the name of the Authority and the year of its organization.

**Section 3 - Office of Authority:** The offices of the Authority shall be at City Hall in the City of Lowell, Massachusetts, but the Authority may have offices at such Other place or places as the Authority may from time to time designate by resolution.

### **ARTICLE II – OFFICERS**

**Section 1 Officers** - The officer of the Authority shall be a Chairman, a Vice Chairman, and an Executive Director (who shall be ex officio Secretary).

**Section 2 Chairman:** The Chairman shall preside at all meetings of the Authority. Except as otherwise authorized by resolution of the Authority, the Chairman shall sign all contracts, deeds and other instruments made by the Authority. At each meeting the Chairman shall submit such recommendations and information as he may consider proper concerning the business affairs and policies of the Authority.

**Section 3 Vice-Chairman:** The Vice-Chairman shall perform the duties of the Chairman in the absence or incapacity of the Chairman and in case of the resignation or death of the Chairman, Vice-Chairman shall perform such duties as are imposed on the Chairman until such time as the Authority shall appoint a new Chairman.

**Section 4 – Executive Director:** The Executive Director of the Authority shall have general supervision over the administration of the business and affairs of the Authority, subject to the direction of the Authority. He shall be charged with the management of the Housing Projects of the Authority.

He shall have the care and custody of all funds of the Authority and shall deposit the same in the name of the Authority in such bank or banks as the Authority may select. The Executive Director shall sign all orders and checks for the payment of money and shall pay out and disburse such moneys under the direction of the Authority. (Except as otherwise authorized by resolution of the Authority, all such orders and checks shall be countersigned by the Chairman). He shall keep regular books or accounts showing receipts and expenditures and shall render to the Authority at each regular meeting (or oftener when requested) an account of his transactions and also of the financial condition of the Authority. He shall give such bond for the faithful performance of his duties as the Authority may determine.

The Compensation of the Executive Director shall be determined by the Authority.

**Section 5 - Secretary:** The Executive Director of the Authority shall be ex officio Secretary. In that capacity he shall keep the records of the Authority, shall act as Secretary of the meetings of the Authority and record all votes, and shall keep a record of the proceedings of the Authority in journal of proceedings to be kept for such purposes, and shall perform all duties incident to this office. He shall keep in safe custody the seal of the Authority and shall have power to affix such seal to all contracts and instruments

authorized to be executed by the Authority.

**Section 6 - Additional Duties:** The officers of the Authority shall perform such other duties and functions as may from time to time be required by the Authority of the by-laws or rules and regulations of the Authority.

**Section 7 - Election or Appointment:** The Chairman and Vice-Chairman shall be elected at the annual meeting of the Authority from among the Commissioners of the Authority, and shall hold office for one year or until their successors are elected and qualified. The first Chairman and the first Vice-Chairman of the Authority shall hold their respective offices until their successors are elected and qualified. The Executive Director shall be appointed by the Authority and shall have such term as the Authority fixes, but no Commissioner of the Authority be eligible to this office.

**Section 8 - Vacancies:** Should the offices of Chairman or Vice-Chairman become vacant, the Authority shall elect a successor from its membership at the next regular meeting, and such election shall be for the unexpired term of said office. When the office of Executive Director becomes vacant, the Authority shall appoint a successor, as aforesaid.

**Section 9 - Additional Personnel:** The Authority may from time to time employ such personnel as it deems necessary to exercise its powers, duties and functions as prescribed by Section 26N, Chapter 484, Public Laws of Massachusetts, 1938 and all other laws of the Commonwealth of Massachusetts applicable thereto. The selection and compensation of such personnel (including the Secretary) shall be determined by the Authority in accordance with the provisions of the previously mentioned statutes.

### **ARTICLE III – MEETINGS**

**Section 1 - Annual Meeting:** The annual meeting of the Authority shall be held on the 2nd Friday in February at 7:30 o'clock P.M., at the regular meeting place of the Authority.

**Section 2 - Regular Meetings:** Regular meetings may be held without notice at such times and places as may from time to time be determined by resolution of the Authority.

**Section 3 - Special Meetings:** The Chairman of the Authority may, when he deems it expedient, and shall, upon the written request of two members of the Authority, call a special meeting of the Authority for the purpose of transacting any business designated in the call. The call for a special meeting shall either be delivered to each member of the Authority at least one day prior to the date of said meeting or be mailed to the business or home address of each member of the Authority at least two days prior to the date of such special meeting. (Except as hereinafter provided, no business other than as designated in the call, shall be considered at such special meeting. If all of the members of the Authority are present at a special meeting, any and all business may be transacted at such special meeting.)

**Section 4 - Quorum:** At all meetings of the Authority a majority of the members of the Authority shall constitute a quorum for the purpose of transacting business; provided that a smaller number may meet and adjourn to some other time or until a quorum is obtained.

**Section 5 - Order of Business:** At the regular meetings of the Authority the following shall be the order of business.

1. Roll call



2. Reading and approval of the minutes of the previous meeting
3. Bills and Communications
4. Report of Secretary
5. Reports of Committees
6. Unfinished business
7. New business
8. Adjournment

All resolutions shall be in writing and shall be copied in a journal of the proceedings of the Authority.

**Section 6 - Manner of Voting:** The voting on all questions coming before the Authority shall be by roll call, and the yeas and nays shall be entered upon the Minutes of such meeting.

#### **ARTICLE IV – AMENDMENTS**

**Section 1 - Amendments to By-Laws:** The By-Laws of the Authority shall be amended only with the approval of at least three of the members of the Authority at a regular or a special meeting, but no such amendment shall be adopted unless at least seven days' written notice thereof has been previously given to all of the members of the Authority.

#### **MEETING -APRIL 5. 1940**

That the meetings of the Lowell Housing Authority be held on the first and third Fridays of each month, at 4:00 P.M.

#### **MEETING-AUGUST 1. 1941**

That the offices of the Lowell Housing Authority be established at 562 Market Street, Lowell, Mass.

#### **MEETING - FEBRUARY 13. 1942**

That the Annual Meeting of the Lowell Housing Authority be held on the second Friday in February at 4:00 P.M. at the regular meeting place of the Authority.

#### **MEETING - DECEMBER 12. 1950**

That whenever the Executive Director is absent or incapacitated, the Assistant Executive Director may perform all the duties of the Executive Director, as set forth in Sections 4 and 5 of the By-Laws.

#### **MEETING - APRIL 10. 1953**

That the offices of the Authority shall be at 18 Market Street, in the City of Lowell, Mass., and that all prior acts of the Authority designating 18 Market Street as the offices of the Authority be here and now ratified.

#### **MEETING - FEBRUARY 21. 1958**

That the regular meetings of the Authority shall be held on the first and third Tuesday of each month.

#### **MEETING - JANUARY 17. 1961**

That the Annual Meeting of the Authority shall be held on the third Tuesday in January.

#### **MEETING - APRIL 2. 1968**

That the Annual Meeting of the Authority be held on the first Tuesday in March.

**MEETING - FEBRUARY 15. 1972**

That the offices of the Authority shall be at 350 Moody Street, in the City of Lowell, Mass., and that all prior acts of the Authority designating 350 Moody Street, as the offices of the Authority be here and now ratified.

**MEETING - FEBRUARY 20. 1973**

**Article III - Section 6A - Rules of Meeting**

Any person wishing to speak at a regular or special meeting of the Lowell Housing Authority must register at the Central Office, 350 Moody Street, Lowell, Mass., no later than 12:00 noon on Monday prior to the scheduled meeting and indicate what subject is to be discussed.

Exceptions to the above rule will be regular employees and consultants of the Lowell Housing Authority, or spokesman of recognized Tenant Councils.

The above suggestion may be amended to the satisfaction of the members.

**MEETING - FEBRUARY 19. 1974**

That the regular meetings of the Lowell Housing Authority shall be held on the 2nd and 4th Tuesday of the month at 5:00 o'clock P.M. and the Annual Meeting will be held on the 4<sup>th</sup> Tuesday in March of every year.

**MEETING - DECEMBER 14. 1976**

That the regular meetings of the Lowell Housing Authority shall be held on the 2nd and 4th Tuesday of the month at 7:00 o'clock P.M.

**MEETING - FEBRUARY 14. 1978**

That the regular meetings of the Lowell Housing Authority shall be held on the 2nd and 4th Tuesday of the month at 7:00 o'clock P.M.

**MEETING - FEBRUARY 27. 1979**

That the regular meetings of the Lowell Housing Authority will be held on the 2nd and 4th Wednesdays of the month at 6:00 o'clock P.M. and that the Annual Meeting will be held on the 4<sup>th</sup> Wednesday of March at 6:00 o'clock p.m.

**MEETING - NOVEMBER 18. 1981**

That the regular meetings of the Authority will be held in the Community Room of the Dewey G. Archambault Towers, 657 Merrimack Street, Lowell, Mass.

**MEETING - MARCH 27. 1985**

That the regular meetings of the Authority will be held at 6:30 P.M.

**MEETING - APRIL 24. 1996**

That the Regular Meeting of the Board of Commissioners be held in the Leasing and Occupancy Department Board Room at 350 Moody Street on the 2<sup>nd</sup> and 4th Wednesday of each month at 6:30 P.M. and the Annual Meeting be held annually on the fourth Wednesday of March.

**MEETING - SEPTEMBER 24. 1997**

That the Annual Meeting and Regular Meetings will be held at the Armand P. Mercier Center, 21 Salem

Street, Lowell, at 6:00 P.M.

**MEEETING - MARCH 22, 2000**

That the regular meetings of the Lowell Housing Authority shall be held on the 2nd and Wednesday of the month at 6:00 o'clock P.M.

**MEETING - DECEMBER 13, 2000**

That the Annual Meeting be held on the 2nd Wednesday of March at 6:00 P.M.

**MEETING - FEBRUARY 13, 2002**

That the Regular and Annual Meetings be held at 5:30 p.m.

**MEETING - MARCH 7, 2005**

THAT Regular and Annual Meetings be held at 5:00 p.m.



## **APPENDIX B EIV SECURITY PROCEDURES**

**ADOPTED:** 3/14/2007

## **APPENDIX B EIV SECURITY PROCEDURES**

### **ENTERPRISE INCOME VERIFICATION (EIV) & OTHER DATA COVERED BY THE PRIVACY ACT:**

EIV contains personal information concerning program tenants (Housing Choice Voucher Program and Public Housing Program), which are covered by the Privacy Act<sup>1</sup> such as wage and income data about private individuals, as well as identifying name, address, social security number and employment information which must only be used to verify eligibility for participation in a HUD rental assistance program and to determine the level of assistance. Employees must not share information with governmental entities or anyone else that is not directly involved in the recertification process.

*A PHA employee can be found guilty of a misdemeanor or felony if that employee knowingly and willfully discloses tenant records to an unauthorized party.*

### **USER ACCOUNTS:**

User accounts for the EIV system are provided on a need-to-know basis; each user must have their own user ID and password. The system requires changed passwords every 21 days. Appropriate levels of approval and authorization are given. The EIV System Access Authorization HUD/PHA Form is used to request additions, deletions, or modifications of user accounts. All computer resources are monitored and audited.

1. All EIV system users shall be personally accountable for their actions while accessing the system. All users who have access to the EIV system have a current signed User Access Authorization form on file which is updated annually by December 31, and uses their own password.
  - A. Do not disclose passwords to other staff members, employees, or contractors.
  - B. Staff shall not override the authorized access levels by providing UIV data to others who have limited or no access to data.
2. A list of all EIV system users and their roles is maintained and reviewed the first month of each calendar quarter.
3. Users will be required to certify with HUD the first month of each quarter. If user account is not certified within 30 days access to EIV system will be denied.

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<sup>1</sup>

The complete text of the Privacy Act is available at <http://www.usdoj.gov/privstat.htm>

4. EIV users will only access EIV or other systems if HUD Form 9886 or equivalent consent form is on file for the household whose income information is being accessed.
5. Access rights will be added or revoked as appropriate.

#### **USERS ACCESSING INFORMATION:**

Computerized data must be afforded the same levels of protection given to paper documents or any other media that contains UIV data.

A. If an authorized user is viewing UIV data and an unauthorized user approaches the work area, the authorized user shall lessen the chance of inadvertent exposure of UIV data by minimizing or closing out the screen on which the UIV data is being displayed.

B. Always log-out of computer when not in use. Do not leave a computer unattended when access to sensitive data is possible. Activate a screen saver to protect access if computer is unattended.

#### **RESTRICTED AREAS:**

Access to areas where UIV data is maintained is limited even during work hours. File cabinets and storage facilities are labeled as CONFIDENTIAL and have working locks. Doors to the following offices have working locks: Division of Public and Leased Housing Programs file room, office of the Division Director of Conventional Public Housing Programs, office of Division Director of Leased Housing Programs, office of the Assistant Division Director, offices of Public Housing and Housing Choice Voucher Program administrative staff and five Property Manager's site office locations. Any restricted area is clearly identified by the use of prominently posted signs or other indicators as well as maintain a log of authorized personnel which is updated the first month of each quarter.

#### **KEYS AND LOCKED ROOMS:**

The UIV data is maintained in a secure room or locked space. The designated staff maintains a key control log to track the inventory of keys available, the number of keys issued, and to whom the keys are issued. Covered data is in a locked space or office is locked (File/ Storage, PH, HCV, and Property Manager's offices) when unoccupied. All employees who have been issued keys will complete a form acknowledging key receipt.

### **PRINTED INFORMATION AND HARD COPIES:**

Users retrieve computer printouts as soon as they are generated so information is not left lying unattended in printers where unauthorized users may access them. To minimize the unauthorized interception of printed outputs from the EIV system:

1. There is a designated printer in HCV department for UIV data
2. The PH department printer is only used for admission purposes beyond UIV data. Property Managers will have designated printers at each project site office.
3. UIV data is not to be copied.
4. There is a dedicated fax in a secure area for the transmission and receipt of sensitive data at the Division of Public and Leased Housing Programs and at each Property Managers site office.
5. Data, such as Social Security numbers, are not to be e-mailed without encryption.
6. When not in use, paper files are to be locked away from physical access.

### **DESTROYING DATA:**

1. EIV data is destroyed as soon as it has served its purpose.
2. All EIV originals and other documents created in association with their use are shredded.
3. A log is maintained of all documents that are shredded including the name of the employee who conducted the disposal, the method of disposal, and the date of disposal.
4. The log of destroyed documents are to be maintained as prescribed by the Records Monitoring and Retention Procedure.

### **SECURITY AWARENESS TRAINING:**

All EIV users will receive training at employment and annually thereafter. Training records will be maintained. Any Housing Authority EIV Security Procedure will be provided to all system users.

### **IMPROPER DISCLOSURES**

All evidence of unauthorized access or security violations shall be reported to the Office of the Executive Director and the Computer Data Technician in writing or via e-mail whether intentional or unintentional.



### **QUALITY CONTROL:**

The Computer Data Technician is responsible for monitoring that the procedures above are implemented and followed accordingly.

He/she will check:

1. Locks on doors to file rooms of the Division of Public and Leased Housing Programs, office of the Division Director of Conventional Public Housing Programs , office of the Division Director of Leased Housing Programs, office of the Assistant Division Director, offices of the Public Housing and Housing Choice Voucher Program administrative staff and five Property Managers site offices.
2. Locks on file cabinets with confidential information.
3. Make sure the person assigned the keys has them in their control.
4. Unattended computer screens do not display confidential information and that only an authorized person with access is at screen when information is available.
5. Files are locked away when not in use.
6. Information is properly disposed of and documented as such on log.
7. That information is not being retained for longer than necessary.
8. List of EIV users and roles updated quarterly.
9. HUD 9886 on is file and completed accurately.
10. Rights are revoked or terminated as appropriate.
11. Key control log is updated quarterly.
12. Annual Security Awareness Training is provided to staff.

Adopted March 14, 2007

**APPENDIX C: AIR CONDITIONER POLICY**

Adopted: 2/22/2001

## **APPENDIX D: MAINTENANCE CHARGES**



**APPENDIX E: COMMUNITY SERVICE POLICY**

ADOPTED: 10/8/2003

## **APPENDIX E: COMMUNITY SERVICE POLICY**

**APPENDIX F: LIMITED ENGLISH PROFICIENCY**

ADOPTED: 12/10/2003

**APPENDIX F: LIMITED ENGLISH PROFICIENCY**



**APPENDIX G:CRIMINAL OFFENDER RECORD INFORMATION POLICY**

ADOPTED: 5/10/2000

## **APPENDIX G: CRIMINAL OFFENDER RECORD INFORMATION POLICY**

This policy is adopted pursuant to the Criminal History Systems Board regulations governing requests for and use of CORI by local housing authorities (803 CMR 5.00).

Lowell Housing Authority employees may be designated to request and use Criminal Offender Record Information (CORI) only for purposes of evaluating applicants, or authorized occupants added to households for the Authority's housing programs. Dissemination of CORI for any other purposes or to individuals not involved in the tenant selection process is expressly prohibited. To ensure that CORI is handled in a lawful fashion, the Lowell Housing Authority has adopted the following guidelines for handling CORI:

1. Applicants will be informed in writing that CORI will be obtained from the Criminal History Systems Board (CHSB).
2. CORI will be obtained for all applicants and household members who are age 17 or older and other persons added to leases as authorized occupants.
3. Requests for CORI shall not be made prior to the final application screening process.
4. Requests for and use of CORI shall not have the purpose or effect of discrimination on the basis of race, religion, color, national or ethnic origin, ancestry, age, sex, handicap, sexual orientation, marital status, or receipt of public assistance.
5. Employees in the following positions are authorized to submit a written request for the CHSB on behalf of the Authority, are directly involved in the decision of an applicant's eligibility and are authorized to handle CORI in the course of their duties:

Executive Director  
Assistant Executive Director  
Administrative Supervisor of Leasing & Occupancy Department  
General Counsel  
Executive Secretary of Executive Department  
Division Director Conventional Housing Programs/L&O Department  
Division Director of Leased Housing Programs/L&O Department  
Public Safety/Investigator

Employees in these positions shall sign an "agreement of non-disclosure" provided by the CHSB.

6. Only one copy of an individual's CORI will be kept in the LHA's file at any time.
7. CORI will be kept in a separate, locked file cabinet when not being used.
8. CORI will be destroyed when the applicant to whom it pertains has been housed. If an applicant has been deemed ineligible, the applicant's CORI shall be destroyed (3) three years from the date of the rejection, or after all administrative and judicial proceedings concerning the rejection are exhausted, whichever is later.

9. No provisions of these guidelines shall be construed to prohibit dissemination of CORI by the LHA in the course of a tenant selection appeal, or other administrative or judicial proceedings brought on by an applicant in which CORI is relevant.

## **APPENDIX H:PET POLICY**

Adopted: 3/27/2001

## **APPENDIX H PET POLICY**

### **Federal Elderly Developments Pet Policy**

1. Tenants in Federally assisted housing designed for the elderly or handicapped are permitted to own and keep common household pets in their dwelling units in accordance with federal regulations adopted by the Lowell Housing Authority.
2. Common household pet means a domesticated animal such as a dog, cat, bird, fish, rodent or turtle.
3. Mandatory pet rules:
  - A. All pets must be registered with the Lowell Housing Authority before they are allowed on the premises.
  - B. Only one four-legged pet per household.
  - C. Dogs must be licensed by the City of Lowell and updated annually. The Tenant shall provide proof of license to the Lowell Housing Authority.
  - D. The weight of the dog/cat shall not exceed 20 pounds.
  - E. Dogs/cats must be spayed or neutered whichever is applicable. Certification by a licensed veterinarian must attest to this service and required inoculations in accordance with the State law and local ordinances. Proof of compliance to be submitted to the Lowell Housing Authority prior to entry on the premises.
  - F. Pet owners are to remove and properly dispose of all removable pet litter or waste down the trash chute. Litter and waste must be securely wrapped and placed in the barrel located outside the building.
  - G. Dogs/cats shall be appropriately and effectively restrained and under the control of a responsible person while in the common areas of the project. The use of common hallways for pet exercising or loitering is prohibited
  - H. Pets are to be excluded from specific common areas such as lobbies, laundry rooms, social rooms and elevators.
  - I. The Authority may adjust the pet and no pet areas or may direct such additional moves as may be necessary to accommodate for tenancy or to meet the changing needs of existing tenants.
4. Tenant must pay reasonable expenses directly attributable to the presence of the pet in the project, including (but not limited to) the cost of repairs and replacements to and fumigation of the tenant's dwelling and charges up to \$5.00 per occurrence to pet owner may be assessed to tenants who fail to remove pet waste in accordance with procedures.
5. Tenant shall identify an alternate custodian for pets in the event of tenant's illness or other absence from the dwelling unit. This identification of an alternate custodian must occur prior to the pet admission permit.
6. If the health or safety of a pet is threatened by the death, absence or incapacity of the owner and the owner or alternate is unwilling or unable to care for the pet, the Authority is authorized to remove and place the pet in another facility at the owner's expense not to exceed 30 days.
7. If the pets conduct or condition is duly determined to be a nuisance or threat to the health or safety of other tenants and the pet owner has failed to correct this violation in accordance with procedures the Authority may serve a written notice requiring the pet owner to remove the pet from the premises.

8. If the pets are left unattended for a period of 24 hours or more, the Lowell Housing Authority may enter the dwelling unit, remove the pet and transfer it to the proper agency, subject to the provisions of the State law and pertinent local ordinances.
9. The owners of pets which create a nuisance or interfere with the privacy or peace and quiet of other tenants will be given one written notice to control the pet and a second violation will be cause to require the removal of said pet from the premises. Failure to heed the second notice will be cause for tenant eviction.

Animals that are used to assist the handicapped are excluded from the pet ownership requirements.

The above are reasonable regulations adopted by the Lowell Housing Authority and therefore become a lease provision.

#### **Federal Family Developments Pet Policy**

- A. Ownership conditions – A resident of a dwelling unit in a federally subsidized family public housing development may own one or more common household pets or have one or more common household pets present in the dwelling unit of such resident, subject to the reasonable requirements of the Lowell Housing Authority.
- B. Common household pet means, “ a domesticated animal such as a dog, cat, bird, fish, rodent or turtle.” Snakes and lizards are not allowed.

The resident must comply with the following:

- All pets must be registered with the Lowell Housing Authority before they are allowed on the premises. (Registration shall include the naming of an alternate custodian.)
- Dogs must be licensed by the City of Lowell and license must be updated annually with a copy of same provided to the Housing Manager.
- Dogs/Cats must be spayed or neutered, whichever is applicable. Certification by a licensed veterinarian must attest to this service and any required inoculations in accordance with the State Law and local ordinance. Proof of compliance to be submitted to the Lowell Housing Authority prior to the entry of pet on LHA premises.
- The resident must maintain each pet in a responsible manner.
- Pet owners are to remove and properly dispose of all removable pet waste. In the case of cats, litter boxes are to be changed a minimum of twice per week. Litter is to be double-bagged and disposed of properly.
- Dogs/cats shall be appropriately and effectively restrained (leashed) and under the control of a responsible person while in the common areas such as entrance areas and hallways, etc. The use of common areas and hallways for pet exercising or loitering is prohibited. Pets are not to be tied outside and left unattended at any time. Violation of this clause shall be a violation of resident's lease.
- Pets are excluded from common areas such as lobbies, laundry rooms, elevators, social/community rooms and meeting areas.
- Residents must comply with all applicable State and local public health, animal control, and animal anti-cruelty laws and regulations.
- Pets must comply with the following policies established by the Lowell Housing Authority:

- A. A limit on the number of animals in a unit.

Not more than one dog or cat per unit.

B. The following types of animals are prohibited:

Dangerous animals such as rottweillers, german shepards, dobermans or pit bulls.

Animals weighing more than 20 lbs at maturity.

- C. Resident shall identify an alternate custodian for pets in the event of resident illness or other absence from the dwelling unit. This identification of an alternate custodian must occur prior to the pet admission permit.
- D. If the health or safety of a pet is threatened by the death, absence, or incapacity of the owner, and the owner or alternate is unwilling or unable to care for the pet, the Authority is authorized to remove and place the pet in another facility at the owner's expense not to exceed thirty days.
- E. If the pet's conduct or condition is duly determined to be a nuisance or threat to the health or safety of other residents, and the pet owner has failed to correct this violation in accordance with procedures, the Authority may serve a written notice requiring the pet owner to remove the pet from the premises.
- F. Dogs shall not be left unattended for more than 4 hours and cats for more than 12 hours otherwise resident shall be cited. If the pets are left unattended for a period of twenty-four hours or more, the Lowell Housing Authority may enter the dwelling unit, have the dog officer remove the pet and transfer it to the proper agency, subject to the provisions of State Law and pertinent local ordinances.
- G. The owners of pets which create a nuisance or interfere with the privacy or peace and quiet of other tenants will be given one written notice to control the pet and a second violation will be cause to require the removal of said pet from the premises. Failure to heed second notice will be cause for tenant eviction.

The Housing Authority prohibits pets in buildings that share common entranceways. Service animals that assist persons with disabilities are excluded from the pet ownership policies.

The above are reasonable regulations adopted by the Lowell Housing Authority and therefore become a lease provision.

**APPENDIX I: REASONABLE ACCOMMODATIONS POLICY**

ADOPTED: 2/1995



## **APPENDIX I: REASONABLE ACCOMMODATIONS POLICY**

**APPENDIX J: TRANSFER POLICY**

ADOPTED: 08/10/2005

## **APPENDIX J: TRANSFER POLICY**

**APPENDIX K VIOLENCE AGAINST WOMEN ACT POLICY**

Adopted:12-13-2006

## **APPENDIX K VIOLENCE AGAINST WOMEN ACT POLICY**