



HOUSING COMMISSION AGENDA
Regular Meeting: May 12, 2010

Time: 8:00 a.m.

HACA Board Room, 22941 Atherton Street, Hayward, CA 94541-6633

The public is welcome at all Housing Commission meetings. If you wish to speak on a matter NOT on the Agenda, please file a Public Comment card with the Commission Clerk. Upon recognition by the Chairperson during Public Comment, state your name, comments and/or questions. Anyone wishing to address the Commission on an agenda item or on business introduced by the Housing Commission may do so when the Chairperson calls for comments on the agenda item. Please be brief and limit your comments to the specific subject under discussion. NOTE: Only matters within the Housing Commission's jurisdiction may be addressed.

To allow the opportunity for all to speak, a time limit of 3 minutes has been set for public speakers wishing to address the Housing Commission.

The Housing Commission Secretary of the Housing Authority of the County of Alameda has, on Thursday, May 6, 2010, duly distributed this Agenda to the Clerk of the Board of Supervisors for posting in the office of the Alameda County Administration Building and has posted it on the bulletin board of the Housing Authority of the County of Alameda.

AMERICANS WITH DISABILITIES: *In compliance with the Americans with Disabilities Act, if special assistance to participate in this meeting is needed, please contact the Housing Authority office at (510)727-8511. Notification at least 48 hours prior to the meeting will enable the Housing Authority to make reasonable arrangements.*

	<u>PAGE</u>
1. CALL TO ORDER / ROLL CALL	
2. APPROVAL OF MINUTES OF THE APRIL 14, 2010 MEETING	2
3. PUBLIC COMMENT On matters not on the Agenda	
4. NEW BUSINESS	
4-1. Resolution Approving Contribution to Alameda County Employees' Retirement Association (ACERA)	ACTION 6
4-2. Resolution Authorizing Acceptance of 2010 HUD Capital Funds	ACTION 9
4-3. Approve Revisions to Section 8 Administrative Plan and Public Housing Admissions and Continued Occupancy Policy	ACTION 11
4-4. FY2009-2010 Budget Amendment	ACTION 15
4-5. Quarterly Investment Portfolio - Quarter Ended March 31, 2010	INFORMATION 16
4-6. Quarterly Budget Status Report - Quarter Ended March 31, 2010	INFORMATION 18
4-7. Program Activity Reports	INFORMATION 20
5. COMMITTEE REPORTS	
6. COMMISSIONER REPORTS	
7. COMMUNICATIONS	
8. OPEN SESSION Affirmative Action Appeal of Keandra Rhone (Tentative)	28
9. CLOSED SESSION Public Employee Discipline/Dismissal/Release – Government Code section 54957 Deliberation on Affirmative Action Appeal	
10. REPORT ON CLOSED SESSION	
11. ADJOURNMENT	

MINUTES
April 14, 2010



**HOUSING COMMISSION REGULAR MEETING
APRIL 14, 2010, 8:00 A.M.
HACA BOARD ROOM**

SUMMARY ACTION MINUTES

1. CALL TO ORDER/ROLL CALL

Call to Order

Chairperson Natarajan called the meeting to order at 8:02 a.m.

Roll Call

Present: Cmr. Atkin, Cashmere, Haddock, Excused: Cmr. Dutra-Vernaci, Gerry, and
Lockhart, Medina, Natarajan, and Steiner Reed

Entered after Roll Call: Cmr. May

2. APPROVAL OF MINUTES OF THE MARCH 10, 2010 MEETING

Recommendation: Approve the minutes as presented.

Motion/Second: Lockhart/Haddock.

6 Ayes; 1 Abstention: Natarajan. **APPROVED AS RECOMMENDED.**

3. PUBLIC COMMENT

Two cards submitted. Daniel Taylor passed when recognized by Chairperson Natarajan and Bernard Morton was not present in the Board Room when his name was called.

4. NEW BUSINESS

4-1. PRESENTATION: RECOGNIZE MEGAN MacMAHON AS EMPLOYEE OF THE QUARTER (EOQ)

Comments from the Public:

Ms. MacMahon expressed her appreciation for being selected as the EOQ.

4-2. ACTION: ASSIGN A SALARY TO THE NEWLY CREATED CLASS OF MAINTENANCE AND MODERNIZATION MANAGER

Recommendation: Approve salary for new classification

Motion/Second: Lockhart/Steiner.

Unanimous. **APPROVED AS RECOMMENDED.**

Comments from the Public:

Pamela Holmes-Morton asked if all of the duties assigned to the Administrative Services Assistant class would be re-assigned to this new class. Tom Makin, Deputy Director for Operations, explained that only those duties related to the day-to-day supervision of the maintenance department would be re-assigned to this new class.

Commission Discussion:

Cmr. Lockhart asked if staff plans to re-assign the other duties previously assigned to

the Administrative Services Assistant. Mr. Makin explained that this would be reviewed as part of the next budget cycle.

4-3. INFORMATION: HACA'S PROGRAM INTEGRITY ASSURANCE PROGRAM

Report received.

Commission Discussion:

Cmr. Steiner commented that this program emphasizes HACA's commitment to maintain program integrity. Cmr. Cashmere commented that it is important to educate participants about program requirements. Cmr. Atkin stated that it is also important to educate landlords so that they act responsibly and reputably. Chairperson Natarajan commented that fraud recovery efforts should not be viewed as a main source of revenue.

4-4. INFORMATION: BUDGET STATUS REPORTS

Report received.

Comments from the Public:

Pamela Holmes-Morton asked how many vacant union positions that haven't been filled were reflected in the salary savings shown in the report. Ms. Gouig stated that staff would report back to the Commission with that information.

4-5. INFORMATION: PROGRAM ACTIVITY REPORTS

Report received.

5. COMMITTEE REPORTS: None.

6. COMMISSIONER REPORTS

7. COMMUNICATIONS

The *2010 California's Housing Authorities Legislative Focus* handout was distributed to the Commissioners. Ms. Gouig announced that HACA was awarded 75 vouchers under the VASH (Veterans' Assistance) program and also announced that former HACA Executive Director Ophelia Basgal had been appointed as HUD's Regional Administrator for the Western Region. Ms. Gouig requested to change the date of the June Commission meeting to June 16 and the Commission agreed.

Tom Makin reported that HACA awarded a contract exceeding \$20,000 to Christopher A. Joseph and Associates for environmental review services.

8. ADJOURNMENT

There being no further business, Chairperson Natarajan adjourned the meeting at 8:49 a.m.

Respectfully submitted,

Melissa Taesali
Executive Assistant

Christine Gouig
Executive Director/Secretary

Approved:

Anu Natarajan
Commission Chairperson

NEW BUSINESS

May 12, 2010

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

AGENDA STATEMENT

Meeting: May 12, 2010

Subject: Contribution to Alameda County Employees' Retirement Association (ACERA) for Fiscal Year 2010-2011

Exhibits Attached: Resolution 07-10 Approving 401(h) Account Pursuant to Section 31592 of the County Employee Retirement Law (CERL)

Recommendation: Adopt the Resolution

Financial Statement: \$125,030.85 to be included in FY 2010-2011 Budget

BACKGROUND

The Housing Authority is a participating employer in the Alameda County Employees' Retirement Association (ACERA). In 1996, ACERA established a health benefits account, called a 401(h) account, to satisfy the requirements of Internal Revenue Code (IRC) Section 401(h) for providing non-vested, tax-free healthcare to the retirees of participating employers.

In 2006, changes to the IRC regulations required that participating employers establish a separate 401(h) sub-account under the overall ACERA account, and make contributions through ACERA designated specifically for healthcare benefits to fund the 401(h) sub-account. To continue providing HACA retirees with non-taxable health benefits, your Commission adopted a resolution in June 2006 (Resolution No. 14-06) that authorized ACERA to establish and manage a 401(h) sub-account on our behalf.

In accordance with Section 31592.4 and Article 5.5 of the CERL, ACERA holds assets in a Supplemental Retirees' Benefits Reserve (SRBR). Once HACA makes its designated 401(h) contribution to ACERA, ACERA will automatically transfer the same amount to HACA's Advance Reserve Account. ACERA has consistently paid supplemental retirement and post employment health care benefits through the SRBR since 1985.

DISCUSSION and ANALYSIS

Your Commission has authorized HACA's contribution to its 401(h) sub-account every year since 2006. The Segal Company, ACERA's actuary, has determined that HACA's contribution for fiscal year July 1, 2010 – June 30, 2011 is \$125,030.85. Authorization to fund HACA's 401(h) sub-account must be completed by June 30, 2010.

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

RESOLUTION NO. 07-10

RESOLUTION APPROVING 401(h) ACCOUNT PURSUANT TO SECTION 31592

WHEREAS, in 1996, the Alameda County Employees' Retirement Association ("ACERA") Board of Retirement informed the Board of Supervisors that by adoption of Resolution No. 96-111, the Board of Retirement had established a health benefits account intended to satisfy the requirements of the Internal Revenue Code ("IRC") Section 401(h) and the regulations thereunder (the "401(h) Account") in order to provide non-vested, tax-free health benefits to eligible County and Participating Employer retirees (collectively, the "Retirees"); and

WHEREAS, in 1996, the Board of Supervisors adopted Resolution No. R-96-634, which provided that ACERA could offer such non-taxable benefits if the County designated a portion of its contribution to ACERA for a fiscal year as a contribution to the 401(h) Account; and

WHEREAS, under Section 31592.4 and Article 5.5 of the County Employees Retirement Law of 1937 ("CERL"), assets in the Supplemental Retiree Benefit Reserves (the "SRBR") at the end of a fiscal year of ACERA may, in the immediately succeeding fiscal year, be transferred to the Advance Reserves of the Participating Employers, and treated as a contribution to ACERA by the County and as applicable by other Participating Employers to the extent that in the immediately succeeding fiscal year the County and other Participating Employers make contributions to ACERA's 401(h) Account in order to pay for retiree health benefits; and

WHEREAS, commencing with the 1996-1997 fiscal year, and for each fiscal year thereafter, the County has directed that a specified portion of its fiscal year contribution to ACERA for that year be contributed to the 401(h) account; and

WHEREAS, in 2006 the Alameda County Housing Authority ("Housing Authority") authorized ACERA to establish and manage a 401(h) sub-account on its behalf to provide tax free health care benefits for its retirees.

NOW THEREFORE, IT IS RESOLVED AS FOLLOWS:

1. In fiscal year July 1, 2010 – June 30, 2011, Housing Authority shall contribute to ACERA \$125,030.85 to be used only for the paying of retiree medical health benefits. This contribution shall be made on the terms and conditions set forth in the Agreement between Housing Authority and ACERA concerning such contributions, executed on July 25, 2007.
2. This contribution shall be designated, in writing, as being only for Housing Authority's IRC § 401(h) Account, and such designation shall be made at the time of contribution.
3. Such contribution is contingent on the Board of Retirement immediately transferring, in accordance with Government Code §31592.4, an amount equal to such contribution from ACERA's SRBR account to Housing Authority's advance reserve account. Such amount shall be treated as a contribution for pension and, therefore, shall be applied to reduce the pension contribution otherwise required by Housing Authority for the fiscal year beginning July 1, 2010.

4. No party, including any existing or future Housing Authority employee, retiree, spouse, or dependent, shall have any vested rights, contractual rights or other rights in or to any retiree medical benefits or payment or subsidy for any such benefits nor shall any such person or ACERA have any such rights to have Housing Authority contribute towards paying or subsidizing the cost of any retiree medical benefits provided by ACERA under the 401(h) Account or otherwise. The Housing Authority may modify or terminate, at any time and without any limitation, its decision to contribute to Housing Authority's 401(h) Account. This modification or termination may occur even if it may affect any employee first hired prior to the date of such modification, any person who retired prior to such date, and/or any person who became a spouse or dependent of an employee or retiree prior to such date.
5. All contributions by Housing Authority to its 401(h) sub-account shall be governed by requirements of the Internal Revenue Code and all administrative and other applicable rules established by ACERA governing such sub-account and ACERA's 401(h) Account.

PASSED, APPROVED, AND ADOPTED by the Housing Commission of the Housing Authority of the County of Alameda on May 12, 2010, by the following vote:

AYES:

NAYS:

ABSTAIN:

EXCUSED:

ABSENT:

Anu Natarajan
Housing Commission Chairperson

ATTEST:

Christine Gouig
Executive Director/Housing Commission Secretary

ADOPTED: MAY 12, 2010

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

AGENDA STATEMENT

Meeting: May 12, 2010

Subject: Resolution Authorizing Acceptance of 2010 HUD Capital Funds

Exhibits Attached: Resolution No. 08-10

Recommendation: Adopt the resolution authorizing acceptance of the funds

Financial Statement: Amount unknown; see below

BACKGROUND

The U.S. Department of Housing and Urban Development (HUD) provides an annual Capital Grant to housing authorities for the development, financing and modernization of public housing projects and for associated management costs. The funds are typically used for unit turnover costs such as painting, carpeting and kitchen/bathroom upgrades as well as more substantial capital improvements such as roofing, paving and siding.

DISCUSSION AND ANALYSIS

HUD has issued a notice indicating that housing authorities have to submit a resolution from their commissions accepting the Capital Grant. This resolution is due four weeks from the date we are notified of our funding amount. Although the amount of the 2010 Capital Fund grant that HACA will be provided was not available at the time of agenda preparation, staff anticipates notification of funds in the first or second week of May. Due to the tight deadline to submit the resolution we cannot wait until your June meeting so are bringing this matter to you now. Last year's grant was \$357,860 and this year's will be about 18% less (est. \$294,000).

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

RESOLUTION NO. 08-10

APPROVING THE ACCEPTANCE OF FY 2010 CAPITAL FUND AWARD

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) provides Capital Funds annually to Public Housing Agencies for the development, financing and modernization of public housing developments and for capital improvements; and

WHEREAS, the Housing Authority of the County of Alameda anticipates that HUD will provide it with a Capital Fund grant for FY 2010; and

WHEREAS, a resolution of the Housing Commission of the Housing Authority of the County of Alameda is necessary in order to authorize execution of the amendment to the Annual Contributions Contract (ACC) for acceptance and use of the Capital Fund grant;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Housing Authority of the County of Alameda is hereby authorized to amend its ACC with HUD in order to receive the full Capital Fund grant provided by HUD for FY 2010.
2. The Executive Director is authorized and directed to take all actions necessary in order to receive and expend the authorized funds in conformity with applicable regulations including but not limited to execution of the ACC; submittal of the amended ACC, this resolution and the completed Capital Fund Annual Statement form 50075.1 describing the specific activities that will be undertaken with the funds; and execution and submittal of any and all other documents that HUD may require in connection with the Capital Fund grant.

PASSED, APPROVED AND ADOPTED by the Commissioners of the Housing Authority of the County of Alameda on May 12, 2010, by the following vote:

AYES:

NAYS:

ABSTAIN:

EXCUSED:

ABSENT:

Anu Natarajan
Commission Chairperson

Attest:

Christine Gouig
Executive Director/Commission Secretary
Adopted: May 12, 2010

HOUSING AUTHORITY OF ALAMEDA COUNTY

AGENDA STATEMENT

Meeting: May 12, 2010

Subject: Revision to HACA’s Section 8 Administrative Plan (Admin Plan) and Public Housing Admissions and Continued Occupancy Policy (ACOP)

Exhibits Attached: Attachments 1-8: Marked-up versions of proposed revisions

Recommendation: Approve the Proposed Revisions

Financial Statement: None

BACKGROUND

HACA’s Section 8 Administrative Plan (“Admin Plan”) and Public Housing Admissions and Continued Occupancy Policy (“ACOP”) are attachments to HACA’s Annual Plan. In recent years, Bay Area Legal Aid and the National Housing Law Project (“the advocates”) have adopted the practice of jointly commenting on the Admin Plans and ACOPs of Bay Area housing authorities as part of the Annual Plan public comment process. The advocates emailed comments to HACA in late March and, after review, staff is submitting a number of proposed changes that it agrees are warranted.

Additionally, staff is proposing technical modifications to Chapter 17 of the Admin Plan to comply with HUD regulatory changes and clarifications.

Finally, a number of copy changes are being made to both documents for clarity, to more closely conform their provisions to the cited authorities, and to update or correct incorrect authorization citations.

DISCUSSION and ANALYSIS

Changes in Response to Joint Comments from Bay Area Legal Aid and the National Housing Law Project

Admin Plan

1. Section 3-III.C., Access to Housing for Formerly Incarcerated Individuals. Per California Penal Code Section 1203.4-4a, expungement releases the person “from all penalties and disabilities resulting from the offense.” The advocates commented that HACA’s failure to exclude expunged convictions as evidence of criminal activity imposed a penalty on applicants with expunged convictions. Staff

agrees and has revised Section 3-III.C., page 3-24, to exclude expunged convictions (Attachment 1).

2. Section 3-III.B., Criteria for Deciding to Deny Assistance. HUD authorizes HACA 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. Section 3-III.B., page 3-28, lists the factors that HACA considers in deciding whether to deny admission on the basis of past criminal activity, including the "likelihood of favorable conduct in the future." The advocates commented that HACA should list the kinds of evidence that an applicant may present to show the likelihood of favorable conduct in the future. Staff agrees and has added the examples listed on Attachment 1.
3. Section 3-III.E., Prohibition Against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking: Perpetrator Documentation. The advocates' commented that there are instances where the victim of domestic violence, dating violence, or stalking and the abuser may share children. Consequently, the advocates proposed that HACA modify its absolute prohibition against the perpetrator visiting or staying as a guest in the assisted unit. Staff agrees and, to provide for court visitation orders, has modified the Section entitled "Removal of a Family Member's Name from the Application", Section 3-III.E., page 3-29 (Attachment 1). Further, in order to make clear that HACA is not imposing a higher standard on a victim protected by the Violence Against Women Act ("VAWA"), HACA eliminated a separate provision on page 3-33 that applied when the perpetrator is a member of the applicant family (Attachment 1) and replaced it with a cross-reference to the Section entitled "Removal of a Family Member's Name from the Application", Section 3-III.E., page 3-29. This latter Section addresses any family members who participated in or were culpable for an action or failure to act which results in the denial of assistance, not just perpetrators of domestic violence, dating violence, or stalking.
4. Section 3-III.F., Notice of Eligibility or Denial, page 3-30, and Section 16-III.B., Informal Reviews, Notice to the Applicant, page 16-9. Both Sections state that HACA must send a notice to a household that is found ineligible for the program. The advocates commented that, as a matter of due process, HACA should include referral information for local legal services organizations in the notice of denial per *Ressler v. Pierce*, 692 F.2d 1212, 1220 (9th Cir. 1982). The advocates stated that an applicant rejected on the basis of a criminal record may not feel capable of disputing the accuracy or relevance of the criminal record or of presenting mitigating circumstances. In addition, many applicants may not be aware of local legal services organizations that may be able to provide assistance. Staff agrees and has so modified Section 3-III.F, page 3-30 (Attachment 1) and has cross-referenced it at Section 16-III.B., page 16-9.

5. Section 13-II.F., Change in Ownership. The advocates commented that additional language should be added to Section 13-II.F., page 13-19, regarding change of ownership to clarify that, as required by law, when ownership is transferred through foreclosure, the new owner is obligated under the existing HAP contract even if an assignment has not been executed. Staff agrees and has added the appropriate language (Attachment 2).

ACOP

1. Section 3.2.2., Nondiscrimination Policy. The advocates commented that HACA should add a provision to Section 3.2.2., page 3-1, stating that, as required by law, a person cannot be subjected to discrimination by virtue of being a victim of domestic violence, dating violence, or stalking. Staff agrees and has so modified the Section (Attachment 3).
2. Section 9.7, Suitability. The advocates commented that HACA should allow for mitigation of negative history for victims of domestic violence, dating violence, or stalking, which often manifests itself through poor credit history, poor rental history (including damage to an apartment), or lack of steady employment. Staff agrees and has modified Section 9.7, page 9-5, as indicated (Attachment 4).
3. Section 33.3, Termination for Criminal Activity. The ACOP provides that HACA will terminate the lease for any criminal activity on the property. The advocates commented that this section of the ACOP should cross-reference the VAWA policy at Section 33.3 in order to make clear that, as required by law, an incident of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated lease violation by the victim and will not be good cause for terminating the tenancy or occupancy rights of the victim. Staff agrees and has modified Section 23.2.2, page 23-1, as indicated (Attachment 5).
4. Section 33.4 DENIAL OF ASSISTANCE. The advocates commented that, to align HACA's policies on the admission of applicants with criminal records across both the Public Housing Program and the Section 8 Program, HACA should conform the pertinent ACOP Section (Section 33.4) to the more detailed Admin Plan Section. Staff agrees and, to the extent permissible by the regulations of the separate programs, has so conformed the ACOP to the Admin Plan (Attachment 6).

Modifications to Chapter 17 of the Admin Plan to comply with HUD regulatory changes and clarifications

The proposed changes to Chapter 17 are underlined in Attachment 7. The changes are being proposed for the following reasons:

Regulatory Changes

1. 17-II.F Promoting Partially-Assisted Buildings (page 17-11) – The Housing and Economic Recovery Action of 2008, also known as HERA, changed the measurement of the 25 percent limit on the share of units that may receive project-based voucher assistance to be based on the “project” rather than the “building.”
2. 17-VIII.B Certain Tax Credit Units (page 17-34) – HERA legislation allows housing authorities to set reasonable rents in units with Low Income Housing Tax Credits (LIHTC), even if the rent exceeds the maximum rent under the LIHTC program.
3. 17-VIII.B Rent Decrease (17-36) – HERA legislation allows housing authorities to agree in advance not to reduce the rent below the initial rent set at the beginning of the contract during the contract term.

Clarifications

1. 17-II.F. Exceptions to 25 Percent per Project Cap (page 17-9) – This section has been updated to clearly delineate between elderly families, disabled families and families receiving supportive services and to provide clarification regarding exceptions to the 25 percent per project cap.
2. 17-V.B Term of HAP Contract (page 17-20) – Language was added to clarify under what conditions HACA may extend the HAP contract term and that these conditions apply to subsequent extensions of the term.

Additional ACOP Modification

Section 34 (Attachment 8): In order to conform the ACOP Section with the authorizing Code of Federal Regulation, the Section title is changed from “INFORMAL REVIEW OF DENIAL OF HOUSING ASSISTANCE” to “INFORMAL HEARING OF DENIAL OF HOUSING ASSISTANCE”. Additionally, all references to “Informal Review” in the body of the Section have been changed to “Informal Hearing”.

HOUSING AUTHORITY OF ALAMEDA COUNTY

AGENDA STATEMENT

Meeting: May 12, 2010

Subject: FY2009-2010 Budget Amendment

Exhibits Attached: None

Recommendation: Amend Current Budget to Provide for Purchase of One Auto

Financial Statement: \$24,000 from Housing Choice Voucher (HCV) Program

BACKGROUND

The Housing Authority's vehicle pool is comprised of 11 cars. The pool is aging and includes five vehicles that are more than 10 years old. Service costs on the vehicles this past year will be about \$8,300 spent on the oldest eight vehicles. Staff has purchased two hybrid vehicles in the last year and a half and is proposing to continue turning the old gas vehicles over and replacing them with hybrids.

DISCUSSION and ANALYSIS

Staff is projecting income in the HCV Program of approximately \$100,000 at the fiscal year ending June 30, 2010. This income is administrative fee, not HAP, and so wouldn't be used to subsidize tenant rents. Staff recommends allocating some of this income to replace another vehicle, as you did last year. Since this purchase was not included in the initial budget adopted by your Commission last June, staff requests that you approve an amendment to the budget for the purchase of another hybrid sedan. The estimated cost, including all fees, would be about \$24,000.

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

AGENDA STATEMENT

Meeting: May 12, 2010

Subject: Quarterly Investment Portfolio Report

Exhibits Attached: Investment Portfolio Report for Quarter ended March 31, 2010

Recommendation: Receive Report

Financial Statement: \$15,927,587 Invested at an Average Monthly Yield ranging from 0.15% to 0.56% (excluding FSS Escrow Participant Accounts)

BACKGROUND

Public Agencies are required to file an annual investment policy with their governing boards and to provide quarterly financial reports on the status of the Agency's investments and to certify to their compliance with the approved investment policy.

DISCUSSION AND ANALYSIS

The investment portfolio report that is attached reflects the investments at March 31, 2010 for each program that HACA administers.

The Housing Choice Voucher program has a total investment of \$4,500,000, which is 28% of the total investment portfolio.

The Housing Development Fund has a total investment of \$9,212,587, which is 58% of the total investment portfolio. Approximately 50% of its portfolio is invested in the State of California Local Agency Investment Fund (LAIF) and the other 50% is in certificate of deposits.

The Public Housing program, Ocean Avenue and Park Terrace investments are 4%, 4% and 6% of the total investment, respectively.

The FSS Participant Escrow Accounts are maintained in a savings account, in accordance with HUD regulations, at Union Bank.

**HOUSING AUTHORITY OF ALAMEDA COUNTY
INVESTMENT PORTFOLIO
FOR THE QUARTER ENDED MARCH 31, 2010**

PROGRAM NAME	TYPE OF ACCOUNT	AMOUNT	INTEREST RATE	MATURITY DATE
<i>Section 8</i>	UNION BANK CERTIFICATE OF DEPOSITS	\$ 4,500,000.00	0.150%	7/22/10
Ocean Avenue	UNION BANK CERTIFICATE OF DEPOSITS	\$ 635,000.00	0.220%	7/20/10
Park Terrace	UNION BANK CERTIFICATE OF DEPOSITS	\$ 880,000.00	0.220%	7/20/10
Housing Dev Fund	UNION BANK CERTIFICATE OF DEPOSITS	\$ 4,600,000.00	0.150%	7/22/10
	State of CA - Local Agency Investment Fund	\$ 4,612,586.79	0.560%	
Public Housing	UNION BANK CERTIFICATE OF DEPOSITS	\$ 700,000.00	0.150%	7/22/10
TOTAL		\$ 15,927,586.79		

The above investment portfolio is in compliance with the policy approved by the Housing Commission.

Christine Gouig
Executive Director

Date

QUARTERLY
BUDGET STATUS
REPORT

HOUSING AUTHORITY OF ALAMEDA COUNTY
Budget Status Report for the Quarter ending March 31, 2010

	Low Rent Public Housing	Housing Choice Vouchers	Housing Development Fund	Park Terrace	Ocean Avenue	Totals
<u>Operating revenues</u>						
Rental revenue - tenants	\$ 754,998	\$	\$ 170,460	\$ 78,436	\$ 43,362	\$ 1,047,256
Other revenue	66,209			209	214	66,632
Total operating revenues	<u>821,207</u>		<u>170,460</u>	<u>78,645</u>	<u>43,576</u>	<u>1,113,888</u>
<u>Operating expenses</u>						
Administration	302,701	3,965,722	37,509	24,063	15,833	4,345,828
Tenant service	9,093		0	0	0	9,093
Utilities	100,593		36,989	144	4,206	141,932
Ordinary maintenance and operations	562,670		80,624	40,533	7,639	691,466
General expenses	253,029	1,585,235	5,272	763	687	1,844,986
Capital Eqpt Purchase		0	0	0	0	0
Transfer of Equity to PH	(60,671)		60,671			0
Total operating expenses	<u>1,167,415</u>	<u>5,550,957</u>	<u>221,065</u>	<u>65,503</u>	<u>28,365</u>	<u>7,033,305</u>
Operating (loss)	<u>(346,208)</u>	<u>(5,550,957)</u>	<u>(50,605)</u>	<u>13,142</u>	<u>15,211</u>	<u>(5,919,417)</u>
<u>Non-operating revenues</u>						
HUD PHA grants	292,153	5,373,087		0	0	5,665,240
Capital grants	0			0	0	0
Other revenue	0	261,822	41,194	0	350	303,366
Investment income	605	1,211	24,879	2,813	2,090	31,598
Total non-operating revenues	<u>292,758</u>	<u>5,636,120</u>	<u>66,073</u>	<u>2,813</u>	<u>2,440</u>	<u>6,000,204</u>
Income/(loss)	<u><u>\$ (53,450)</u></u>	<u><u>\$ 85,163</u></u>	<u><u>\$ 15,468</u></u>	<u><u>\$ 15,955</u></u>	<u><u>\$ 17,651</u></u>	<u><u>\$ 80,787</u></u>
Unrestricted Net Assets-Beginning Bal. 7/1/09	<u>195,834</u>	<u>2,978,208</u>	<u>9,378,446</u>	<u>859,847</u>	<u>645,301</u>	<u>14,057,636</u>
Ending net assets @ 3/31/10	<u><u>\$ 142,384</u></u>	<u><u>\$ 3,063,371</u></u>	<u><u>\$ 9,393,914</u></u>	<u><u>\$ 875,802</u></u>	<u><u>\$ 662,952</u></u>	<u><u>\$ 14,138,423</u></u>

PROGRAM ACTIVITY **REPORTS**

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

AGENDA STATEMENT

Meeting: May 12, 2010

Subject: Programs Activity Report

Exhibits Attached: Section 8 Contract Report; Fraud Payments Report; Landlord Rental Listing Report; FSS Program Monthly Report

Recommendation: Receive Report

Financial Statement: None

SECTION 8 HOUSING CHOICE VOUCHERS

- **Lease-Up:** As of May 1, 2010 the Section 8 Housing Choice Voucher program had 5,535 units under contract. The 5-month lease-up average for the 2010 calendar year is 98.58%.
- **Program Utilization:** As of May 1, 2010 the average HAP subsidy is \$1,069 and the average tenant-paid rent portion is \$358 for an average Contract Rent of \$1,427.
 - ❖ As of May 1, 2010 HACA has 80 outgoing billed portability contracts (i.e., HACA voucher holders who are housed in another housing authority's jurisdiction).
 - ❖ As of May 1, 2010 HACA billed other housing authorities, primarily the Oakland Housing Authority, for 1,536 incoming portability contracts. HACA receives only 80% of the HUD-authorized Administrative Fee for billed incoming portability contracts.
- **Section 8 Contract Report:** A copy of the Contract Report is attached.
- **Fraud / Debt Recovery:** HACA retained \$6,748.44 in fraud and debt recovery payments for the month of April 2010. A total of \$34,964.08 was retained over the last six months.

HACA retained \$389.50 in Housing Assistance Payment (HAP) overpayments for the month of April 2010. A total of \$3,422.70 was retained over the last six months.

- **Landlord Rental Listings:** As of April 26, 2010 there are 1,142 landlords with properties in HACA's jurisdiction utilizing the *GoSection8* rental listing service. Of those, 5 are new to the Section 8 program this month. There were 231 active properties listed.

FAMILY SELF SUFFICIENCY

The Family Self Sufficiency (FSS) Program continues to inspire a great deal of interest among the participants of our Section 8 program. We currently have 240 families on the waiting list. Staff has scheduled orientation meetings for the first week in June. By that time, we hope to have our third FSS coordinator hired and in place.

The emphasis in FSS remains on linking people with resources. Our coordinators utilize their community contacts and their ability to research and locate services to provide appropriate referrals. They supplement this one-on-one case management with workshops and activities such as this month's "Creating a Successful Plan" and "Interview for Success."

PUBLIC HOUSING

- **Occupancy:** As of May 1, 2010 the Public Housing program had 221 of 230 units leased and has a 96.84% fiscal year-to-date lease up rate.

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA
Section 8 Contract and HAP Report for the month of APRIL 2010

City	Certificates		Vouchers		APRIL 2010 TOTAL		APRIL 2009	APRIL 2008
	Number	HAP*	Number	HAP**	Number	HAP		
Albany	-	\$ -	42	\$ 44,856	42	\$ 44,856	44	43
Castro Valley	13	\$ 11,453	245	\$ 261,660	258	\$ 273,113	247	254
Dublin	2	\$ 1,762	243	\$ 259,524	245	\$ 261,286	204	184
Emeryville	6	\$ 5,286	89	\$ 95,052	95	\$ 100,338	95	105
Fremont	28	\$ 24,668	1,413	\$ 1,509,084	1,441	\$ 1,533,752	1367	1428
Hayward	112	\$ 98,672	2,296	\$ 2,452,128	2,408	\$ 2,550,800	2409	2422
Newark	3	\$ 2,643	291	\$ 310,788	294	\$ 313,431	296	296
Pleasanton	3	\$ 2,643	147	\$ 156,996	150	\$ 159,639	146	147
San Leandro	20	\$ 17,620	1,308	\$ 1,396,944	1,328	\$ 1,414,564	1303	1282
San Lorenzo	2	\$ 1,762	198	\$ 211,464	200	\$ 213,226	183	186
Union City	3	\$ 2,643	710	\$ 758,280	713	\$ 760,923	695	722
TOTALS	192	\$169,152.00	6,982	\$7,456,776.00	7,174	\$7,625,928.00	6989	7069

* based on an average April Housing Assistance Payment (HAP) of \$881 per certificate contract

**based on an average April Housing Assistance Payment (HAP) of \$1068 per voucher contract

09-10

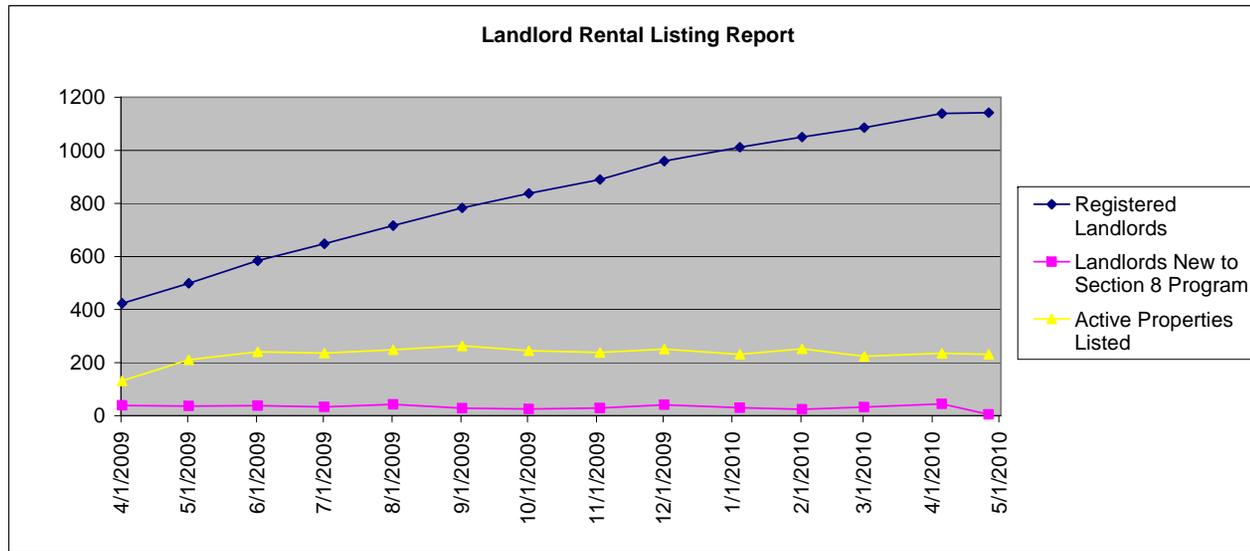
DEBT COLLECTIONS
FYE 6/30/10

	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	GRAND TOTALS
<i>DAMAGE CLAIMS</i>	\$0.00	\$0.00	\$0.00	\$50.00	\$0.00	\$0.00	\$65.00	\$0.00	\$50.00	\$0.00			\$165.00
<i>FRAUD REPAYMENTS</i>	\$15,456.33	\$8,002.83	\$6,044.44	\$5,083.96	\$4,735.92	\$4,452.94	\$6,236.99	\$6,752.48	\$6,037.31	\$6,748.44			\$69,551.64
<i>HAP OVERPAYMENTS</i>	\$686.50	\$538.00	\$691.50	\$570.00	\$501.00	\$576.70	\$613.50	\$785.00	\$557.00	\$389.50			\$5,908.70
TOTALS	\$16,142.83	\$8,540.83	\$6,735.94	\$5,703.96	\$5,236.92	\$5,029.64	\$6,915.49	\$7,537.48	\$6,644.31	\$7,137.94	\$0.00	\$0.00	\$75,625.34

Landlord Rental Listing Report

Monthly

	4/1/09	5/1/09	6/1/09	7/1/2009	8/1/2009	9/1/2009	10/1/2009	11/2/2009	12/1/2009	1/4/2010	2/1/2010	3/1/2010	4/5/2010	4/26/2010
Registered Landlords	423	499	584	648	716	783	838	890	959	1012	1050	1086	1139	1142
Landlords New to Section 8 Program	39	36	38	33	43	28	25	29	41	30	24	32	44	5
Active Properties Listed	131	211	241	236	249	263	245	238	251	231	252	224	235	231





To: Christine Gouig, Executive Director
From: Sharon DeCray, HAFS Manager
Re: **FSS Program Summary**
CC: Ron Dion, Phyllis Harrison, Linda Evans
Date: April 26, 2010

Program Summary	April 2010
Total Clients under Contract:	198
Graduates:	1
Escrow Disbursed:	\$0
Ports In:	0
Ports Out:	0
Terminations:	1
New Contracts:	0

FSS Program News:

Workshops

On Saturday April 3, 2010 FSS staff attended a “First-Time Home Buyers” workshop presented by Consumer Credit Counseling Services. The one-day workshop gave homebuyers a step-by-step guide to buying a home and assessed the financial readiness to do so. We learned what to expect and what will be expected of a first time home buyer and received a workbook and a certificate of completion. FSS staff will share the information with our participants who are interested in homeownership in addition to referring them to a First Time Home Buyer Workshop to get the information first hand.

Staff held an “Interview for Success” workshop on Tuesday April 13, 2010. FSS participants and adult household members were invited to learn interview and job search techniques as well as have their resume reviewed. Staff Chex Staffing Agency, Hayward One Stop Center, and the Bay Employment Training Academy were the panel of employers. Participants were able to speak with each panel employer, submit their resume, and get tips for securing employment. Participant enrollment interest in the workshop was very high; however, only eight attended. We are following up for feedback with each person that reserved their space and

attended as well as those not in attendance in hopes of getting a greater turn out the next time.

Life Coach/Facilitator Gloria Brown presented “Creating a Successful Plan for Developing and Maintaining Meaningful, Fulfilling, and Rewarding Relationships” here at HACA on Saturday April 24, 2010. The focus was on various relationships-- spouse, teacher, co-workers, boss, friends, mother, etc. and the emotions and attitudes each of the relationships bring out as well as coping techniques. The crowd was very involved in the workshop discussions. One participant described the workshop as being a form of “free” therapy that she very much needed that day. Fourteen attended.

On Tuesday April 27, 2010 FSS will hold a Section 8 homeownership orientation from 6:00-7:30 p.m. So far, about 50 people sent an RSVP.

Upcoming Events

Our next FSS orientation for new participants will be held in June. Two-hundred forty (240) families are now on the wait list.

Referrals = 59 Case Management

One mass mailing to each of our participants with the following information:

- Eden Area One Stop Job Fair Thursday April 8, 2010
- FSS Interview for Success workshop with employers: Staff Chex Staffing Agency, Hayward One Stop, and Bayfair Employment Training Academy
- California Legislative Black Caucus Youth Leadership Scholarship Program

OPEN SESSION

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

AGENDA STATEMENT

Meeting: May 12, 2010

Subject: Affirmative Action Appeal of Keandra Rhone (tentative)

Exhibits Attached: Hearing Procedures

Recommendation: Announce appeal procedures, hear evidentiary appeal, and retire into closed session for deliberations on adjudicatory decision on appeal

Financial Statement: n/a

BACKGROUND

The Housing Authority hired Keandra Rhone as an Administrative Clerk on October 5, 2009. On April 6, 2010 she was rejected from probation before the end of her probationary period.

Ms. Rhone, through her designated representative, Pamela Holmes-Morton, has appealed her rejection from probation, claiming it was based solely on Ms. Rhone's race. Ms. Holmes-Morton has written that Ms. Rhone believes the action violates HACA's Affirmative Action Policy and Program.

For this matter, County Counsel will be in attendance to assist your Commission and Cynthia O'Neill, from Liebert Cassidy Whitmore, will represent HACA management staff.

DISCUSSION AND ANALYSIS

HACA first adopted an Affirmative Action ("AA") Program on November 23, 1982. The Program was revised on April 10, 1991 and July 13, 1994. This is the first appeal under the AA Program.

The purpose of HACA's AA Program is much broader than the subject appeal. It was designed to address equal employment opportunities not only for HACA employees but for contractors, vendors and suppliers. It encourages HACA to take affirmative steps to provide contracting and subcontracting opportunities for minority and women's business enterprises, and includes the HUD Section 3 requirements to obtain the participation of public housing and low income households in work for which HACA contracts.

The AA Program contains a section on appeals. The section indicates that within 10 working days of timely receipt of an appeal, HACA's Affirmative Action Officer should review and attempt to resolve the situation. If a resolution isn't obtained, the appeal is scheduled for your Commission's next regularly-scheduled meeting, where your Commission will serve as the hearing body.

At the time of agenda preparation, staff was awaiting a response from Ms. Rhone and Ms. Holmes-Morton regarding some information prepared by HACA's Affirmative Action Officer and whether they wanted to continue with the hearing. However, that response isn't due until Friday and your agenda must be mailed before then. Staff will inform your Commission as soon as we know whether or not the hearing will be held.

If the hearing *is* held, staff recommends that you follow the Hearing Procedures (attached) to hear the appeal and then adjourn to closed session to deliberate and reach a decision. County Counsel will be in attendance at both the open and closed sessions to provide you with advice, should you require it.

**AFFIRMATIVE ACTION APPEAL – HEARING PROCEDURE
FOR ALLEGATIONS OF DISCRIMINATION
Housing Authority of the County of Alameda
Before the Housing Commission**

SCOPE

The appeal procedure applies to unresolved allegations that any employee has discriminated against a client or any employee.

CLOSED/ OPEN APPEAL

The appeal will be closed to the public, unless the employee who is the subject of the allegations notifies the Housing Commission Secretary, no later than the outset of the scheduled meeting, that he or she wishes the allegations to be discussed in open session. The Housing Commission Secretary will provide the employee charged with written notice, delivered at least 24 hours prior to the scheduled meeting, of that employee's right to have the charges discussed in open session.

RECORDING OF PROCEEDINGS

The appeal hearing will be suitably recorded and preserved. No transcription shall be made except at the request and expense of the party desiring the transcription. Any party may have a copy of all or any part of the record of any proceedings upon the payment of appropriate charges.

OATH

The Housing Commission Chair will administer the following oath prior to the testimony of any witness or party: *Please raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?*

EVIDENCE/ EXAMINATION OF WITNESSES

The Housing Commission shall not be bound by strict rules of evidence. Each party has the right to appear in person to present evidence and to examine adverse witnesses. The party making the allegations of discrimination shall have the burden of proof by a preponderance of the evidence.

ORDER OF PROCEEDINGS

1. Opening Statements -- The party making the allegations may make a brief opening statement. The party responding to the allegations may then make a brief opening statement or defer that opening statement until the start of that party's case. Each party has up to 10 minutes for its opening statement.

2. Taking of Testimony and Evidence – The party making the allegations calls witnesses first, subject to the examination of the other party as adverse witnesses. After the party making the allegations has concluded the presentation of its witnesses, the party responding to the allegations can put on its witnesses, who are also subject to examination as adverse witnesses. The party making the allegations can then call any rebuttal witnesses, followed by the rebuttal witnesses of the party responding to the allegations.

3. Closing Arguments – The party making the allegations can make an oral closing argument, followed by the closing argument of the party responding to the allegations. Each party has up to 10 minutes for its closing argument.

REPRESENTATION

At the appeal, each party has the right to one participating representative at that party's own expense.

The Housing Commission, at its sole discretion, may have its own counsel present to assist it as the Commission deems appropriate.

HOUSING COMMISSION DELIBERATIONS

The Housing Commission will have the power, immediately after the appeal hearing, to deliberate regarding its findings and decision in closed session, pursuant to the Brown Act.

THE HOUSING COMMISSION'S WRITTEN DECISION ON APPEAL

The Housing Commission's written decision on appeal will be issued within a reasonable time after the hearing. The Housing Commission's written decision shall include a summary of the evidence and arguments, findings of fact, and conclusions. The Housing Commission's written decision is final. The Housing Commission's written decision is subject to review in the Superior Court pursuant to CCP section 1094.5 no later than 90 days after the date of the proof of service of the Commission's written decision to the party making the allegations.

ATTACHMENT

1

PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance.

In addition, HUD requires or permits HACA to deny assistance based on certain types of current or past behaviors of family members.

Forms of Denial [24 CFR 982.552(a)(2); HCV GB, p. 5-35]

Denial of assistance includes any of the following:

- Not placing the family's name on the waiting list
- Denying or withdrawing a voucher
- Not approving a request for tenancy or refusing to enter into a HAP contract
- Refusing to process a request for or to provide assistance under portability procedures

Prohibited Reasons for Denial of Program Assistance [24 CFR 982.202(b), [24 CFR Part 5, Subpart I](#)]

Deleted: Pub.L. 109-162

HUD rules prohibit denial of program 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 HACA's jurisdiction (See Chapter 10, Portability.)
- 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
- Whether or not a qualified applicant has been a victim of domestic violence, dating violence, or stalking

3-III.B. **REQUIRED DENIAL OF ASSISTANCE** [24 CFR 982.553(a)]

Deleted: MANDATORY

HUD requires PHAs to deny assistance in the following cases:

Deleted: HACA

- 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, PHAs 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).

Deleted: HACA

Deleted: HACA

HACA Policy

HACA will **not** admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity. However, HACA may admit the household if HACA determines:

- That the evicted household member who engaged in the criminal activity has successfully completed a supervised drug rehabilitation program approved by HACA; or
- That the circumstances leading to eviction no longer exist (for example, the criminal household member has died or is imprisoned).

Formatted: Bullets and Numbering

Deleted: f HACA is able to verify that the household member

Deleted: .

Formatted: Font color: Auto

Deleted: :

Deleted: 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.

Deleted: HACA

HACA Policy

Currently engaged in is defined as any use of illegal drugs during the previous six 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.

Deleted: HACA

HACA Policy

In determining reasonable cause, HACA 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. A conviction will be given more weight than an arrest. HACA will also consider evidence from treatment providers or community-based organizations providing services to household members.

- 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.
- The applicant does not meet the applicable SSN disclosure, documentation, and verification requirements as specified in 24 CFR 5.216 outlined in Chapter 7II-B.

3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE

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

Deleted: HACA

Criminal Activity [24 CFR 982.553]

HUD permits, but does not require, PHAs to deny assistance 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 assistance, certain types of criminal activity.

Deleted: HACA

Deleted: HACA

HACA 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 assistance.

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 HACA (including a HACA employee or a HACA contractor, subcontractor, or agent).

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

Any conviction not expunged for drug-related or violent criminal activity within the past 5 years.

Any arrests for drug-related or violent criminal activity within the past 5 years.

Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 5 years.

A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity.

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

Previous Behavior in Assisted Housing [24 CFR 982.552(c)]

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

HACA Policy

HACA will not deny assistance to an otherwise eligible family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program.

HACA will deny assistance to an applicant family if:

The family does not provide information that HACA or HUD determines is necessary in the administration of the program.

The family does not provide complete and true information to HACA.

Any family member has been evicted from federally-assisted housing in the last five 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 owes rent or other amounts to any PHA 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 assisted.

If the family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, 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 assisted.

The family has breached the terms of a repayment agreement entered into with HACA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being assisted.

A family member has engaged in or threatened violent or abusive behavior toward HACA personnel.

Abusive or violent behavior towards HACA 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, HACA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, HACA may, on a case-by-case basis, decide not to deny assistance.

3-III.D. SCREENING

Screening for Eligibility

PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV program. This authority assists PHAs in complying with HUD requirements and HACA 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, PHAs must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

Deleted: HACA

Deleted: HACA

HACA Policy

HACA will perform a criminal background check for every adult household member.

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 [24 CFR 982.553(a)(2)(i)].

If a PHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, it 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)].

Deleted: HACA

Deleted: HACA

Screening for Suitability as a Tenant [24 CFR 982.307]

HACA has no liability or responsibility to the owner for the family's behavior or suitability for tenancy. HACA may opt to conduct additional screening to determine whether an applicant is likely to be a suitable tenant.

HACA Policy

HACA will not conduct additional screening to determine an applicant family's suitability for tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. HACA must inform the owner that screening and selection for tenancy is the responsibility of the owner. An owner 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.

HUD requires HACA to provide prospective owners with the family's current and prior address (as shown in HACA records) and the name and address (if known) of the owner at the family's current and prior addresses. HUD permits HACA to provide owners with additional information, as long as families are notified that the information will be provided, and the same type of information is provided to all owners.

HACA Policy

HACA will inform owners of their responsibility to screen prospective tenants, and will, upon request, provide owners with the required known name and address information, at the time of the initial HQS inspection or before. HACA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

3-III.E. CRITERIA FOR DECIDING TO DENY ASSISTANCE

Evidence [24 CFR 982.553(c)]

HACA Policy

HACA 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.

Deleted:

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

HUD authorizes PHAs 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).

Deleted: HACA

HACA Policy

HACA will consider the following factors prior to 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, or (as discussed further in section 3-III.G) a victim of domestic violence, dating violence, or stalking

The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future

As evidence of the likelihood of favorable conduct in the future, HACA will consider all of the following: Evidence of employment, education, participation in a work training program, participation in a counseling program, involvement in a community group, a certificate of rehabilitation from the state, and letters of support from parole or probation, case workers, clergy, or community leaders.

Formatted: Indent: Left: 1.5"

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

HACA 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.

Removal of a Family Member's Name from the Application [24 CFR 982.552(c)(2)(ii)]

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.

HACA 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, other than as required or permitted by a court visitation order.

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

Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]

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

HACA Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, HACA will determine whether the behavior is related to the disability. If so, upon the family's request, HACA will determine whether alternative measures are appropriate as a reasonable accommodation. HACA 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 for a discussion of reasonable accommodation.

3-III.F. NOTICE OF ELIGIBILITY OR DENIAL

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

If HACA 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 [24 CFR 982.554 (a)]. See Chapter 16, for informal review policies and procedures.

HACA Policy

The family will be notified of a decision to deny assistance in writing within 10 business days of the determination. The notice will include contact information for Bay Area Legal Aid.

If a PHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the PHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)]. The PHA must give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process in accordance with program requirements [24 CFR 982.553(d)].

Formatted: Font: Not Italic

Deleted: HACA

Deleted: HACA

Deleted: HACA

HACA Policy

If, based on a criminal record or sex offender registration information, an applicant family appears to be ineligible, HACA will notify the family in writing of the proposed denial and provide a copy of the record to the subject of the record and to the applicant with signed authorization from the subject. The family will be given 10 business days to dispute the accuracy and relevance of the information. If the family does not contact HACA to dispute the information within that 10-day period, HACA will proceed with issuing the notice of denial of admission. A family that does not exercise its right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal review process.

Deleted: their

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

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, or stalking are contained in Section 3-III.G.

3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING [[24 CFR Part 5, Subpart L]

The Violence against Women Reauthorization Act of 2005 (VAWA) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking. Specifically, Section 606(4)(A) of VAWA adds the following provision to Section 8 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the housing choice voucher program:

- That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate reason for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission [24 CFR 5.2005].

Definitions

As used in VAWA:

- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship
- The term *stalking* means:
 - To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
 - To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
 - In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

- The term *immediate family member* means, with respect to a person:
 - A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or
 - Any other person living in the household of that person and related to that person by blood and marriage.

Notification and Victim Documentation

HACA Policy

HACA acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under HACA's policies.

Therefore, if HACA makes a determination to deny admission to an applicant family, HACA will include in its notice of denial:

A statement of the protection against denial provided by VAWA;

A description of PHA confidentiality requirements

A request that an applicant wishing to claim this protection submit to HACA documentation meeting the specifications below with her or his request for an informal review (see section 16-III.D)

Documentation

Victim Documentation

HACA Policy

An applicant claiming that the cause of an unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, or stalking must provide documentation (1) demonstrating the connection between the abuse and the unfavorable history and (2) naming the perpetrator of the abuse. The documentation may consist of any of the following:

A statement signed by the victim certifying that the information provided is true and correct and that it describes bona fide incident(s) of actual or threatened domestic violence, dating violence, or stalking

A police or court record documenting the domestic violence, dating violence, or stalking

Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

When the Abuser is a Member of the Applicant Family

Deleted: Perpetrator Documentation

HACA Policy

As a condition of receiving assistance, if the perpetrator of the abuse is a member of the applicant family, a family may either:

Deleted: If

Agree to remove the culpable family member from the application as set forth in "Removal of a Family Member's Name from the Application [24 CFR 982.552(c)(2)(ii)]", page 3-29; or

Deleted: the applicant must provide additional documentation consisting of one of the following

Submit documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

Deleted: signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit

Formatted: Font: Not Bold

Deleted: Documentation

Time Frame for Submitting Documentation

HACA Policy

The applicant must submit the required documentation with her or his request for an informal review (see section 16-III.D) or must request an extension in writing at that time. If the applicant so requests, the PHA will grant an extension of 10 business days, and will postpone scheduling the applicant's informal review until after it has received the documentation or the extension period has elapsed. If after reviewing the documentation provided by the applicant the PHA determines that the family is eligible for assistance, no informal review will be scheduled and the PHA will proceed with admission of the applicant family.

HACA Confidentiality Requirements [24 CFR 5.2007(a)(1)(v)]

All information provided to HACA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

HACA Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the PHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

HACA Policy

HACA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on HACA waiting list; denying or withdrawing a voucher except for denial or termination of assistance due to insufficient funds as set forth in Section VIII of this chapter; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

Notice to the Applicant [24 CFR 982.554(a)]

HACA must give an applicant prompt notice of a decision denying assistance As set forth in Section 3-III F., page 3-30.

Deleted: . The notice must contain a brief statement of the reasons for HACA's 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

HACA Policy

A request for an informal review must be made in writing and delivered to HACA 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 HACA's denial of assistance.

Except as provided in Section 3-III G, HACA must schedule and send written notice of the informal review within 10 business days of the family's request.

Informal Review Procedures [24 CFR 982.554(b)]

HACA Policy

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 HACA.

The person conducting the review will make a recommendation to HACA, but HACA is responsible for making the final decision as to whether assistance should be granted or denied.

ATTACHMENT

2

13-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT
[HUD-52641]

Except when ownership is transferred through foreclosure, the HAP contract cannot be assigned to a new owner without the prior written consent of HACA. When ownership is transferred through foreclosure, the existing HAP contract remains in force and the new owner is obligated under it even if assignment has not been executed.

Deleted: T

An owner under a HAP contract must notify HACA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by HACA.

Prior to HACA's approval of assignment of the HAP contract to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that HACA finds acceptable. The new owner must provide HACA with a copy of the executed agreement.

HACA Policy

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV Program according to the policies in Section 13-I.D. of this chapter.

HACA must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within 10 business days of receiving the owner's request, HACA will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to HACA that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;
- The effective date of the HAP contract assignment;
- A written agreement to comply with the terms of the HAP contract; and
- Confirmation that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, HACA will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, HACA will process the leasing in accordance with the policies in Chapter 9.

Deleted: c

ATTACHMENT

3

3. NONDISCRIMINATION, EQUAL OPPORTUNITY, AND EXPANSION OF HOUSING OPPORTUNITY

3.1. POLICY

3.1.1. It is the policy of HACA to affirmatively further fair housing in the administration of the Public Housing Program by:

3.2. CIVIL RIGHTS LAWS

3.2.1. Civil rights laws protect the rights of applicants and residents to equal treatment by HACA in the way it administers its programs. It is the policy of HACA to comply with:

- 3.2.1.1.all Federal, State and local nondiscrimination laws;
- 3.2.1.2.the Americans with Disabilities Act; and
- 3.2.1.3.U. S. Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity.

3.2.2. No person will, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under HACA's programs on the grounds of:

- 3.2.2.1.race;
- 3.2.2.2.color;
- 3.2.2.3.gender;
- 3.2.2.4.sexual orientation;
- 3.2.2.5.religion, national or ethnic origin;
- 3.2.2.6.familial status;
- 3.2.2.7.disability; or

3.2.2.8.status as a victim of domestic violence, dating violence, or stalking.

Deleted: or

Formatted: Bullets and Numbering

Deleted: .

ATTACHMENT 4

9.7. SUITABILITY

- 9.7.1. Applicant families will be evaluated to determine whether, based on their recent behavior, such behavior could reasonably be expected to result in noncompliance with the public housing lease.
- 9.7.2. The Housing Authority will look at past conduct as an indicator of future conduct.
- 9.7.3. Emphasis will be placed on whether a family's admission could reasonably be expected to have a detrimental effect on the development environment, other tenants, the Housing Authority's employees, or other people residing in the immediate vicinity of the property.
- 9.7.4. Otherwise eligible families will be denied admission if they fail to meet the suitability criteria.
- 9.7.5. The Housing Authority will consider objective and reasonable aspects of the family's background, including:
 - 9.7.5.1. Its history of meeting financial obligations, especially rent.
Consideration of prior financial hardship will be given when evaluating this factor.
 - 9.7.5.2. Its ability to maintain (or with assistance would have the ability to maintain) its housing in a decent and safe condition based on living or housekeeping habits and whether such habits could adversely affect the health, safety, or welfare of other tenants;
 - 9.7.5.3. Its history of disturbing neighbors or destruction of property;
 - 9.7.5.4. Any fraud committed in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to the family's housing application or benefits derived there from;
 - 9.7.5.5. The criminal history of each household member including:
 - 9.7.5.5.1. crimes of physical violence against persons or property;
 - 9.7.5.5.2. drug-related criminal activity that would adversely affect the health, safety, or well being of other tenants or staff or cause damage to the property; and
 - 9.7.5.5.3. any other criminal activity.
 - 9.7.5.6. Any family member's history of abusing alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment by others.
 - 9.7.5.7. The Housing Authority will ask applicants to provide information demonstrating their ability to comply with the essential elements of the lease. The Housing Authority will verify the information provided. Such verification may include but may not be limited to the following:
 - 9.7.5.7.1. A credit check of the head, spouse and co-head;
 - 9.7.5.7.2. A rental history check of all adult family members;
 - 9.7.5.7.3. A criminal background check on all adult household members, including live-in aides.

- 9.7.5.7.4. This check will be made through State or local law enforcement or court records in those cases where the household member has lived in the local jurisdiction for the last three years.
 - 9.7.5.7.5. Where the individual has lived outside the local area, the Housing Authority may contact law enforcement agencies where the individual had lived or request a check through the FBI's National Crime Information Center (NCIC);
 - 9.7.5.8. A home visit. The home visit provides the opportunity for the family to demonstrate their ability to maintain their home in a safe and sanitary manner. This inspection considers cleanliness and care of rooms, appliances, and appurtenances. The inspection may also consider any evidence of criminal activity; and
 - 9.7.5.9. A check of the State's lifetime sex offender registration program for each adult household member, including live-in aides. No individual registered with this program will be admitted to public housing.
- 9.7.6. HACA will allow for mitigation of negative history for victims of domestic violence, dating violence, or stalking.
- 9.7.6.1. HACA will consider whether an applicant would be suitable for public housing but for a negative history caused by domestic violence, dating violence, or stalking. Negative history that may have been caused by domestic violence, dating violence, or stalking often includes poor credit history, poor rental history (including damage to an apartment), or lack of steady employment.
 - 9.7.6.2. If inquiries reveal that the negative history was the consequence of domestic violence, dating violence, or stalking against a member of the applicant household, HACA will not deny the household assistance on the basis of this information.
 - 9.7.6.3. Members of applicant households have a right to confidentiality regarding any inquiries regarding domestic violence, dating violence, or stalking.

Formatted: Bullets and Numbering

ATTACHMENT
5

23. TERMINATION

23.1. TERMINATION BY TENANT

- 23.1.1. The tenant may terminate the lease at any time upon submitting a 30-day written notice.
- 23.1.2. If the tenant vacates prior to the end of the thirty (30) days, he or she will be responsible for rent through the end of the noticed period or until the unit is re-rented, whichever occurs first.

23.2. TERMINATION BY THE HOUSING AUTHORITY

- 23.2.1. The Housing Authority will terminate the lease for serious or repeated violations of material lease terms. Such violations include but are not limited to the following:
 - 23.2.1.1. Nonpayment of rent or other charges;
 - 23.2.1.2. A history of late rental payments;
 - 23.2.1.3. Failure to provide timely and accurate information regarding family composition, income circumstances, or other information related to eligibility or rent;
 - 23.2.1.4. Failure to allow inspection of the unit;
 - 23.2.1.5. Failure to maintain the unit in a safe and sanitary manner;
 - 23.2.1.6. Assignment, subletting, or abandonment of the premises;
 - 23.2.1.7. Use of the premises for purposes other than as a dwelling unit (other than for housing authority approved resident businesses);
 - 23.2.1.8. Destruction of property;
 - 23.2.1.9. Acts of destruction, defacement, or removal of any part of the premises or failure to cause guests to refrain from such acts;
 - 23.2.1.10. Any criminal activity on the property or drug-related criminal activity on or off the premises including, but not limited to, the manufacture of methamphetamine on the premises of the Housing Authority;
 - 23.2.1.11. Non-compliance with Non-Citizen Rule requirements;
 - 23.2.1.12. Permitting persons not on the lease to reside in the unit more than fourteen (14) days each year without the prior written approval of the Housing Authority; and
 - 23.2.1.13. Other good cause.

23.2.2. As set forth in Section 33.3.1.1., an incident of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated lease violation by the victim and will not be good cause for terminating the tenancy or occupancy rights of the victim.

Formatted: Bullets and Numbering

Field Code Changed

ATTACHMENT
6

33.4 DENIAL OF ASSISTANCE

33.4.1. OVERVIEW

HUD requires or permits PHAs to deny assistance based on certain types of current or past behaviors of family members.

Prohibited Reasons for Denial of Program Assistance [24 CFR 982.202(b), 24 CFR Part 5, Subpart L]

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

- Age, disability, race, color, religion, sex, or national origin. (See Chapter 3 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- 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
- Whether or not a qualified applicant has been a victim of domestic violence, dating violence, or stalking

33.4.2. REQUIRED DENIAL OF ADMISSION [24 CFR 960.204]

PHAs are required to establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or if the PHA has reasonable cause to believe that a household member's current use or pattern of use of illegal drugs, and/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 or neighbors.

Where the statute requires that PHAs prohibit admission for a prescribed period after some disqualifying behavior or event, PHAs may choose to continue that prohibition for a longer period [24 CFR 960.203(c)(3)(ii)].

HUD requires PHAs 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, PHAs 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).

HACA Policy

HACA will not admit an otherwise eligible family who was evicted from

federally-assisted housing within the past 5 years for drug-related criminal activity. However, HACA may admit the household if HACA determines:

- That the evicted household member who engaged in the criminal activity has successfully completed a supervised drug rehabilitation program approved by HACA; or
- That the circumstances leading to eviction no longer exist (for example, the criminal household member has died or is imprisoned).
- The PHA determines that any household member is currently engaged in the illegal use of drugs.

HACA Policy

Currently engaged in is defined as any use of illegal drugs during the previous six 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.

HACA Policy

In determining reasonable cause, HACA 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. A conviction will be given more weight than an arrest. HACA will also consider evidence from treatment providers or community-based organizations providing services to household members.

- 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.
- The applicant does not meet the applicable SSN disclosure, documentation, and verification requirements as specified in 24 CFR 5.216.

33.4.3. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION

HUD permits, but does not require PHAs to deny admission for the reasons discussed in this Section.

Under the Public Housing Assessment System (PHAS), PHAs that have adopted policies, implemented procedures, and can document that they successfully screen out and deny

admission to certain applicants with unfavorable criminal histories receive points. This policy takes into account the importance of screening to public housing communities and program integrity, and the demand for assisted housing by families who will adhere to lease responsibilities.

The PHA is responsible for screening family behavior and suitability for tenancy. In doing so, the PHA may consider all relevant information, which may include, but is not limited to an applicant's:

- **Criminal Activity [24 CFR 960.203 (b) and (c)]** History of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety or welfare of other tenants. With regard to criminal activity described in 24 CFR 960.204, the PHA may require an applicant to exclude a household member in order to be admitted to the housing program where that household member has participated in or been culpable for actions described in 24 CFR 960.204 that warrant denial.

HACA 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 assistance.

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 HACA (including a HACA employee or a HACA contractor, subcontractor, or agent).

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

Any conviction not expunged for drug-related or violent criminal activity within the past 5 years.

Any arrests for drug-related or violent criminal activity within the past 5 years.

Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 5 years.

A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity.

In making its decision to deny assistance, HACA will consider the factors discussed in Section 33.4.5. Upon consideration of such factors, HACA may, on a case-by-case basis, decide not to deny assistance.

- Previous Behavior [960.203(c) and (d) and PH Occ GB, p. 48]
 - Past performance in meeting financial obligations, especially rent.
 - Record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past five years which may adversely affect the health, safety, or welfare of other tenants; or

33.4.4. SCREENING

Screening for Eligibility

PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the public housing program. This authority assists PHAs in complying with HUD requirements and HACA 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 PHAs must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

HACA Policy

HACA will perform a criminal background check for every adult household member.

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 [24 CFR 960.204(a)(4)].

If a PHA proposes to deny admission based on a criminal record or on lifetime sex offender registration information, it 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)].

Screening for Suitability as a Tenant [24 CFR 960.203(c) and PH Occ GB, pp. 47-56]

Generally, HACA will reject applicants who have recent behavior that would warrant lease termination for a public housing resident. In order to determine the suitability of applicants, HACA will examine applicant history for the past five years. Such background checks will include:

Past Performance in Meeting Financial Obligations, Especially Rent

PHA and landlord references for the past five years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether the PHA/landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. PHAs and landlords will be asked if they would rent to the applicant family again.

Utility company references covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit and whether the applicant can get utilities turned on in their name. (Use of this inquiry will be reserved for applicants applying for units where there are tenant-paid utilities.)

If an applicant has no rental payment history, HACA will check court records of eviction actions and other financial judgments, and credit reports. A lack of credit history will not disqualify someone from becoming a public housing resident, but a poor credit rating may.

Applicants with no rental payment history will also be asked to provide HACA with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available.

If previous landlords or the utility company do not respond to requests from HACA, the applicant may provide other documentation that demonstrates his/her ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)

Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare of Other Tenants, or Cause Damage to the Unit or the Development.

PHA and landlord references for the past five years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances. Police and court records within the past five years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction.

A personal reference will be requested to complete a verification of the applicant's ability to care for the unit and avoid disturbing neighbors if no other documentation is available. In these cases, the applicant will also be required to complete a checklist documenting his/her ability to care for the unit and to avoid disturbing neighbors. Home visits may be used to determine the applicant's ability to care for the unit.

33.4.5. CRITERIA FOR DECIDING TO DENY ADMISSION

Evidence

HACA 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 960.203(c)(3) and (d)]

HUD authorizes PHAs to consider all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated (see Section 33.4.2).

HACA 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 admission 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, or (as discussed further in Section 33.3, a victim of domestic violence, dating violence, or stalking

The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future

As evidence of the likelihood of favorable conduct in the future, HACA will consider all of the following: Evidence of employment, education, participation in a work training program, participation in a counseling program, involvement in a community group, a certificate of rehabilitation from the state, and letters of support from parole or probation, case workers, clergy, or community leaders.

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

HACA 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.

Removal of a Family Member's Name from the Application [24 CFR 960.203(c)(3)(i)]

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 warrants denial of admission, to not reside in the unit.

HACA 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 public housing unit other than as required or permitted by a court visitation order.

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

Reasonable Accommodation [PH Occ GB, pp. 58-60]

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

HACA Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, HACA will determine whether the behavior is related to the disability. If so, upon the family's request, HACA will determine whether alternative measures are appropriate as a reasonable accommodation. HACA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of admission. See Chapter 5 for a discussion of reasonable accommodation.

33.4.6. NOTICE OF ELIGIBILITY OR DENIAL

If HACA 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 hearing, and (3) the process for obtaining the informal hearing [24 CFR 960.208(a)]. See Chapter 34, for informal hearing policies and procedures.

HACA Policy

The family will be notified of a decision to deny assistance in writing within 10 business days of the determination. The notice will include contact information for Bay Area Legal Aid.

If a PHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the PHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)]. A PHA must give the family an opportunity to dispute the accuracy and relevance of that record, in the informal hearing process in accordance with program requirements.

HACA Policy

If, based on a criminal record or sex offender registration information, an applicant family appears to be ineligible, HACA will notify the family in writing of the proposed denial and provide a copy of the record to the subject of the record and to the applicant with signed authorization from the subject. The family will be given 10 business days to dispute the accuracy and relevance of the information. If the family does not contact HACA to dispute the information within that 10-day period, HACA will proceed with issuing the notice of denial of admission. A family that does not exercise its right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, or stalking are contained in Section 33.3.

ATTACHMENT
7

acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

17-ILF. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

25 Percent per Project Cap [24 CFR 983.56(a), FR Notice 11/24/08]

In general, the PHA may not select a proposal to provide PBV assistance for units in a project or enter into an AHAP or a HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than 25 percent of the number of dwelling units (assisted or unassisted) in the project.

Exceptions to 25 Percent per Project Cap [24 CFR 983.56(b), FR Notice 11/24/08]

Exceptions are allowed and PBV units are not counted against the 25 percent per project cap if:

- The units are in a single-family building (one to four units);
- The units are *excepted units* in a multifamily project because they are specifically made available for 1) elderly families or 2) disabled families or 3) families receiving supportive services (also known as *qualifying families*).

For a project serving families receiving supportive services (3 above), the PHA's administrative plan will include the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. It is not necessary that the services be provided at or by the project, if they are approved services.

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

If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received, FSS supportive services or any other supportive services as defined in the PHA administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

The PHA must monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. The PHA administrative plan must state the form and frequency of such monitoring.

HACA Policy

HACA will provide PBV assistance for excepted units. HACA will develop housing for occupancy by elderly families, disabled families and/or families receiving supportive services. Elderly and disabled families may live in excepted units without the requirement of receiving supportive services. Families receiving supportive services may include families participating in the Family Self-Sufficiency (FSS) Program. Families qualified as receiving supportive services and families in the FSS Program must receive

the services, and/or successfully complete the service program, to be eligible for continued occupancy.

Families qualified as receiving supportive services and families in the FSS Program that do not continue to receive the services or complete the required service program will be terminated in accordance with HACA policies in Section 12-II.F.

The following types of services will be provided depending on the needs of the family:

- Transportation for activities such as, (but not limited to) grocery shopping, job training, education, attending medical and dental appointments, etc.
- Supervised taking of medications
- Treatment for drug addiction (for recovering and current users)
- Treatment for alcohol addiction (for recovering and current users)
- Training and development of housekeeping and homemaking skills
- Family budgeting
- Child care
- Parenting skills
- Computer access and training
- Library access
- Work skills development, job training and employment counseling
- Educational/vocational opportunities
- Case management services and/or counseling
- Access to Health and Psychiatric Services, i.e. nurse/medical staff, mental health professional, etc.
- Life skills training
- Access to on-site/off-site social activities

HACA Policy

Annually, during the recertification process, HACA will examine the family's receipt of supportive services to determine and confirm that the families still qualify to continue receiving PBV assistance. HACA will require families receiving services to provide written evidence from each service provider that the family has received all of the required services stated in the statement of family obligations or FSS contract of family participation. Alternately, each service provider will monitor and submit a report to HACA identifying the services received by each family, and HACA will document if all services required in the statement of family obligations or FSS contract of participation were received. If the family fails without good cause to receive all of the required services stated in the statement of family obligations or FSS contract of participation between the time of the annual reports, the family and service provider must notify HACA of the failure in writing within 10 business days of the failure.

Promoting Partially-Assisted Buildings [24 CFR 983.56(c)]

A PHA may establish local requirements designed to promote PBV assistance in partially assisted buildings. A *partially assisted building* is a building in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

A PHA may establish a per-project cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily project containing excepted units or in a single-family building. A PHA may also determine not to provide PBV assistance for excepted units, or the PHA may establish a per-project cap of less than 25 percent.

HACA Policy:

HACA will not impose any cap beyond HUD regulations on the number of PBV units assisted per project.

17-II.G. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]

The PHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an AHAP contract or HAP contract for units on the site, unless the PHA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Annual Plan under 24 CFR 903 and the PHA administrative plan.

In addition, prior to selecting a proposal, the PHA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(l).

HACA Policy

It is HACA's goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal HACA will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, HACA will grant exceptions to the 20 percent standard where HACA determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities, such as sites in:

- A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community
- A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment

For rehabilitated or newly constructed housing, the HAP contract will be executed promptly, pursuant to HACA determining that the units have been completed in accordance with the AHAP (in addition to completing other requirements stated in the RFP) and that all units meet HQS; in addition to the owner having submitted all required evidence of completion.

Term of HAP Contract [FR Notice 11/24/08]

The PHA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than 15 years.

HACA Policy

All PBV HAP contracts will be negotiated with the owner for a fifteen year term.

At any time before expiration of the HAP contract, the PHA may extend the term of the contract for an additional period of time deemed appropriate by HACA (additional terms of up to 15 years but not more than one 15 year additional term at a time) if the PHA determines an extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension. The PHA can commit to an extension of the term, at any time, including at the time of the initial contract.

HACA Policy

When determining whether or not to extend an expiring PBV contract, the PHA will consider several factors including, but not limited to:

- The cost of extending the contract and the amount of available budget authority;
- The condition of the contract units;
- The owner's record of compliance with obligations under the HAP contract and lease(s);
- Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and
- Whether the funding could be used more appropriately for tenant-based assistance.

Termination by PHA [24 CFR 983.205(c)]

The HAP contract must provide that the term of the PHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the PHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the PHA may terminate

PART VIII: DETERMINING RENT TO OWNER

17-VIII.A. OVERVIEW

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the AHAP contract states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

17-VIII.B. RENT LIMITS [24 CFR 983.301]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the PHA, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Certain Tax Credit Units [24 CFR 983.301(c), FR Notice 11/24/08]

For certain tax credit units, the rent limits are determined differently than for other PBV units. These different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;
- The contract unit is not located in a qualified census tract;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same building, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds a PHA-determined amount (not to exceed 110 percent of the fair market rent or any approved exception payment standard);

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

However, PHAs are permitted to use the higher Section 8 rent for a tax credit unit if the tax credit rent is less than the amount that would be permitted under Section 8. In these cases, Section 8 rent reasonableness requirements must continue to be met.

PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

HACA Policy

An owner's request for a rent increase must be submitted to HACA 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

The PHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

Rent Decrease

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment. However, the PHA may stipulate in the HAP contract that the maximum rent on a unit will not be less than the initial rent.

Notice of Rent Change

The rent to owner is redetermined by written notice by the PHA to the owner specifying the amount of the redetermined rent. The PHA notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

HACA Policy

HACA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

PHA-owned Units [24 CFR 983.301(g)]

For PHA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. The PHA must use the rent to owner established by the independent entity.

17-VIII.C. REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA.

When Rent Reasonable Determinations are Required

The PHA must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a five percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;

ATTACHMENT
8

34. INFORMAL HEARING OF DENIAL OF HOUSING ASSISTANCE

34.1. INTRODUCTION

- 34.1.1. HACA will give an applicant the opportunity for an Informal Hearing regarding its decision to deny housing assistance except for any of the following:
 - 34.1.1.1. Discretionary administrative determinations by HACA;
 - 34.1.1.2. General policy issues or class grievances;
 - 34.1.1.3. A determination of the the number of bedrooms needed by the family under HACA's unit bedroom count standard;
 - 34.1.1.4. RESERVED
 - 34.1.1.5. RESERVED
 - 34.1.1.6. RESERVED
 - 34.1.1.7. RESERVED
- 34.1.2. The Informal Hearing:
 - 34.1.2.1. will be conducted by a person designated by HACA (the Informal Reviewer) who is other than the person who made or approved the decision under review or a subordinate of that person;
 - 34.1.2.2. will consist of the Informal Reviewer reviewing:
 - 34.1.2.2.1. the applicant information in HACA's applicant file; and
 - 34.1.2.2.2. except as set forth in Section 34.1.3. below, any additional information submitted in writing by the applicant in objection to HACA's denial of assistance.
- 34.1.3. If the Informal Reviewer determines that the applicant's objection(s) to HACA's denial of assistance may be more effectively made by the applicant orally rather than in, or in addition to, writing, the Informal Reviewer will obtain the applicant's oral objection(s) either in person or by phone.
- 34.1.4. The decision of the Informal Reviewer shall be final.

34.2. PROCEDURE

- 34.2.1. If HACA denies housing assistance to an applicant, HACA will mail her or him a *Notice of Denial* letter within 5 business days of the denial.
- 34.2.2. The *Notice of Denial* will advise the applicant:
 - 34.2.2.1. why assistance is being denied;
 - 34.2.2.2. if he or she has the right to an Informal Hearing; and if applicable, how to:
 - 34.2.2.2.1. request an Informal Hearing; and
 - 34.2.2.2.2. submit the applicant's objection(s) to HACA's denial of assistance.
- 34.2.3. HACA will conduct an Informal Hearing if the applicant's written request is either delivered to HACA's front desk or postmarked within the following time limits:
 - 34.2.3.1. Except as set forth in Sections 34.2.3.2. and 34.2.3.3. below, the applicant will be given 14 days from the date on the *Notice of Denial*

letter to respond in writing with the applicant's objections to HACA's decision and to request an Informal Hearing.

34.2.3.2. If assistance is denied on the basis of citizenship/eligible immigrant status as set forth in Sections 9.5.4.2. or 15.4.4.2, the applicant will be given 30 days from the date on the *Notice of Denial* letter to respond in writing with the applicant's objections to HACA's decision and to request an Informal Hearing.

34.2.3.3. Extenuating circumstances that prevent an applicant from requesting an Informal Hearing within the respective time limits specified above in Sections 34.2.3.1., and 34.2.3.2. will be taken into consideration. The applicant must provide documentation verifying the need for more time (for example, airline tickets and travel itinerary, funeral announcement, verification of lengthy hospitalization).

34.2.3.4. The decision to provide additional time is solely at HACA's discretion.

34.2.4. If further information is required from the applicant beyond what was initially submitted, the applicant will be allowed a reasonable date by which to provide the additional information.

34.2.5. HACA will mail its Informal Hearing decision to the family within 14 days of receiving the final required information from the applicant .