

# ADMINISTRATIVE PLAN

## **HOUSING AUTHORITY OF THE CITY OF BERKELEY**

Revised: September 2007

Berkeley Housing Authority  
1901 Fairview Street  
Berkeley, CA 94703

## TABLE OF CONTENTS

<b>1.0</b>	<b>INTRODUCTION .....</b>	<b>12</b>
1.1	Usage Notes.....	12
1.2	Scope Of The Plan .....	12
1.3	Mission Statement .....	12
<b>2.0</b>	<b>CODE OF CONDUCT .....</b>	<b>13</b>
2.1	Conflict of Interest.....	13
2.2	Information Available for Review .....	14
2.3	Gift Policy .....	14
2.4	Official Notices to Participants .....	15
<b>3.0</b>	<b>NONDISCRIMINATION, EQUAL OPPORTUNITY, AND EXPANSION OF HOUSING OPPORTUNITY .....</b>	<b>15</b>
3.1	Civil Rights Laws .....	15
3.2	Accessibility.....	16
3.3	Limited English Proficiency.....	17
3.4	Expanding Housing Opportunities .....	17
<b>4.0</b>	<b>PRIVACY RIGHTS AND PUBLIC DOCUMENTS .....</b>	<b>17</b>
4.1	PRIVACY.....	17
4.2.	EIV Security Policy .....	18
4.3	Disclosure to Prospective Landlord .....	18
4.4	Cooperation with Law Enforcement.....	19
4.5	Cooperation with City of Berkeley Mental Health Division .....	19
4.6	U.S. Postal Service.....	20
4.7	Public Documents.....	20

<b>5.0</b>	<b>ELIGIBILITY FOR ADMISSION .....</b>	<b>20</b>
5.1	Applications .....	20
5.2	Limits on Who May Apply .....	20
5.3	Self-Certification/Verification.....	21
5.4	Lottery .....	21
5.5	Notification of Application Status .....	21
5.6	Family and Household Composition and Status .....	21
5.6.1	Qualifications to Family Status .....	23
5.6.2	Status of Minors.....	23
5.7	Employee Applicant/Participant.....	23
5.8	Income Eligibility.....	23
5.9	Criminal Background Check.....	24
5.10	Citizenship/Eligible Immigrant Status .....	24
5.11	Grounds for Denial .....	25
<b>6.0</b>	<b>TARGETED CLASSES OF FAMILIES AND FAMILIES IN TARGETED UNITS</b>	<b>26</b>
6.1	Targeted Classes of Families .....	26
6.2	Families in Targeted Units.....	26
<b>7.0</b>	<b>ORGANIZATION AND MANAGEMENT OF THE WAIT LIST .....</b>	<b>27</b>
7.1	Organizing the Wait List .....	27
7.2	Wait List Preferences and Weight .....	27
7.3	Ranking of Wait List.....	27
7.4	Verification of Preference Points .....	28
7.5	Income Targeting for Section 8 Admissions .....	28
7.6	Removal from Wait List .....	28
7.7	Purging the Wait List .....	29

<b>8.0</b>	<b>SUBSIDY STANDARDS</b> .....	<b>29</b>
8.1	The Standard.....	29
8.2	Application of the Standard .....	30
8.3	Maximum Rent Subsidy.....	31
<b>9.0</b>	<b>REASONABLE ACCOMMODATION</b> .....	<b>31</b>
9.1	Requesting a Reasonable Accommodation.....	32
9.2	Live-In Aides.....	32
9.2.1	Full Time Live In Aide .....	32
9.2.2	Qualifications for the Live-In Aide .....	32
9.2.2	Part Time Aide.....	33
<b>10.0</b>	<b>COBHA, OWNER AND FAMILY RESPONSIBILITIES</b> .....	<b>34</b>
10.1	Introduction.....	34
10.2	COBHA Responsibilities .....	34
10.3	Owner Responsibilities .....	35
10.4	Family Responsibilities .....	35
<b>11.0</b>	<b>MONTHLY COBHA PAYMENTS TO THE LANDLORD</b> .....	<b>36</b>
11.1	Payment Standard.....	36
<b>12.0</b>	<b>TOTAL TENANT PAYMENT AND TENANT RENT</b> .....	<b>36</b>
12.1	Total Tenant Payment (TTP) .....	36
12.2	Minimum Total Tenant Payment (TTP).....	37
12.3	Monthly Family Payment for Mixed Participant Families .....	38
12.4	Utility Allowance .....	39
12.5	Enhanced Utility Allowance .....	40
<b>13.0</b>	<b>DETERMINATION OF FAMILY INCOME</b> .....	<b>40</b>

13.1	Income.....	40
13.2	Income Inclusions.....	40
13.3	Income Exclusions.....	41
13.4	Earned Income Disregard.....	44
13.5	Deductions.....	45
13.6	Letter or Notice From HUD Concerning Income.....	46
13.7	Cooperating with Social Service Agencies .....	46
<b>14.0</b>	<b>VERIFICATION OF ELIGIBILITY.....</b>	<b>47</b>
14.1	Introduction.....	47
14.2	Acceptable Methods of Verification And Time Allowed.....	47
14.3	Up-Front Income Verification.....	47
14.4	Release of Information .....	51
14.5	Verification of Citizenship or Eligible Non-Citizen Status.....	51
14.6	Verification of Social Security Numbers.....	52
14.7	Timing of Verification.....	52
14.8	Frequency of Obtaining Verification.....	52
<b>15.0</b>	<b>VOUCHER BRIEFINGS AND ISSUANCE.....</b>	<b>52</b>
15.1	Introduction.....	53
15.2	Briefing .....	53
15.3	Briefing Packet .....	54
15.4	Voucher Issuance and Processing .....	55
15.4.1	Voucher Issuance.....	55
15.4.2	Voucher Term.....	55
15.4.3	Extensions.....	55
15.4.4	Utilization of Voucher.....	56

15.4.5 Tolling Time.....	56
<b>16.0 PORTABILITY.....</b>	<b>56</b>
16.1 OUTGOING PORTABILITY.....	56
16.2 Incoming Portability .....	57
<b>17.0 TENANCY APPROVAL AND REQUIREMENTS.....</b>	<b>58</b>
17.1 Request for Tenancy Approval .....	58
17.2 Rental Lease .....	58
17.3 Housing Assistance Payment Contract .....	58
17.4 Eligible Types of Housing .....	59
17.5 Ineligible Types of Housing.....	59
17.6 Exceptions.....	59
17.7 Disapproval of Owner .....	59
17.8 Security Deposit .....	60
17.9 Change of Ownership.....	61
17.10 Required Reporting of Changes In Lease or Rent.....	61
17.10 Termination Of The Housing Assistance Payment (HAP) Contract.....	62
17.11 Redirecting Housing Assistance .....	63
<b>18.0 INSPECTION POLICIES, HOUSING QUALITY STANDARDS .....</b>	<b>63</b>
<b>INTRODUCTION.....</b>	<b>63</b>
18.1 Inspection Types .....	63
18.2 Scheduling HQS Inspections .....	64
18.3 Housing Quality Standards.....	64
Sanitary Facilities .....	64
Food Preparation and Refuse Disposal.....	64

Space and Security .....	65
Thermal Environment.....	65
Illumination and Electricity.....	66
Structural and Materials .....	66
Interior Air Quality.....	67
Water Supply.....	67
Lead Based Paint.....	67
Access.....	71
Site and Neighborhood.....	71
Sanitary Condition .....	71
Smoke Detectors.....	71
18.4 Emergency Fail Items.....	72
18.5 Repair Grace Period.....	72
18.6 Abatement Period.....	72
<b>19.0 OCCUPANCY BY FAMILY .....</b>	<b>73</b>
19.1 Absence From Unit.....	73
19.2 Absence of a Family Member While Attending an Institution Of Higher Education .....	74
19.3 Absence Due to Military Duty .....	74
19.4 Guests And Visitors .....	75
19.5 Adding Members To The Family.....	75
19.6.1 Changes In Head Of Household.....	76
<b>20.0 REEXAMINATIONS .....</b>	<b>76</b>
20.1 ANNUAL REEXAMINATIONS .....	76
20.2 Interim Reexaminations.....	77
20.3 Annual and Interim Reexaminations.....	77

20.3.1 Retroactive Increases.....	78
20.3.2 Future Increases.....	78
20.3.3 Decreases .....	78
20.3.4 Required Reporting Of Changes In Family Circumstances .....	79
20.3.5 Family Request For A Reexamination .....	80
<b>21.0 APPOINTMENT POLICY .....</b>	<b>80</b>
21.1 Introduction.....	80
21.2 Late Arrival .....	81
21.3 Missed And Rescheduled Appointments .....	81
<b>22.0 MOVES WITH ASSISTANCE .....</b>	<b>81</b>
22.1 Introduction.....	81
22.2 When A Family May Move.....	81
22.3 Restrictions on Moves .....	82
22.4 Effective Date of New Voucher Issuance .....	82
<b>23.0 ALLOCATION OF SECTION 8 ASSISTANCE BY A COURT OF LAW OR UPON A CHANGE IN FAMILY CIRCUMSTANCES.....</b>	<b>82</b>
23.1 Definitions.....	82
23.2 Allocation Of Assistance By A Court Of Law .....	83
23.3 Allocation of Assistance Upon the Absence of the Voucher Holder.....	83
23.4 Allocation of Assistance When an Assisted Family Lacks, at Least, One Member of Majority Age.....	84
<b>24.0 ESTABLISHING AND REVISING VOUCHER PAYMENT STANDARDS .....</b>	<b>84</b>
24.1 Establishing The Payment Standards.....	84
24.2 Decreased Payment Standards.....	85
24.3 Increased Payment Standards .....	85



<b>25.0</b>	<b>RENT REASONABLENESS</b> .....	<b>85</b>
25.1	When Rent Reasonableness is Calculated .....	85
25.2	Methodology Used to Determine Rent Reasonableness .....	86
<b>26.0</b>	<b>GROUND FOR DENIAL OR TERMINATION OF ASSISTANCE</b> .....	<b>86</b>
26.1	Introduction.....	86
26.2	Form of Denial And Termination.....	86
26.3	Grounds for Denial of Assistance .....	87
26.4	Grounds for Termination of Assistance .....	88
26.5	Consideration of Circumstances.....	89
26.6	Evidence of Criminal Activity .....	90
26.7	Repayment Agreements.....	90
26.7.1	Terms .....	90
<b>27.0</b>	<b>INFORMAL REVIEW OF DENIAL OF HOUSING ASSISTANCE</b> .....	<b>91</b>
27.1	Right to Informal Review .....	91
27.2	The Informal Review.....	91
27.3	Procedure.....	91
<b>28.0</b>	<b>ALLEGATION MEETINGS</b> .....	<b>92</b>
<b>29.0</b>	<b>INFORMAL HEARINGS</b> .....	<b>92</b>
29.1	Right to Informal Hearing.....	93
29.2	WHEN AN INFORMAL HEARING WILL NOT BE PROVIDED.....	93
29.3	Procedure .....	93
29.3.1	Hearing Documents.....	94
29.3.2	Hearing Officer .....	94
29.3.3	Informal Hearing.....	94
29.3.4	Informal Hearing Decision .....	94

29.3.5 Appeal of Hearing Officer’s Decision .....	95
29.4 Violence Against Women Act (VAWA) Provisions .....	95
29.4.1 General.....	95
29.4.2 Incidents Of Domestic Violence, Dating Violence, Or Stalking .....	96
<b>30.0 SECTION 8 HOME OWNERSHIP PROGRAM .....</b>	<b>97</b>
31.0 Project Base Vouchers .....	97
31.1 Introduction.....	97
31.2 Number of Housing Choice Voucher Units To Be Project Based .....	97
31.3 Critical Project Elements .....	97
31.3.1 New Construction Projects .....	98
31.3.2 Rehabilitation Projects.....	98
31.3.3 Existing Housing Projects .....	99
31.4 Project Selection Preferences .....	99
31.5 Location and Project Design.....	99
31.5.1 General.....	99
31.5.2 Deconcentration .....	100
31.6 Project Evaluation.....	100
31.7 Evaluation and Ranking Factors.....	100
31.8 Agreement to Enter a Housing Assistance Payment (AHAP) Contract .....	102
31.9 Program Administration .....	102
31.9.1 Advertising.....	102
31.9.2 Owner/Developer Briefings.....	102
31.9.3 Leasing.....	103
<b>32.0 MODERATE REHABILITATION PROGRAM FOR SINGLE ROOM OCCUPANCY (SRO) DWELLINGS FOR HOMELESS INDIVIDUALS .....</b>	<b>104</b>
32.1 Introduction.....	104

32.2	Applicant Qualifications .....	105
32.3	Family Participation .....	105
32.3.1	Outreach to Homeless Individuals.....	105
32.3.2	Owner Selection of Individuals .....	106
32.4	Leasing Vacancies .....	106
32.6	Transfer List.....	107
32.7	Notice Of Non-Discrimination .....	107
32.7	Grounds for Non Acceptance .....	108
32.8	Annual Reexamination .....	109
32.9	Vacancy Loss and Damage Claims.....	109
32.9.1	Vacancies from Execution of Contract to Initial Occupancy .....	109
32.9.2	Vacancies after Initial Occupancy.....	110
32.9.3	Prohibition of Double Compensation for Vacancies.....	110
32.9.4	Security Deposits and Damage Claims .....	110
32.10	Reconciliation and Communication .....	112
32.11	Termination Of Owner’s Hap Contract By Cobha.....	112
32.12	COBHA Owned Housing .....	113
<b>33.0</b>	<b>GLOSSARY .....</b>	<b>113</b>

## **1.0 INTRODUCTION**

### **1.1 Usage Notes**

Throughout the Administrative Plan, (The Plan) the following conventions are used:

- The Berkeley Housing Authority is referred to as COBHA or the Housing Authority.
- The federal Department of Housing and Urban Development is referred to as HUD.
- A person (persons) who applies (apply) for participation in a housing assistance program (program) administered by COBHA is (are) referred to as (an) applicant(s), or, as (a) family (families).
- A Section 8 Program Participant (Program participants) is (are) referred to as participant(s), or as (a) family (families). The term family (families) can refer to a single person. A family does not become a Section 8 participant until the effective date of its first Housing Assistance Program (HAP) contract. Tenant(s) is (are) used to refer to (a) participant(s) in relation to (a) landlord(s). Landlord and Owner are used interchangeably.

### **1.2 Scope Of The Plan**

The Plan defines COBHA's policies for operating its Section 8 Housing Choice Voucher Programs including:

- Tenant Based Vouchers
- Project-Based Vouchers
- Shared Housing
- Section 8 Homeownership; and
- Family Self Sufficiency.

It also governs the operation of the Moderate Rehabilitation Program/Single Room Occupancy Program.

The parameters for these policies are established by Federal laws and regulations. Issues that are not addressed in this document may be governed by Federal, State and local regulations and HUD Notices, Memos and guidelines. If there is any conflict between this policy and laws or regulations, the Federal program laws and regulations will prevail.

### **1.3 Mission Statement**

Deliver housing, housing assistance and related services to low-income families and elderly persons and persons with verifiable disabilities, in order to enable them to live as independently as possible within their economic resources, and to other low-income persons ("other singles") who are not elderly or do not have verifiable disabilities, for as limited a time as necessary in order to enable them to become self-sufficient and economically independent.

COCOBHA will adopt discretionary policies and administer assistance in a manner that provides the lowest level of assistance necessary to adequately house each family, so that the maximum number of families may be assisted.

During the period of their assistance by COBHA, these participants are expected to avail themselves, as necessary, of those supportive family services, education, training, and job development activities needed for them to achieve self-sufficiency and economic independence.

## **2.0 CODE OF CONDUCT**

This Code of Conduct establishes standards for employees and agents of the Authority that will assure the highest level of public service. Recognizing that compliance with any ethical standards rests primarily on personal integrity and, specifically, in this instance, with the integrity of the employees and agents of COBHA this Section sets forth those acts or omissions of acts that could be deemed injurious to the general mission of the Authority. In addition to the matters stated in this Plan, all employees and officials of the COBHA shall comply with all applicable provisions of state and local law, including conflict of interest laws that regulate their conduct as public employees and officials.

This Code of Conduct is not intended, nor should it be construed, as an attempt to unreasonably intrude upon the individual employees' right to privacy and the right to participate freely in a democratic society and economy.

### **2.1 Conflict of Interest**

At appointment, and annually each July, every permanent or part-time employee shall be required to certify to potential conflicts due to family relations. Each employee will be asked to certify as to:

- Their placement on any Section 8 or Public Housing wait list with any Public Housing Authority;
- Any Section 8 or Public Housing subsidy they are receiving from any Public Housing Authority;
- Any interest he/she has in any property being subsidized by any Public Housing Authority;
- Any family member receiving Section 8 or Public Housing assistance from any Public Housing Authority;
- Any family member on any Section 8 or Public Housing wait list with any Public Housing Authority; and
- Any family member receiving a Housing Assistance Payment from any Public Housing Authority.

In accordance with 24 CFR 982.161, neither COBHA nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with tenant-based or project-based programs in which any of the following classes of persons has any interest, direct or indirect, during his or her tenure with COBHA or for one year thereafter:

- Any preset or former member of or officer of COBHA (except a participant commissioner);
- Any employee of COBHA, or any contractor, subcontractor or agent of COBHA, who formulates policy or who influences decisions with respect to the programs;
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; or
- Any member of the Congress of the United States.

The Conflict of Interest prohibition under this Section may be waived by the HUD Field Office upon the request of COBHA for good cause.

In accordance with 24 CFR 84.42, no officer, employee or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the officer, employee, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein has a financial or other interest in the firm selected for an award.

## **2.2 Information Available for Review**

The COBHA, upon request, will make the following information available for review at its office and on its web site:

- The Section 8 Administrative Plan
- The Sample Lease and Housing Assistance Payment Contract
- The HUD required Tenancy Addendum

The COBHA will post in the office, in a conspicuous place and at a height easily read by all persons including persons with mobility disabilities, the following information:

- Notice of the status of the wait list (open or closed)
- Income limits for admission
- Fair housing poster
- Notice of reasonable accommodation
- Notice of translation assistance
- Contact information for free legal assistance

## **2.3 Gift Policy**

Neither COBHA employees, officers, contractors, subcontractors, nor agents may solicit or accept gifts, gratuities, favors or anything of monetary value from program participants, owners, suppliers, contractors, parties to sub-agreements or other persons or companies doing business, or proposing to do business, with COBHA.

If food or beverages, or small gifts with estimated value under \$40 are left for staff, said gifts are to be placed in a common area and shared by all staff. If gifts with values in excess of \$40 and cash, money orders, checks, etc. in any amount are left with or for staff, said gift shall be donated to a community based organization serving the homeless in the City of Berkeley including but not limited to the Berkeley Drop-In, Berkeley Food and Housing Project, or the Homeless Action Center.

Any COBHA employee, officer, contractor, subcontractor, or agent who fails to abide by COBHA's Gift Policy is subject to disciplinary action up to and including termination of employment or services contract.

## **2.4 Official Notices to Participants**

The COBHA will mail all official notices to clients at his/her address as reflected on the Housing Assistance Payment (HAP) contract. The COBHA will mail to an alternate address as a reasonable accommodation:

- If the client has a payee or service provider who has been designated to assist with the management of the clients business affairs; or
- If the client provides documentation from the U.S. Postal service that there is a problem with mail delivery during the preceeding six month period; or
- If the client provides documentation from a Police Agency documenting identify theft related to mail delivery within the preceeding six month period.
- In no event will the COBHA send any official notice to a Post Office box.

## **3.0 NONDISCRIMINATION, EQUAL OPPORTUNITY, AND EXPANSION OF HOUSING OPPORTUNITY**

It is the policy of COBHA to affirmatively further fair housing in the administration of the Section 8 Housing Choice Voucher Programs by:

### **3.1 Civil Rights Laws**

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

- All Federal, state and local nondiscrimination laws;
- The Americans with Disabilities Act; and
- U.S. Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity.

No person will be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under COBHA's programs on the grounds of race, color, gender, sexual orientation, religion, national or ethnic origin, familial status or disability.

In order to ensure that participating owners do not discriminate in the recipient's federally assisted program, COBHA will enter into a HUD-approved HAP contract with participating owners, which contract will include necessary assurances of non-discrimination. In order to keep owners informed of their fair housing opportunities, COBHA will periodically provide written inserts with the Housing Assistance Payment disbursement, include editorial in the COBHA Newsletter and work with local property owner associations.

### 3.2 Accessibility

Disabilities include physical disabilities; sensory disabilities such as hearing or visual problems; psychiatric disabilities; and cognitive or developmental disabilities.

COBHA will take appropriate measures to ensure that an individual with disabilities will have equal access to available services, programs, and activities offered by it. These appropriate measures include but are not limited to:

- Utilizing barrier-free office facilities, including COBHA's office at 1901 Fairview Street, Berkeley, CA
- Allowing applicants and participants to bring an aide to meetings with COBHA
- Providing sign language interpreters, as requested
- Displaying posters and housing information in such a manner as to be easily read from a wheelchair
- Providing notice of the availability and nature of housing assistance for low-income families under program requirements:
- Assuring that the notice reaches eligible individuals with disabilities by marking the information available at appropriate City offices including the Libraries and Senior Centers and community based organizations serving persons with disabilities throughout the COBHA's jurisdiction and by posting information on the City of Berkeley/COBHA Website and at the COBHA office.
- Providing information about the process of requesting a reasonable accommodations
- Encouraging participation by owners with accessible units
- Issuing a Housing Choice Voucher to a family which includes an individual with disabilities:
- Including a current listing of available accessible units known to COBHA; permitting use of any various special housing types if needed as a special accommodation, including single room occupancy housing, congregate housing, group homes, shared housing, cooperative housing, and manufactured homes when the family owns the home and leases the manufactured home space.
- If requested by the family, assisting the family in locating an available accessible dwelling unit, and negotiating terms with the owner/landlord.
- Except for shared housing occupied by a resident owner, allowing it to receive assistance on a unit rented from a relative;
- If necessary, approving an enhanced utility allowance and a larger unit.
- When considering requests by eligible individuals with disabilities for extensions on Housing Choice Vouchers, taking into account any special problem in locating an accessible or otherwise suitable unit;
- Reminding participating owners of the need to comply with reasonable accommodation requirements, namely a tenant may make reasonable modifications to the unit at his or her expense provided that:
  - The modifications are made in a professional manner; and
  - The tenant restores the unit to its original condition upon vacating it.
  - The owner may not charge additional fees or increase the security deposit.



### **3.3 Limited English Proficiency**

In order to assist families who have limited English proficiency (LEP), COBHA will seek to have bilingual staff, or access to translators for LEP families who speak Spanish and Chinese. COBHA will provide translation services to other languages after considering the number of applicants and/or participants who speak a particular language and the availability of organizations to provide the translation service. The COBHA discourages the use of family members, friends and prohibits the use of children as interrupters.

COBHA will seek to translate significant Section 8 documents (e.g. Family Obligations Form) into Spanish and Chinese. However, the Section 8 Contract, the HUD required Lease Addendum and the Section 8 Voucher will only be available in English.

### **3.4 Expanding Housing Opportunities**

In order to provide Section 8 families with a wide a selection of housing units as possible, COBHA actively seeks to recruit owners of decent, safe and sanitary housing units to lease to Section 8 families.

COBHA will take the following steps to increase the supply of units available to its participants:

- Publish and disseminate printed material designed to acquaint owners and managers with the benefits of the Section 8 Program;
- Utilize information counters, etc. at the Rent Stabilization Board and other City of Berkeley offices providing housing related services;
- Maintain a link to the City of Berkeley website;
- Provide owner brochures in all participant briefing packets;
- Address members of local organizations representing the rental market including the Berkeley Property Owners Association; the Berkeley Black Property Owners Association; and the Rental Housing Association of Northern Alameda County;
- Post information regarding tenant/landlord workshops and presentations from legitimate associations;
- Provide periodic written updates to owners to improve owner relations, enhance retention of owners in the program, and to provide ongoing program education.
- Provide a free rental listing report to aid residents in their search. The listing will be posted at the COBHA office and on the website. Copies of the listing will only be provided to clients as a reasonable accommodation.
- Include with each new or transfer voucher, a listing of various internet sites where rental listing information is available.

## **4.0 PRIVACY RIGHTS AND PUBLIC DOCUMENTS**

### **4.1 PRIVACY**

Each adult in an applicant or participant household is required to sign HUD's Form 9886, Authorization for Release of Information and Privacy Act Notice. This Form incorporates the Federal Privacy Act Statement and describes the conditions under which family information will be released.

COBHA will comply with the Privacy Act in the collection, maintenance, use and dissemination of all information obtained pursuant to the Form 9886 release.

The Enterprise Income Verification (EIV) system is the highest-ranking source for income verification. A report shall be run and placed in the file for every annual, interim and special recertification (reports will not be generated for new admissions).

Staff will generate the EIV report prior to conducting the interview with the family, or in the case of a recertification handled by mail, prior to reviewing the packet from the client.

Any discrepancies in reported income will be discussed with the family. Appropriate sanctions, which may include recovery of excess subsidy or termination of assistance shall be determined after considering:

- The amount of unreported or under-reported income;
- If the unreported or under-reported income occurred within the prior 12 months;
- If the unreported or under-reported income was the result of a limited term appointment (i.e. seasonal employee);
- If the income was reported to the COBHA, but not subject to implementation until the next annual recertification;
- Mitigating information from the family.
- Information suggesting possible fraud or criminal activity will be investigated and properly documented in the case file. Sanctions as appropriate will be pursued. In addition, the information will be forwarded to the HUD Inspector General's Office for appropriate action.

To protect the confidentiality of the information, any EIV report not utilized to document income shall be disposed of by shredding.

In accordance with HUD program rules, income information obtained via the Enterprise Income Verification (EIV) system will only be shared with the individual for whom the income is reported. Income of family members will not be shared with the head of household.

#### **4.2. EIV Security Policy**

The COBHA utilizes three types of practices and controls to secure EIV information: technical safeguard, administrative safeguards, and physical safeguards. Details of the safeguards are spelled out in the EIV System Security Policy, including any subsequent revisions, which is incorporated by reference.

#### **4.3 Disclosure to Prospective Landlord**

In accordance with HUD regulation 24 CFR 982.307(b), if requested, COBHA will provide the following information about a program applicant or participant wanting to lease a specific dwelling unit to the owner of the unit for the purpose of tenant screening:

- The applicant or participant's current address as shown in COBHA records;

- The applicant or participant's prior address as shown in COBHA records; and
- The name and address, if known, of the landlord at the applicant's or participant's current and prior address.

COBHA will provide a statement to every applicant/participant to which describes its policy on providing information to owners. COBHA will provide the same type of information to all families and to all owners.

COBHA's practices and procedures are designed to safeguard the privacy of applicants and participants. All applicant and participant files will be stored in a secure location accessible only by authorized staff.

The Privacy Act of 1974 prohibits COBHA from disclosing any record which is contained in a system of records by any means of communication to any person, or other agency, except pursuant to a written request by, or with the prior written consent of the individual to whom the record pertains, except as noted in 5 U.S.C. Section 552a(b).

#### **4.4 Cooperation with Law Enforcement**

COBHA will maintain any police or criminal records in a separate file system. COBHA will comply, on a case-by-case basis, with information requests from Federal, State or local law enforcement officers regarding possible fugitive-felons and/or parole violators as required by Section 28 of the U.S. Housing Act of 1937.

Upon receipt of a legitimate request (see below), COBHA will share the current address, name and social security number for all household members, and photograph (if any) for any current or prior program applicant or participant provided that:

- A Federal, State or local enforcement officer must submit a written request on law enforcement agency letterhead (or verifiable email), signed by the requesting officer and his or her immediate supervisor, and
- Providing the name of the fugitive felon and/or parole or probation violator being sought, and may include other personal information used for identification. Notifying COBHA that the fugitive, felon and/or parole or probation violator is fleeing to avoid prosecution, custody or confinement after conviction under the laws of the place from which the individual flees for a crime; or attempts to commit a crime which is a felony under the laws of the place from which the individual flees; or is violating a condition of probation or parole imposed under Federal or State law; or has information that is necessary for the officer to conduct his/her official duties; location or apprehension of the recipient is within such officer's official duties; and request is made in the proper exercises of the officer's official duties.

#### **4.5 Cooperation with City of Berkeley Mental Health Division**

The COBHA serves a number of families including many that are severely disabled. To enhance the COBHA's ability to assist these families meet their family obligations under the Section 8 Program, the COBHA will, to the extent allowed under the law, collaborate with the City of Berkeley Mental Health Department to refer clients for case

management services to enable them to complete the mandatory program requirements.

#### **4.6 U.S. Postal Service**

The COBHA will seek to maintain a relationship with the U.S. Postal Service, Inspector's Office, for the purpose of verifying all the individuals receiving mail at an assisted property. Said information will be used to validate the legitimacy of a claim of unauthorized household members.

#### **4.7 Public Documents**

If an applicant, participant or an authorized representative of an applicant or participant requests copies of any public document held by COBHA, the charge for all copies made will be \$0.10 per page. The COBHA will waive the fee for any low-income client (and his/her representative), provided the request for documents is reasonably related to a specific issue or cause. Clients requesting complete copies of policy documents in excess of 10 pages will be referred to the COBHA website or will be charged the actual cost of production.

### **5.0 ELIGIBILITY FOR ADMISSION**

#### **5.1 Applications**

Applications are taken to compile a waiting list. The COBHA will open its waiting list to new applicants when its existing list has decreased to twelve months worth of applications based on current unit availability, program turnover and HUD funding. Applications will be accepted for a pre-determined period of time. Prior to the opening of the Section 8 Wait List, the COBHA will advertise through public notices and advertisements in the Local section of several newspapers that serve its jurisdiction, including major publications for our Spanish and Chinese speaking populations. The COBHA will also announce the opening on the City of Berkeley website, and may utilize other media outlets. The notices will contain the following information:

- The program(s) for which applications will be accepted
- Limitations on who may apply (if any)
- The dates, times and locations where families may obtain applications.
- The method by which families may apply.
- The location(s) where applications must be returned
- The method by which families may be chosen for the wait list
- The application deadline
- How to obtain proof of application

To ensure maximum access, applications will be made available at several locations throughout the City of Berkeley and on the City of Berkeley website.

#### **5.2 Limits on Who May Apply**

When the Wait List is open, applications will be accepted from any family who wishes to be placed on the list. However, to ensure that each family has an equal chance, applications will be screened prior to entry to ensure there is no duplication of

application. The original application will remain in the lottery, while any duplicate applications will be deleted.

### **5.3 Self-Certification/Verification**

Information regarding an applicant's income eligibility and qualification for any of the COBHA's preferences is self-certified on the application. Actual verification of an applicant family and screening will not be conducted until the family is at the top of the Wait List.

### **5.4 Lottery**

The demand for housing assistance is great. In order to establish a manageable wait list, COBHA will conduct a random lottery of all the responses (less any duplicates) and select 1,500 names that will form the Wait List. COBHA will retain the balance of the applications for two years. Should the COBHA experience more openings than it can fill from the originally selected lottery winners, COBHA reserves the right to hold a second lottery and draw additional applicants from the existing pool or open the Wait List for new applications.

### **5.5 Notification of Application Status**

The COBHA will provide written notification:

- Acknowledging receipt of an application during an open period and stressing the importance of the family retaining the card/letter as proof of application; and
- Advising that the application was selected during the lottery and added to the wait list and the need to report any changes in their address; or
- Advising that the application was not selected during the initial lottery, but has been retained for a possible second lottery.

### **5.6 Family and Household Composition and Status**

The applicant is the person named on the Application and is deemed the Head of Household. The applicant must have the legal capacity to enter into a lease under state/local law. In the event of death or incapacity of the applicant, the COBHA will transfer the application to another person provided the new applicant:

- Provides documentation conclusively showing his or her membership in the deceased applicant's household at the time of death or incapacity; or
- Provides documentation that he/she has custody of one or more minor children that were part of the original applicant's household at the time of death or incapacity; and
- Has the legal capacity to enter into a lease under State/local law.

A household is a family as set forth below:

- A family is two or more people related by blood, marriage, adoption or affinity that live together (see 5\_\_\_\_\_ and 5\_\_\_\_\_); or
- One or more persons with disabilities; or
- A pregnant woman applying as the sole household member (the unborn child is recognized); or
- A single, non-elderly, non-disabled person; or

- The remaining member(s) of a participant family.

An elderly family is a family whose head or spouse is a person who is at least 62 years of age; or

- Two or more persons who are at least 62 years of age living together; or
- A single elderly person

A disabled family is a family whose head, spouse, or sole member is a person with verifiable permanent disabilities; or

- Two or more persons with verifiable permanent disabilities living together; or
- One or more person(s) with verifiable permanent disabilities.

A displaced family is a family in which each member, or whose sole member has been displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

A live-in aide is a person who resides in a family's unit in order to provide care for a family member that is disabled or elderly and who:

- Is determined to be essential to the care and well-being of the person;
- Is not obligated for the support of the person; and
- Would not be living in the unit except to provide necessary care and supportive services.

The live-in aide does not have any right to the Voucher, and can never be considered a family member or a remaining household member for purpose of receiving rental assistance.

A foster child/adult will be considered a family member when:

- The governmental agency identifies the child/adult by name; and
- Advises that placement will occur within 60-days

A family does not include a student at an institution of higher education, as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002) who is:

- Seeking assistance in his or her individual capacity (that is separately from his or her parent(s); and
- Under 24 years of age unless he or she is either:
  - A veteran of the United States military; or
  - Married; or
  - Has a dependent child and is either
  - A dependent of (an) income-eligible parent(s)/guardian(s); or
  - Independent of his or her parent(s)/guardian(s) (financially independent and either hasn't resided with the parent(s)/guardian(s) for a year or more, or meets the U.S. Department of Education definition for "independent student".

### 5.6.1 QUALIFICATIONS TO FAMILY STATUS

The following are family members:

Children temporarily absent from the home due to placement in foster care;  
Children who are subject to a joint custody agreement but who live with one parent at least 183 days of the year (51%), whether consecutively or not.

### 5.6.2 STATUS OF MINORS

Guardianship is assumed when a child is reported to reside with his/her parent. When guardianship cannot be assumed, staff will consider the following before allowing the child to be added to the household:

A court order assigning guardianship and/or legal custody;  
A divorce decree/settlement naming the guardian of the child(ren);  
Receipt of welfare, food stamps, social security for the minor;  
School registration showing the "parent" and the address where the child resides;  
Income tax return claiming the child as a dependent;  
Employer related health insurance coverage;  
Doctor, hospital, criminal or court records.

## 5.7 Employee Applicant/Participant

An employee of the COBHA or a relative of a COBHA employee who is also an applicant or participant is entitled to the same rights and shall be expected to satisfy the same requirements as any other applicant or participant with similar status.

Employee relative is defined as the employee's mother or father, stepmother or stepfather, sister or brother (including half-brother or half-sister or stepbrother or stepsister), niece or nephew, spouse, child (including adopted and stepchild), grandparents (including step-grandparents), mother-in-law and father-in-law.

No employee shall handle matters related to his/her own case or to the case(s) of member(s) of is/her family. The file of any employee/participant shall be retained by, and all certifications performed by management.

In order to ensure that the Authority is made aware of any potential conflicts, each employee will be asked to certify, in writing, relative to any potential conflict under this provision.

## 5.8 Income Eligibility

The income limits set forth in this Section apply only at admission, not for continued occupancy, and do not apply to families transferring from one unit to another within the jurisdiction.

At least 75% of the families admitted to COBHA's tenant-based Section 8 Housing Choice Voucher Programs during any fiscal year must have incomes no greater than 30% of the area median income.

In order to be eligible to receive Section 8 assistance, an applicant family must be one of the following:

- An extremely low-income family (<30% of AMI);
- A very low-income family (31% to 50% of AMI); A low-income family (51% to 80% of AMI); or
- Continuously assisted under the 1937 Housing Act or qualifies as a non-purchasing family residing in a HOPE 1 (HOPE for public housing ownership) or HOPE 2 (HOPE for homeownership of multifamily units) project; or a non-purchasing family residing in a project subject to a resident homeownership program under 24 CFR 248.173; or
- A low-income or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing.

Section 8 applicants moving into COBHA's jurisdiction under portability must qualify under the income limits for their initial Housing Authority.

Section 8 families moving into COBHA's jurisdiction under portability that are already program participants at their initial Housing Authority, do not have to meet COBHA's income eligibility requirement.

### **5.9 Criminal Background Check**

The COBHA will require every adult applying for assistance, and every adult applying to reside in a unit as a Live-In Aide to sign a certification regarding criminal history during the preceding five years. In addition, the COBHA will work collaboratively with the Berkeley Police Department to perform a five year criminal history search. The information obtained will be used to determine if:

- The individual is banned from program participation by HUD rules; or
- The individual has a pattern of behavior that makes him/her unsuitable for assistance or residency in the assisted unit.

### **5.10 Citizenship/Eligible Immigrant Status**

To be eligible for assistance, at least one member of the family must be either a United States citizen, or a non-citizen who has eligible immigration status. Any member of the family may elect not to contend that he or she has eligible immigration status, in which case, the family would be considered a mixed family and the assistance prorated.

Despite the ineligibility of one or more family members, a mixed family may be eligible for one of three types of assistance provided in 24 CFR 5.516 and 5.518. If assistance is denied on the basis of citizenship/eligible immigrant status, an applicant family may request that COBHA provide for an Informal Review as set forth in Section 27.0. The applicant family must make this request within 30 days of receipt of the decision.

At least annually, COBHA will notify the Immigration and Naturalization Service of any alien which COBHA knows is not lawfully present in the United States. COBHA will



know that an alien is not lawfully present in the United States when the following two conditions are met:

- When the unlawful presence is a finding of fact or conclusion of law that is made by COBHA as part of a formal determination that is subject to administrative review on an alien's claim for assistance; and
- The finding or conclusion of unlawful presence is supported by a determination by INS or the Executive Office of Immigration Review, such as a Final Order of Deportation.

### **5.11 Grounds for Denial**

The COBHA shall deny assistance based upon any of the following grounds:

- The family has been evicted for a serious violation of the lease (Section 8 or Public Housing).
- If any member of the family fails to sign and submit consent forms allowing the COBHA to obtain wage and income information in accordance with HUD regulations (24 CFR 5, subparts B and F) addressing the Authority's ability to gather family income, wage and expense information.
- If the family fails to submit required evidence of citizenship or eligible immigration status.
- If a family member has been convicted of manufacturing or producing methamphetamine on the premises of any federally assisted housing property. Premises is defined as the building or complex in which the dwelling unit is located, including common areas and grounds. Section 8 assistance will be immediately and permanently denied/terminated; or
- If any household member is subject to a lifetime registration requirement under a State Sex Offender Registration Program.

The COBHA may deny assistance to applicants who:

- Do not meet one or more of the eligibility criteria.
- Do not supply information or documentation required by the application process in a timely manner
- Fail to respond completely to a written request for information or a request to declare their continued interest in receiving assistance.
- Have a household member(s) who has committed drug-related or violent criminal activity. COBHA will consider:
  - If the drug involvement was for personal use or sales;
  - If the individual has an addiction to a controlled substance, has a record of such an impairment, or is regarded as having such an impairment;
  - If the individual is recovering, or has recovered from such an addiction and does not currently use or possess controlled substances. The COBHA will require the individual to submit evidence of participation in, or successful completion of, a treatment program as a condition of being allowed to be a member of the assisted household.
- Currently owes rent or other amounts to any Housing Authority in connection with the Section 8 or Public Housing Programs.
- If the family is in default of any Repayment Agreement with the COBHA.

- If the family has not reimbursed any Housing Authority for amounts paid to an owner under a Housing Assistance Payment Contract for rent, damages to the unit or other amounts owed by the family under the lease.
- Any household member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- Have a family member who was evicted from federally assisted housing within the last five years.
- Have engaged in or threatened abusive or violent behavior towards any COBHA staff, agents or contractors.
- Have a household member who has been terminated from the Section 8 Housing Choice Voucher Program for violation of one or more family obligations.

The COBHA will not propose termination against a family victimized by domestic violence to the extent the family had previously accurately reported household composition, and takes reasonable actions to remove and/or bar the perpetrator from the assisted unit and seeks appropriate intervention assistance from any combination of Police and social service agencies.

## **6.0 TARGETED CLASSES OF FAMILIES AND FAMILIES IN TARGETED UNITS**

### **6.1 Targeted Classes of Families**

If HUD awards funding to COBHA for a targeted sub-category of Section 8 eligible families, COBHA will apply the standards set forth in Section 7.2 to prioritize applicant families who comply with the eligibility requirements.

### **6.2 Families in Targeted Units**

If HUD awards program funding to COBHA that is targeted for families living in designated units, COBHA:

- Will use the assistance for families living in these units and may admit such families irrespective of their wait list position or whether they are on the wait list
- Will maintain separate records of these targeted admissions showing that the families were admitted with targeted HUD assistance.

The following are examples of types of program funding that may be designated by HUD for families living in a specified unit:

- A family displaced because of demolition or disposition of a public or Indian housing project;
- A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;
- Housing covered by the Low Income Housing Preservation and Resident Homeownership Act of 1990;
- A non-purchasing family residing in a subsidized project subject to a homeownership program;
- A family displaced from a subsidized multifamily rental housing project because of mortgage prepayment or voluntary termination of a mortgage insurance contract

## **7.0 ORGANIZATION AND MANAGEMENT OF THE WAIT LIST**

### **7.1 Organizing the Wait List**

Applicants will be added to the wait list after selection in the lottery. Each application will be coded with any self-certified preferences, date and time of application, and city of residency at time of application (Berkeley or Other).

### **7.2 Wait List Preferences and Weight**

Affordable housing is a rare and limited resource. The COBHA is unable to assist every income-qualified applicant. In an effort to allocate the limited resource the COBHA has adopted the following preference factors:

- Elderly, Disabled or Family status (over other income eligible singles) (10)
- Veteran Preference (as required by State law). Granted to households with one or more active or honorably discharged members of the armed forces (5)
- Active Section 8 or Public Housing residents displaced from federally-declared disaster areas and not currently living in standard, permanent, replacement housing (10)
- Other families displaced by federal, State or local action (10)
- COBHA Public Housing residents that are currently over or under housed with no other reasonable affordable housing options (60)
- Families displaced from federally assisted developments with project base assistance, and not currently living in standard, permanent, replacement housing (10)
- Families with one or more members who are victims of domestic violence and in immediate risk of violence (10)
- Date and time of application (tie breaker)

### **7.3 Ranking of Wait List**

The COBHA will base the initial placement on the wait list based upon factors self-certified by the applicant at the time of application.

To avoid a situation where the wait list is far greater than the anticipated need to maintain 98-100% program utilization over the next 36 months, the COBHA will conduct a lottery of all the potentially eligible applicants, and only place 500 names on the Wait List. COBHA reserves the right to conduct one additional draw of up to 500 if necessary before the end of the 36 month period.

The COBHA will update the applicant file upon receipt of written information from the applicant, and as appropriate, written verification.

The COBHA will reorder the wait list at least twice each year, in January and July. Changes reported in between re-ordering will be reflected at the next update.

#### **7.4 Verification of Preference Points**

Applicants will be granted preference points based upon self-certification. When the applicant reaches the top of the wait list. The applicant will be required to provide documentation of all preferences claimed at the time final eligibility is determined.

#### **7.5 Income Targeting for Section 8 Admissions**

At least 75% of the families admitted to COBHA's tenant-based Section 8 Housing Choice Voucher Programs during any fiscal year must have income no greater than 30% of the Area Median Income (AMI). In order to be eligible to receive Section 8 assistance, an applicant family must be one of the following:

- An extremely low-income family (<30% of AMI);
- A very low-income family (31% to 50% of AMI);
- A low-income family (51% to 80% of AMI):
- Continuously assisted under the 1937 Housing Act or
- That qualifies for voucher assistance as:
  - A non-purchasing family residing in a HOPE 1 (HOPE for public housing ownership) or HOPE 2 (HOPE for homeownership of multifamily units) project; or
  - A non-purchasing family residing in a project subject to a resident homeownership program under 24 FR 248.173.
- A low-income or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing; or
  - Section 8 applicants moving into COBHA's jurisdiction under portability must qualify under the income limits for their initial Housing Authority.
  - Section 8 participant families moving into COBHA's jurisdiction under portability that are already program participants at their initial Housing Authority, do not have to meet COBHA's income eligibility requirement.

#### **7.6 Removal from Wait List**

If a mailing from COBHA is returned by the Post Office without a forwarding address, the applicant will be removed without further notice and the returned mailing will be maintained in the file. If a mailing from COBHA is returned by the Post Office with a forwarding address, it will be re-mailed to the address indicated.

If an applicant fails to respond to any of COBHA's mailings, the applicant will be:

- Sent written notification that she/he is being removed from the wait list and given 14-calendar days to request an informal review; or
- Given a 14-calendar day grace period in which to supply requested information or be removed from the wait list.
- The applicant will be removed from the wait list if he/she fails to respond within 14 days.
- The applicant will be removed from the wait list if he/she misses two appointments or, if intake is attempted via mail, fails to return the completed packet after the second request.

If the applicant is removed from the wait list for failure to respond, consideration will be granted for reinstatement to the wait list:

- As a reasonable accommodation for a person with disabilities; or
- In response to a family emergency such as hospitalization or disaster (i.e. fire, etc)

An applicant, upon written request, will be required to prove conclusively how the factor prevented a timely response to get such consideration.

### **7.7 Purging the Wait List**

The COBHA will update and purge its wait list at least annually to ensure that the pool of applicants reasonably represents the interested families for whom COBHA has current information, i.e. applicant's address, family composition, income category, and preferences. COBHA will also use the purge to query applicants for interest in receiving Section 8 Project-Based rental assistance.

## **8.0 SUBSIDY STANDARDS**

COBHA's subsidy standard is used to determine the number of bedrooms needed for families of different sizes and composition without overcrowding or over-housing, and the maximum rent subsidy that a family assisted under the Section 8 Housing Choice Voucher Program receives. The maximum rent subsidy that a family assisted under the Section 8 Housing Choice Voucher Program is applied consistently for all families of like size and composition and has been established in accordance with HUD regulations to provide housing assistance to the greatest number of families possible.

### **8.1 The Standard**

- One bedroom is allocated to the head of household (and his/her spouse/partner);
- One bedroom is allocated for every two remaining family members regardless of the age, sex or relationship of these other family members;

Exceptions.

- A separate bedroom is provided to accommodate the needs of a disabled household member including\*:
  - A live-in aide that resides in the unit and does not maintain a separate residence; or
  - A series of aides that share a bedroom on a part-time/rotating basis to insure the disabled person has 24-hour coverage;
  - Medical equipment that requires a separate room because of size or function.

\*Families seeking an exception (accommodation) will be required to submit a Request for Reasonable Accommodation and follow the approval process. If the request is made after the family has begun an assisted tenancy, the increase, if approved, will be effective the following month. To retain the enhanced subsidy, the family must submit a new request at every annual recertification.

## 8.2 Application of the Standard

A family with a head of household and no spouse/partner would be allocated a subsidy size in the following manner:      A family with a head of household and a spouse/partner would be allocated a subsidy size in the following manner:

A family with a head of household and no spouse/partner would be allocated a subsidy size in the following manner:		A family with a head of household and a spouse/partner would be allocated a subsidy size in the following manner:	
Family Size	Subsidy (Bedroom) Size	Family Size	Subsidy (Bedroom) Size
1	1*	2	1
2	2	3	2
3	2	4	2
4	3	5	3
5	3	6	3
6	4	7	4
7	4	8	4
8	5	9	5

Generally, the PHA assigns one bedroom to two people within the following guidelines:

- One bedroom is allocated for the head of household and spouse, if any;
- One additional bedroom is allocated for every additional two persons, regardless of age, sex or generation;
- One additional bedroom is provided for the full-time, live-in attendant. Family members of the attendant are not allowed to reside in the unit.
- Space shall be provided for a child who is away at school but who remains a member of the household as documented by:
  - Evidence that the student is reported as a household member on the assisted family's income tax return
  - The assisted family is the party financially responsible for the student's school and living expenses (i.e. signatory on bank loans, etc.)
  - Other objective documentation from the assisted family.
- Space shall be provided for minors placed outside the home provided the assisted family provides evidence of satisfactory progress towards the official reunification plan.
- Space shall not be provided for other members of the household (excluding the head of household) who are absent for more than 90-days, i.e. military assignment.
- Persons of different generations, persons of the opposite sex (other than spouses), and unrelated adults should be allocated a separate bedroom.
- Separate bedrooms should be allocated for persons of the opposite sex (other than adults who have a spousal relationship and children under 6).
- Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendant's family.

- Space may be provided for a child who is away at school but who lives with the family during school recesses.
  - Space will not be provided for a family member, other than a spouse, who will be absent most of the time, such as a member who is away in the military.
  - Adults of different generations will have separate bedrooms.
- \* Single person families shall be allocated one bedroom.

<b>GUIDELINES FOR DETERMINING VOUCHER SIZE</b>		
Voucher Size	Persons in Household	
	Minimum Number	Maximum Number
0 Bedroom	1	1
1 Bedroom	1	2
2 Bedrooms	2	6
3 Bedrooms	3	8
4 Bedrooms	4	10
5 Bedrooms	6	12
6 Bedrooms	8	14

**8.3 Maximum Rent Subsidy**

The COBHA will not disapprove a unit for rent on the sole ground that it is too large for the family. The COBHA will however limit the amount of rent subsidy payable by the COBHA on behalf of the family to the lower of:

- The COBHA payment standard amount for the bedroom size of the voucher issued to the family; or
- The COBHA payment standard for the bedroom count of the unit being rented by the family.

**9.0 REASONABLE ACCOMMODATION**

A “reasonable accommodation “ is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. An accommodation may also be a structural change to a common area or a dwelling that is needed by a person with a disability.

Beginning with the initial and continuing each subsequent annual, interim or special reexamination, COBHA will provide every family written notice of its right to request a reasonable accommodation. In order to permit an applicant or participant with one or more household members with a verifiable disability to take full advantage of COBHA’s programs and services, COBHA will consider requests for reasonable accommodations, including structural modifications to COBHA’s facilities unless such structural modifications would result in an undue financial or administrative burden on COBHA.

COBHA will not approve any accommodation that results in a change in the basic program requirements, i.e. COBHA will not waive the annual unit inspection. Neither will COBHA, as a reasonable accommodation, pay for optional landlord provided services that are not a part of the rent (i.e. optional parking benefits).

## **9.1 Requesting a Reasonable Accommodation**

Upon the applicant's/participant's return of the completed Request for Reasonable Accommodation form, COBHA will mail or fax the Verification of Need for Reasonable Accommodation form to the specified care provider. (If requested, the COBHA will assist with completion of the form.)

Verification of Need for Reasonable Accommodation forms must be obtained via third party means. Any such form hand-carried or provided by the applicant/participant will not be accepted.

If a verification form is not returned by the care provider within ten (10) calendar days, COBHA will follow up, allowing five (5) more days for the care provider to respond. Provided the care provider returns the completed Verification form within the specified time, COBHA will make a determination of the reasonableness of the requested accommodation.

If the care provider does not return the completed Verification form, or requires payment for completion of the form, COBHA will, at its sole discretion, make a determination of the reasonableness of the requested accommodation.

Notice of COBHA's determination will be mailed to the applicant/participant in a timely manner. If the accommodation request is:

- Approved, the applicant/participant will be so advised.
- Disapproved, the applicant/participant may appeal the decision in writing within 14-calendar days by providing additional information that demonstrates cause for overturning the decision.

COBHA will act on the appeal in a timely manner and send a written notice of its decision to the applicant/participant. The COBHA approval will be in effect for one year. The family will be given an opportunity to request renewal at each annual recertification.

## **9.2 Live-In Aides**

### **9.2.1 FULL TIME LIVE IN AIDE**

A live-in aide is a person who has been approved in writing by the COBHA to reside in a family's assisted unit on a full-time, permanent basis, only because he or she has been determined by a qualified care-provider to be essential to the care and well-being of a family member who is:

- Elderly (62 years or older);
- Near elderly (50-61); or
- Any age and has a verifiable disability and who would not be equally well served by:
  - A home health care service; or
  - A care provider who does not live in the unit

### **9.2.2 QUALIFICATIONS FOR THE LIVE-IN AIDE**



The live-in aide:

- Has no ownership or other interest in the subsidized unit;
- Is subject to the provisions of the family obligations prohibiting involvement with illegal drugs, violent criminal behavior, and disturbances to the peaceful enjoyment of other residents in the vicinity of the assisted unit;
- Is not barred from residing in an assisted unit (subject to life-time registration as a sex offender; prior conviction for manufacturing or producing methamphetamine in a federally assisted unit);
- Is not denied residency in the unit based on criminal history
- Is not subject to the citizen/eligible immigration requirements set forth in Section \_\_\_\_\_);
- Does not contribute financial support to the family. Consequently, the income of the live-in aide is disregarded for purposes of determining eligibility and assistance;
- Does not qualify for continued occupancy as a remaining member of the tenant family, even if he or she is related by blood, marriage or operation of law;
- Cannot change his/her status from live-in aide to a family member;

If the family receives payments from Social Services through the In-Home Support Services (IHSS) program, must be the person on record with IHSS (unless an exception is granted by the Executive Director);

Approval of an applicant's request to include a live-in aide in, or a participant's request to add a live-in aide to the family's household is at COBHA's discretion.

If COBHA disapproves a family's request for a live-in aide, the person may not be added to the family's household.

If COBHA approves a family's request for a live-in aide, the family must obtain the landlord's approval to add the proposed live-in aide to reside in the unit. If the landlord: Agrees to accept the proposed live in aide, the family and landlord must provide COBHA written documentation (COBHA provided form is acceptable), and COBHA will add the live-in aide.

Within the limits of the law, declines to accept the proposed live-in aide, the proposed live-in aide may not be added to the family's assisted unit. The COBHA will issue the family a transfer voucher allowing for a move to a suitable unit.

### 9.2.2 PART TIME AIDE

COBHA recognizes that there are senior and/or disabled clients who require assistance with daily living activities, on a less-than- full time basis. If the disabled or elderly person only requires assistance on a part-time or "as-needed" basis to perform the daily living activities, it is "not reasonable", and the COBHA will not authorize an additional bedroom. Other more cost effective measures can be taken to accommodate the needs of the part-time caregiver, including using the living room as a living/sleeping room for the short-term stays.

## **10.0 COBHA, OWNER AND FAMILY RESPONSIBILITIES**

### **10.1 Introduction**

This Section outlines the responsibilities and obligations of the COBHA as the administrator of the Section 8 Housing Choice Voucher Program; owners who choose to rent units to Section 8 Housing Choice Voucher Program; and Section 8 participant families.

### **10.2 COBHA Responsibilities**

COBHA will comply with its consolidated Annual Contributions Contract with HUD, the application, the HAP contract, HUD regulations and other requirements and COBHA's Section 8 Administrative Plan.

In administering the program COBHA will:

- Publish and disseminate information about the availability and nature of housing assistance under the program;
- Explain the program to owners and families;
- Seek expanded opportunities for assisted families to locate housing outside areas of poverty or racial concentration;
- Encourage owners to make units available for leasing in the program, including owners of suitable units located outside areas of poverty or racial concentration;
- Affirmatively further fair housing goals and comply with equal opportunity requirements
- Make efforts to help people with disabilities find satisfactory housing;
- Receive applications from families, determine eligibility, maintain the waiting list, select applicants, issue a voucher to each selected family, and provide housing information to families selected;
- Determine who can live in the assisted unit at admission and during the family's participation in the program;
- Obtain and verify evidence of citizenship and eligible immigration status in accordance with 24 CFR part 5;
- Review the family's request for approval of the tenancy and the owner/landlord lease, including the HUD prescribed tenancy addendum;
- Inspect the unit before the assisted occupancy begins and at least annually during the assisted tenancy;
- Determine the amount of the housing assistance payment for a family;
- Determine the maximum rent to the owner and whether the rent is reasonable;
- Make timely housing assistance payments to an owner in accordance with the HAP contract;
- Examine family income, size and composition at admission and during the family's participation in the program. The examination includes verification of income, including recurring gifts and in-kind contributions, and other family information;
- Establish and adjust the utility allowance schedule;

- Administer and enforce the housing assistance payment contract with an owner, including taking appropriate action as determined by COBHA, if the owner defaults on terms of the contract;
- Determine whether to terminate assistance to a participant family for violation of family obligations;
- Conduct informal hearings on certain COBHA decisions concerning participant families
- Provide sound financial management of the program, including engaging an independent public accountant to conduct audits;
- Electronically submit Form HUD 50058 for at least 95% of assisted families budgeted units.

### **10.3 Owner Responsibilities**

The owner is responsible for:

- Performing all of the owner's obligations under the HAP contract and the lease and tenancy addendum including but not limited to:
- Notifying the COBHA in writing (or email) if the assisted family ceases to reside in the unit (i.e. passes away);
- Notifying the COBHA in writing (or email) if the assisted family is relocated to another unit for more than 30 days (i.e. in the case of repairs to the unit);
- Maintaining the unit and common areas of the property in compliance with Housing Quality Standards (HQS);
- Collecting the family portion of the rent each month; and
- Maintaining owner paid utility service.
- Permitting, at the expense of the tenant, reasonable modifications to a dwelling unit occupied or to be occupied by a person with disabilities if the proposed modifications may be necessary to afford the tenant full enjoyment of the premises. Where permitted to do so, the owner may condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear expected.

### **10.4 Family Responsibilities**

The family is responsible for:

- Performing all of the tenant obligations under the HAP contract and lease, including but not limited to:
- Reporting deficiencies in the unit to the owner in a timely manner;
- Not causing or allowing damage to the unit;
- Cooperating with the owner by making the unit available for inspection and as necessary, repairs;
- Making regular and timely rent payments to the landlord;
- Respecting the peaceful enjoyment of neighbors; and
- Cooperating with the annual recertification process.
- Following the rules set forth in Section 4 of the Housing Choice Voucher, this Section 8 Administrative Plan and COBHA's Family Obligations form.

## **11.0 MONTHLY COBHA PAYMENTS TO THE LANDLORD**

### **11.1 Payment Standard**

COBHA has adopted a Payment Standard Schedule that establishes voucher payment standard amounts by unit bedroom count category.

The COBHA Payment Standard is the maximum allowable monthly housing assistance payment by COBHA for an assisted family. It is used to calculate the actual monthly housing assistance payment for the family.

The Payment Standard for a family is the lower of:

- The payment standard for the family or the unit size minus the Total Tenant Payment (TTP); or
- The gross rent minus the TTP

If the amount on the COBHA payment standard is:

- Decreased during the term of the HAP contract and remains decreased as of the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount, COBHA will use the decreased payment standard amount to calculate the family's monthly housing assistance payment beginning the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount.
- Increased during the term of the HAP contract COBHA will use the increased payment standard amount to calculate the family's monthly housing assistance payment beginning the effective date of the family's first regular reexamination following the effective date of the increase in the payment standard amount.
- Irrespective of any increase or decrease in the payment standard amount, if the family size increases or decreases during the HAP contract term, or its composition changes, COBHA will use the new family size or composition to determine the payment standard amount for the family beginning at its next regular reexamination based on the lower of stated above .
- If COBHA approves a larger unit subsidy size (that is, more bedrooms on the voucher) the appropriate payment standard amount will be applied effective the month following the approval based on the lower of stated above.

## **12.0 TOTAL TENANT PAYMENT AND TENANT RENT**

### **12.1 Total Tenant Payment (TTP)**

As a Section 8 Participant, each month the family is responsible for paying the Total Tenant Payment (TTP) plus the amount, if any, by which the gross rent exceeds the payment standard.

On an initial contract only, the family's share of the rent cannot be more than 40% of the family's monthly-adjusted income. If the Tenant Rent would exceed 40%, the family may not rent that unit under the Section 8 Housing Choice Voucher Program.

COBHA will calculate the family's Total Tenant Payment (TTP) as the highest of the following rounded to the nearest dollar:

- 10% of monthly income; or
- 30% of adjusted monthly income; or
- The COBHA minimum TTP; or
- If the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designed by such agency to meet the family's housing costs, the portion of such payments which is so designated except that if the family's welfare assistance is ratably reduced from the standard of need by applying a percentage the amount calculated under this section will be the amount resulting from one application of the percentage.

## **12.2 Minimum Total Tenant Payment (TTP)**

The COBHA has set the minimum TTP at \$50.

If the family requests a hardship exemption to the minimum TTP, COBHA will suspend the minimum TTP for the family beginning the month following the family's hardship request.

The suspension will continue until COBHA can determine whether hardship exists and whether the hardship is of a temporary or long-term nature. During the suspension, the family will not be required to pay the minimum TTP and the Housing Assistance Payment will be increased (or maintained) accordingly. A hardship exists in the following circumstances:

- When the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State or local assistance program
- When the family would be evicted because it is unable to pay the minimum TTP
- When the income of the family has decreased because of changed circumstances, including loss of employment; or
- When a death has occurred in the family.

For purposes of this Section, the term family includes a member who is a non-citizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but or title IV of the Personal Responsibility and Work Opportunity Act of 1996.

If COBHA determines there is no qualifying hardship, the minimum TTP will be reinstated, including requiring back payment of minimum TTP to COBHA for the time of suspension.

If COBHA determines that there is a qualifying hardship, but that it is of a temporary nature:

- The minimum TTP will not be imposed for a period of 90 days from the beginning of the suspension of the minimum TTP

- At the end of the 90-day period, the minimum TTP will be imposed retroactively to the time of suspension.
- COBHA will offer a reasonable repayment agreement for any minimum TTP payment paid by COBHA on the family's behalf during the suspension period.

If COBHA determines there is a long-term hardship, the family will be exempt from the minimum TTP requirement until the hardship no longer exists.

The family may use the informal hearing procedure to appeal COBHA's determination regarding hardship. No escrow deposit will be required in order to access the informal hearing procedures.

### **12.3 Monthly Family Payment for Mixed Participant Families**

A "Mixed Participant Family" is a family that includes citizens or eligible immigrants, and non-citizens, that is, members without citizenship or eligible immigration status. A mixed participant family receives full continuation of assistance if all of the following conditions are met:

- The family was receiving assistance on June 19, 1995
- The family was granted continuation of assistance before November 29, 1996
- The family's head or spouse has eligible immigration status; and
- The only family member who does not have eligible status is:
  - The head of household, or
  - The spouse of the head of household; or
  - Any parent of the head or spouse; or
  - Any child under the age of 18 of the head or spouse.

A mixed participant family that does not qualify for full continuation of assistance as set forth above, qualifies for prorated assistance.

If a mixed participant family that qualifies for prorated assistance decides not to accept it, or has no eligible members, the family may be eligible for temporary deferral of termination of assistance to permit the family additional time for the orderly transition of some or all of its members to locate other affordable housing. Under this provision, the family receives full assistance during the deferral period.

- COBHA will grant each family a period of six months to find suitable affordable housing;
- If the family cannot find suitable affordable housing during the six months, COBHA will provide additional six-month search periods up to the maximum 18 months allowed by regulation.

Suitable housing means housing that is not substandard and is of appropriate size for the family.

Affordable housing means that it can be rented for an amount not exceeding the amount the family pays for rent, plus utilities, plus 25%.

In order to determine the prorated assistance for a qualifying family, COBHA will:

- Compute a prorated subsidy by dividing the applicable HAP payment standard by the total number of family members, and then multiply the result by the number of eligible family members;
- Compute a prorated Total Tenant Payment (TTP) by subtracting the prorated subsidy from the gross rent (contract rent plus utility allowance);
- Subtract the full utility allowance to obtain the prorated tenant rent.

#### **12.4 Utility Allowance**

COBHA maintains a utility allowance schedule for the following tenant-paid utilities for the assisted unit:

- Space heating
- Cooking
- Lighting and minor domestic electric appliances
- Air Conditioning
- Water Heating
- Water
- Sewer
- Trash Collection
- Tenant Supplied Range
- Tenant Supplied Refrigerator

The utility allowance is subtracted from the family's share of the unit rent to determine the amount of the Tenant Rent. The Tenant Rent is the amount the family owes each month to the owner. Any utility cost above the allowance is the responsibility of the tenant. Any savings resulting from utility costs below the amount of the allowance belong to the tenant.

COBHA uses the appropriate utility allowance for the size of dwelling unit actually leased by the family rather than the family unit size as determined under COBHA's subsidy standard (bedroom count).

The utility allowance schedule is determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, COBHA uses current utility rates and normal patterns of consumption for the community as a whole.

COBHA reviews the utility allowance schedule at least annually and revises any allowance for a utility category if there has been a change of 10% or more since the last time the utility allowance schedule was revised.

At each annual recertification COBHA applies the utility allowance from the most current utility allowance schedule.

Common area utilities shall be the responsibility of the owner. and shared utilities are borne proportionately by all tenants (and, if applicable, by the owner) of the property when not paid by the owner.

In situations where common area utilities are measured and billed through the assisted unit's utility meter, COBHA will require the owner to demonstrate to COBHA's satisfaction that the additional utility costs were taken into account by reducing the rent to reflect the difference between average common area utility consumption for other units in the building and the billed tenant.

### **12.5 Enhanced Utility Allowance**

The COBHA will authorize an enhanced utility allowance that provides an additional 10% for "other electric" and "gas for heating" as an accommodation of a person with a disability, provided the relationship between the disability and the energy source is determined (Ask energy office... wheelchair battery charge; extra heat?).

### **13.0 DETERMINATION OF FAMILY INCOME**

To determine annual income, COBHA includes the income of all adult family members, excluding the types and sources of income specifically excluded by HUD regulations. Once the annual income is determined, COBHA subtracts all allowable deductions (allowances) as the next step in determining the Total Tenant Payment.

#### **13.1 Income**

Annual income means all amounts, monetary or not, that:

- Go to (or on behalf of) the family head or spouse, even if temporarily absent, or to any other family member; or
- Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- Are not specifically excluded from annual income

If it is not feasible to anticipate a level of income over a 12-month period (e.g. seasonal or cyclic income), or COBHA believes that past income is the best available indicator of expected future income, COBHA may rely on this information to annualize the income or anticipate income for a shorter period, subject to a re-determination at the end of the shorter period.

#### **13.2 Income Inclusions**

Annual income includes, but is not limited to:

- The full amount, before payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.
- The net income from the operation of a business or profession.
- Expenditures for business expansion or amortization of capital indebtedness are not used as deductions in determining net income.
- An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations.



- Any withdrawal of cash or assets from the operation of a business or profession is included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.
- Interest, dividends, and other net income of any kind from real or personal property. Where the family has net family assets in excess of \$5,000, annual income includes the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.
- The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount. (However deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts are excluded).
- Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay. (However, lump sum additions such as insurance payments from worker's compensation are excluded.)
- Welfare assistance:
  - If the amount of welfare is reduced (sanctioned) due to fraud by a family member or because of any family member's failure to comply with requirements to participate in economic self-sufficiency program or work activity, the COBHA will include the actual cash grant received and the imputed amount (the sanction) as income.
  - The amount of the sanction will be offset by the amount of earned income received. When the amount is at least equal to the sanction amount, the imputed welfare income is reduced to zero.
  - If the family is not satisfied that COBHA has calculated the amount of imputed welfare income in accordance with HUD requirements, the family may request an Informal Review or Hearing.
  - If the amount of welfare assistance is reduced as a result of a lifetime time limits, the reduced amount is the amount that shall be counted.
  - Periodic and determinable allowances such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling.
  - All regular, special pay and allowances of a member of the Armed Forces. All amounts provide for a member exposed to hostile fire is excluded.

### **13.3 Income Exclusions**

Annual income does not include the following:

- Income from employment of children (including foster children) under the age of 18 years;
- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

- Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses;
- Amounts received by the family that is specifically for, or in reimbursement of, the cost of medical expenses for a family member;
- Income of a live-in aide;
- Any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002) who is:
  - Residing with his or her parent(s); or
  - Seeking Section 8 assistance on his or her own; and
  - Is over the age of 23; and
  - Has a dependent child or children
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- The amounts received from the following programs:
  - Amounts received under training programs funded by HUD;
  - Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS).
  - Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and that are made solely to allow participation in a specific program.
  - Amounts received under a resident stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the Housing Authority or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident initiative coordination. No resident may receive more than one such stipend during the same period of time;
  - Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program;
- Temporary, nonrecurring, or sporadic income (including gifts) include definition in glossary
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

- Earnings in excess of \$480 for each full-time student 18 years or older (excluding the head of household or spouse);
- Adoption assistance payments in excess of \$480 per adopted child;
- Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts;
- Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;
- Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
- Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits. These exclusions include:
  - The value of the allotment of food stamps (7 U.S.C.2017(b));
  - Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C.5044(g), 5058)
  - Payments received under the Alaska Native Claims Settlement Act (43 U.S.C.1626(c ))
  - Income from sub-marginal land of the U.S. that is held in trust for certain Indian tribes (25 U.S.C 459e)
  - Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931));
  - Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L94-540, 90 Stat. 2503-4);
  - Payments or allowances made under Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));
  - The first \$2,000 per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interest held in such trust or restricted lands (25 U.S.C. 1407-1408);
  - Amount of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under Federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);
  - Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));
  - Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

- Payments received under the Maine Indian Claims Act of 1980 (25 U.S.C. 1721);
- The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);
- Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C.32(j));
- Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation
- Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
- Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);
- Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and
- Allowances, earnings and payments to individual participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).
- Subject to the qualifications set forth below those increased employment earnings of a family member who is a person with disabilities will be excluded which resulted from:
  - Employment after the family member was previously unemployed (or under employed) for one or more years prior to employment; or
  - The family member's participation in any economic self-sufficiency or other job-training program; or
  - Occur during or within 6 months, after receiving assistance, benefits of services under a state TANF or Welfare-to-Work program, provided that the total amount of assistance over a six-month period is at least \$500.
- The increased employment earnings disallowance is the rate of:
  - 100% for the cumulative 12-month period following the date of the initial hire;
  - 50% for the second cumulative 12-month period;
  - Limited to a lifetime 48-month period;
  - Does not apply for purposes of admission to the program.
- Income of a temporary guardian living in the home of military personnel deployed to the Persian Gulf Region as specified in Public and Indian Housing Notice 2003-5.

#### **13.4 Earned Income Disregard**

Effective April 2001, disabled participants with earned income may qualify for 24 months of disregard of the incremental increase in income attributed to earnings.

The disabled individual must have been unemployed or underemployed for the preceding 12 months. Under employed is defined as earnings below 500 hours @ Federal minimum wage.

The income disregard is 100% of the incremental increase in income attributed to earnings 12 months, and 50% of the incremental increase attributed to earned income for 12 months.

The disregard period must be satisfied within 48 months of the start. The actual months when income is disregarded do not have to be concurrent.

### **13.5 Deductions**

The following deductions will be made from annual income:

- \$480 for each dependent
- \$400 for any elderly family or disabled family
- The extent to which the sum exceeds three percent of annual income:
- Unreimbursed medical expenses of any elderly or disabled family; and
- Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed.

COBHA will calculate the allowed deduction based upon medical expenses from the past year that are likely to continue in the upcoming year or that are representative of average, approved cost (such as transportation).

If a household member anticipates medical expenses that were not incurred in the prior year, or that were only incurred for part of the year (such as a new prescription), then COBHA will require verification of such expense from a doctor, pharmacist or licensed caretaker.

With the exception of non-prescription medicines other than Insulin, COBHA will follow IRS Publication 502 in defining which medical expenses are allowed.

Insulin is the only non-prescription medicine permitted as a deduction by the IRS in Publication 502.

COBHA will also permit a deduction for expenditures on non-prescription medicines in cases where a doctor, pharmacist or licensed caretaker certifies that such non-prescription medicines are necessary for the diagnosis, cure, mitigation, treatment or prevention of disease or for treatments affecting any part or function of the body.

As per IRS regulations, expenses that are merely beneficial to one's health will not be allowed.

The reimbursement for reasonable attendant care and auxiliary apparatus expenses allowance may not exceed the earned income received by family members who are 18 years of age or older who are able to work because of such attendant care or auxiliary apparatus.

Reasonable childcare expenses necessary to enable a member of the family to be gainfully employed, actively seek employment or to further his or her education and only to the extent such amounts are not reimbursed. This deduction must be reasonable, and except for a very limited time (i.e. 60-90 days when a client is between jobs) it shall not exceed the net monthly household income.

The COBHA will allow the family has the right to waive deductions or exclusions of income that are not required for all families such as child care expenses or medical expenses. The family must sign a waiver indicating they understand that they are waiving the deduction or exclusion for a period of one year and that choosing not to take the deduction or exclusion is voluntary.

### **13.6 Letter or Notice From HUD Concerning Income**

If a Section 8 Participant receives a letter or notice from HUD concerning the amount or verification of family income, the participant must bring the letter to COBHA for income verification within 30-calendar days of receipt.

As soon as possible, COBHA will reconcile any difference between the amount reported by the participant and the amount listed in the HUD communication. After the reconciliation is complete, COBHA will adjust the participant's TTP beginning at the start of the next month unless the reconciliation is completed during the final 10-calendar days of the month and then the new TTP will take effect on the first day of the second month following the end of the current month. In addition, if the participant had not previously reported the proper income, COBHA will take one of the following actions:

- Immediately collect the excess housing assistance payments made by the COBHA; or
- Establish a repayment plan for the participant to pay the sum due to the COBHA; or
- Terminate the participant from the program for failure to report income; or
- Terminate the participant from the program for failure to report income and collect the excess housing assistance payments made by the COBHA.

### **13.7 Cooperating with Social Service Agencies**

COBHA will make its best efforts to enter into cooperation agreements with the local Social Service Agency under which the COBHA will agree:

- To target assistance, benefits and services to families receiving assistance in the public housing and Section 8 tenant-based assistance program to achieve self-sufficiency and maintain their housing;
- To provide access to the CalWin system and/or written verification to COBHA concerning welfare benefits for families applying for or receiving assistance in one of its housing programs.

## **14.0 VERIFICATION OF ELIGIBILITY**

### **14.1 Introduction**

COBHA will verify information related to income, waiting list preferences, and program eligibility prior to admission in order to determine whether the family is actually qualified. At least annually during occupancy, items related to income, program eligibility, family composition, amount of subsidy, and amount of TTP will be reviewed and verified.

### **14.2 Acceptable Methods of Verification And Time Allowed**

COBHA will verify information through the five methods of verification acceptable to HUD in the following order:

- Up-front Income Verification (UIV) / EIV Enterprise Income Verification
- Third-Party Written
- Third-Party Oral
- Review of Documents
- Certification/Self-Declaration

### **14.3 Up-Front Income Verification**

COBHA will use up-front income verification tools, including HUD's Earned Income Verification (EIV) System, the Work No., the EDD computer matching system, and where available, other centralized computer matching systems whenever possible. COBHA will pursue other computer matching agreements with federal, state and local governmental agencies.

Where UIV income data differs from tenant-provided income information by \$200 or less, and:

- Is less than provided by tenant documentation, COBHA will use tenant-provided documents to calculate anticipated annual income;
- Is more than that provided by tenant documentation, COBHA will use UIV income data to calculate annual income unless the tenant provides COBHA with documentation of a change of circumstances (i.e. change in employment reduction in hours, etc.) Upon receipt of acceptable tenant-provided documents of a change in circumstances, COBHA will use tenant-provided documents to calculate anticipated annual income.

Where UIV income data differs from tenant-provided income information by more than \$200 per month, COBHA will:

- Analyze all data obtained through UIV and other methods of verification and attempt to resolve the income discrepancy; and
- Attempt to obtain verification from the discrepant income source(s) in order through the hierarchy of verification; and
- Utilize third party written verification is used to verify information directly from the source. (If third party written verification is not used, COBHA will document the reason in the file.)

The family will be required to sign an authorization form for the information source to release the specified information unless a criminal investigation has been instituted, in which case COBHA may request information from law-enforcement sources.

Third-party written verification forms will be sent and returned electronically over the Internet or via first class mail or facsimile.

When a Verification form (or acceptable substitute document originated by the verification source) is not returned within ten (10) calendar days or it is determined a verification source cannot or will not answer a verification request, COBHA will attempt third-party oral verification.

Generally, third party verification forms delivered by the family will not be accepted. However, COBHA will accept the original verification printouts delivered by the family from the following sources:

- Social Security or disability award statements. These statements will be used when EIV information is unavailable or a the Social Security Administration will no longer furnish verifications of Social Security and Supplemental Security Income benefits to use to process certifications/recertifications for housing assistance programs administered by the U.S. Department of Housing and Urban Development (HUD).
- Welfare Agency when the family is not yet in the computerized CalWin system that displays family size and benefit amount.
- Internal Revenue Service for verification of annual income, IRS Forms 1099, 1040, 4506, and 8821, and IRS Letter 1722 (PIH 2001-15)
- Secondary or Post-Secondary Educational Institution where the educational institution charges a fee to process verification of enrollment/student status or is not in session.

Third-party oral verification will be used when written third-party verification is delayed or not possible. If third-party verification is provided by telephone, COBHA will originate the call. When third-party oral verification is used, staff will document the file noting with whom they spoke, the date of the conversation, and the facts provided.

If oral third party verification is not received within five (5) working days or it is determined a verification source cannot or will not answer a verification request, COBHA will attempt a review of documents.

Review of documents will be used in the event third-party written or oral verification is unavailable or the verification has not been provided by the third party in a timely manner, COBHA will utilize documents providing provide complete information. All such documents, excluding government checks, will be photocopied and retained in the applicant file. In cases where documents are viewed which cannot be photocopied, staff viewing the document(s) will note this in the file.

COBHA will accept the following unaltered, original documents from families providing that tampering can be easily noted:



- Printed wage stubs
- Computer printouts from employers
- Bank statements showing direct deposit (i.e. Social Security administration benefits or retirement benefits);
- Signed letters (provided that the information is confirmed by phone);
- Faxed documents; and
- Other documents identified by COBHA as acceptable verification.

When verification cannot be made by any other means, families will be required to sign a self-certification under penalty of perjury.

COBHA will use the most current verified income data (and historical income data, if appropriate) to calculate anticipated annual income. If COBHA is unable to anticipate annual income using current information due to historical fluctuations in income, COBHA may average amounts received/earned to anticipate annual income. If third-party verification is received after documents or certification have been accepted as verification and there is a discrepancy of more than \$200, COBHA will utilize the form of verification that most accurately represents the circumstances based on all the information received.

Annual income that is specifically excluded will not be verified except to determine the basis for the exclusion. To do this, COBHA will accept hand-carried verification or certification/self-certification.

Item to be Verified	3 <sup>rd</sup> Party Verification	Alternate Verification
<b>General Eligibility Items</b>		
Birth Certificate	Verification from Social Security Administration	Birth Certificate; Valid U.S. Passport
Social Security Number	Letter from Social Security Administration; Electronic report (i.e. EIV)	Social Security Card
Citizenship	Letter from City/County of Birth	Birth Certificate; Signed Citizenship Declaration (HUD 214 form)
Eligible immigration status	INS SAVE confirmation No.	INS Card
Disability	Letter from licensed care professional	Proof of SSI or other permanent disability payments
Full time student (if 18 or older)	Electronic verification; letter from school verifying No of units and status. For continuing students, proof that full time status was maintained at the end of the prior term	For High School students, any official document evidencing enrollment
Need for Reasonable	Completed COBHA	Letter from qualified,

Item to be Verified	3 <sup>rd</sup> Party Verification	Alternate Verification
Accommodation	Verification form making nexus between disability and accommodation requested	licensed care provider
Child Care Costs	Verification from care provider of expense of amount paid by family	
Disability Assistance Expenses	Verification from suppliers and/or care providers	Bills, statements, cancelled checks
Medical Expenses	Verification from care providers, pharmacies, insurance companies	Pharmacy print-outs; mileage logs; cancelled checks; receipts
<b>Value of and Income from Assets</b>		
Standard Bank/Credit Union accounts	Written verification if average balance greater than \$5,000	Two consecutive bank statements
CD, Stocks, Bonds	Written verification if average balance/value is greater than \$5,000	Two consecutive statements; on-line verification
Real Property	Tax assessment	Income and expense report/tax return
Whole Life Insurance	Written verification from insurance company	Current statement
<b>Income</b>		
Earned Income	EIV; Work No; written verification from employer	Three consecutive check stubs; computer generated payroll history covering 3 pay periods
Government Benefits	EIV; CaWin; Written verification	Notice of Action (TANF/GA); Benefit Award Letter; Bank Statement
Child Support	On-Line Verification; Court order; Written verification from source	Check stubs; written notice from agency
Self-Employment	N/A	Self Certification of income and expenses; tax return from prior year; audited financial statement
Regular Gifts and Contributions	Written verification from source	
Training Program Participation	Letter from program provider confirming compliance with HUD regulations	N/A

#### **14.4 Release of Information**

In order to be eligible for assistance, each member of the family who is at least 18 years of age, and each family head and spouse regardless of age, must sign the HUD mandated Authorization for the Release of Information/Privacy Act Notice (#9886). In addition, the family will be required to sign specific authorization forms when information is required that is not authorized by HUD's Form 9886.

The family may have its assistance denied or terminated if it does not supply or cooperate in securing information required by COBHA or HUD.

#### **14.5 Verification of Citizenship or Eligible Non-Citizen Status**

Citizenship/eligible non-citizen status must be determined for each family member, regardless of age. Prior to being admitted, all household members will be required to sign a Declaration of Section 214 Status under penalty of perjury, or, in the case of a minor, to have one completed and signed by a parent or guardian on the minor's behalf.

U.S. Citizens and U.S. Nationals will not be required to further document evidence of citizenship. Noncitizens who are 62 years of age or older will be required to provide a signed declaration of eligible immigration status and documentation verifying their age.

- All other noncitizens will be required to provide:
- A signed declaration of eligible immigration status
- One of the INS documents referred to in 24 CFR 5.510 for the tenant file; and
- A signed verification consent form.

COBHA will verify their status through the INS SAVE system. If the INS SAVE system cannot confirm eligibility, COBHA will mail information to the INS so a manual check can be made of INS records.

The family's assistance will not be denied, delayed, reduced or terminated because of a delay in the process of determining eligible status under this Section, except to the extent that the delay is caused by the family.

If assistance is denied on the basis of citizenship/eligible immigration status, an applicant family may request that COBHA provide for an Informal Review Hearing if the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS.

The applicant family must make this request within 30 days of receipt of the Notice of Denial or Termination of Assistance, or within 30-calendar days of receipt of the INS appeal decision.

If COBHA determines that a family member has knowingly permitted an ineligible non-citizen (other than any ineligible non-citizens listed on the lease) to permanently reside in its assisted unit, the family's assistance will be terminated. Such a family will be

ineligible to be readmitted to the Section 8 Housing Choice Voucher Program or Public Housing Program for a period of 24 months from the date of termination.

#### **14.6 Verification of Social Security Numbers**

Prior to admission, each family member six years of age or older must provide verification of his or her Social Security Number. New family members at least six years of age or older must provide this verification prior to being added to the lease. Children in assisted households must provide this verification no later than the family's first regular reexamination after they turn six.

If an individual states that he/she has not been issued a Social Security Number, the individual will be required to sign a statement to this effect. COBHA will not require any individual who does not have a Social Security Number to obtain one.

If a member of an applicant family indicates that he or she has a Social Security Number, but cannot readily verify it, the person will be asked to certify this fact and will have up to 60 days to provide verification. If the individual fails to provide the verification within the time allowed, the family will be denied assistance or will have its assistance terminated.

#### **14.7 Timing of Verification**

An applicant's verification may not be more than 60-days old at the time of Voucher issuance. For new contracts and reexamination, verifications must be dated within 120 days of the effective date of the transaction.

If the family caused the delay in providing verification, its assistance may be denied or terminated and it will be responsible for repaying COBHA for any overpayments of housing assistance made on its behalf.

If the family fails to take reasonable actions to provide all the required documents to complete the interim or annual recertification within 30-days of written request, the COBHA may increase the family rent portion with reasonable, but less than 30-day notice.

#### **14.8 Frequency of Obtaining Verification**

For each family member, social security number, birth dates, disability status, and citizenship/eligible non-citizen status will be verified only once. For each family member, 18 years or older, valid CA identification will be required at each annual and interim certification

Reasonable accommodation requests must be renewed at each annual recertification. Any other information affecting program and income eligibility will be verified at least annually.

#### **15.0 VOUCHER BRIEFINGS AND ISSUANCE**

## 15.1 Introduction

A Section 8 Program voucher presents a contractual agreement between COBHA and the family specifying the rights and responsibilities of each party. It does not constitute admission to the program. Admission occurs when the family's lease and contract become effective.

Prior to COBHA issuing a voucher for an applicant from the Section 8 Wait List, COBHA will conduct mandatory group briefings to ensure that families understand the program and its requirements.

The briefing provides a broad description of owner and family responsibilities, COBHA's policies and procedures, and how to lease a unit.

## 15.2 Briefing

After a family is determined to be eligible for the Section 8 Housing Choice Voucher Program, it is required to attend a briefing in order to receive a voucher. Briefings will be conducted in English and in a group setting.

Families who are not fluent in English are requested to provide their own translators. If they are unable to do so, and so advise COBHA 48 hours prior to the briefing session, COBHA will provide translation service if possible.

Families who because of a disability are unable to attend a briefing or are unable to fully understand the information as presented in the briefing format utilized by COBHA, may request a reasonable accommodation such as having the briefing presented at an alternate location or individually.

The Briefing will cover, at least, the following subjects:

- A description of how the program works
- Family, owner and COBHA responsibilities
- Obligations of family according to the voucher
- Where the family may rent a unit, both inside and outside COBHA's jurisdiction
- Resource listing of internet sites offering rental information
- An explanation of how portability works
- An explanation of the advantages of living in an area that does not have a high concentration of poor families
- An explanation of Payment standards and utility allowances
- Description and explanation of the Request for Tenancy Approval
- An explanation that the family's share of rent may not exceed 40% of the family's monthly adjusted income.
- An explanation of how the family's share of rent is determined.
- Reporting requirements
- Description of HQS
- Annual reexamination process
- The COBHA policy for granting voucher extensions and reasonable accommodations for individuals with disabilities.

Families receiving Project Based Assistance will be required to attend a briefing. This briefing will cover, at least, the following subjects:

- An explanation of the key differences between tenant and project based assistance
- The family's status on the COBHA Wait List, if applicable
- Family, owner and COBHA responsibilities
- Possible dual certifications of eligibility after the initial lease term
- Conversion to the Tenant Based Voucher Program, if applicable

Families receiving assistance through the Moderate Rehabilitation Program will not be required to attend a briefing, but as a part of the final eligibility determination process, will be advised of:

- Family, owner and COBHA responsibilities
- Non-transferability of assistance
- Annual recertification process

### **15.3 Briefing Packet**

Each family will be provided with a briefing packet that complies with all HUD requirements. The briefing packet will, at minimum, contain the following information and materials:

- The term of the voucher, and COBHA's policy regarding extensions, tolling and suspensions of the term;
- How COBHA determines the amount of the housing assistance payment for a family, including how COBHA determines the payment standard and total tenant payment for the family.
- How COBHA determines the maximum allowable rent for a unit
- Where the family may lease a unit, including an explanation of how portability works
- The HUD-required "tenancy addendum" that must be included in the lease;
- The form that the family uses to request COBHA approval of the assisted tenancy and an explanation of how to request such approval
- COBHA's policy on providing information about families to prospective owners
- COBHA's subsidy standards, including when COBHA will consider granting exceptions
- The HUD brochure on how to select a unit
- The HUD-required lead-based paint brochure
- Information on federal, State and local equal opportunity laws and a copy of the housing discrimination complaint form
- A copy of the "Available Unit" listing or equivalent document providing information about available units (including those with modifications for persons with a disability)
- Resource listing of internet sites offering rental information
- Family obligations under the program
- The grounds on which COBHA may terminate assistance because of a family action or failure to act; and

- A description of when COBHA will offer an Informal Review, an Informal Hearing, or an Allegation meeting.

## 15.4 Voucher Issuance and Processing

### 15.4.1 VOUCHER ISSUANCE

A family will be issued a voucher at the completion of the briefing session. No family will be issued a voucher unless the head of household or spouse (or partner) attends the briefing and signs the voucher. As a potential reasonable accommodation, the person who holds Power of Attorney for the Head of household or Spouse may be able to satisfy this requirement. In either case, the Head of Household is ultimately responsible for the entire family meeting all Family Obligations.

### 15.4.2 VOUCHER TERM

The initial term of the voucher will be 60-calendar days. The issue and expiration dates will be stated on the voucher.

- If the head of household or spouse (or partner) is elderly or disabled, the initial term of the voucher will be 120-calendar days. The issue and expiration dates will be stated on the voucher.
- The family must find a unit it wishes to live in and submit a completed Request for Tenancy Approval (RfTA) within the term of the voucher.
- If the family submits a RfTA during the term of the voucher, COBHA will freeze the number of remaining search days to allow for processing.
- If the family does not submit a RfTA during the term of the voucher, the voucher will expire and the family must reapply the next time applications are accepted.
- Section 8 Project-Based Assistance: although no tangible voucher is issued, any applicant deemed qualified, will have 120-calendar days to submit the completed Request for Tenancy Approval for the subject property.
- The family is responsible for monitoring the expiration date of the Voucher. The COBHA will not provide advance notice of an impending expiration.

### 15.4.3 EXTENSIONS

The term of a Voucher may be extended in 60-day increments in the following instances:

- If the family includes a person with disabilities, and the family can demonstrate that an extension is needed as a reasonable accommodation. The written request must be received 3-10 days prior to the expiration date of the voucher; or
- If the family can provide conclusive proof on or before the expiration date on the voucher that an emergency (such as an accident or hospitalization or death in the immediate family) hindered its search. The written request must be received as soon as it reasonably possible, given the unanticipated circumstance(s).
- If the family demonstrates that it has applied for available rental housing and has been turned down by the owner.

**Note:** As a condition of an extension, the COBHA may require the family to identify the person(s), agency(ies) or entity(ies) that will assist in the housing search. COBHA may

also refer the family to the City of Berkeley and/or social service agencies that provide housing assistance.

#### 15.4.4 UTILIZATION OF VOUCHER

The family must find a unit it wishes to live in and submit a completed Request for Tenancy Approval (RfTA) form within the voucher term. Only one RfTA may be submitted at a time.

The family may select a unit with the exact, more or fewer bedrooms than listed on the voucher. However, the COBHA cannot execute a contract if the unit will be overcrowded. Families are cautioned that if they select a unit with more bedrooms than listed on the voucher the unit may not be affordable.

#### 15.4.5 TOLLING TIME

Upon submission of a completed RfTA form, the COBHA will toll (freeze) the search time remaining on the voucher to allow time for processing the request. The freeze will remain in effect until the date the COBHA notifies the family in writing that the request has been denied. The written notice will also advise the family of the number of search days remaining and the new expiration date for the voucher.

### **16.0 PORTABILITY**

Portability is the family's right to use their Section 8 Voucher to lease a unit in any jurisdiction provided there is an entity operating a tenant-based Section 8 Housing Choice Voucher Program.

#### **16.1 OUTGOING PORTABILITY**

Within the limitations of the regulations and this policy, a participant family has the right to receive tenant-based voucher assistance to lease a unit outside the COBHA's jurisdiction, anywhere in the United States, in the jurisdiction of a PHA with a tenant-based program. When a family requests to move outside of the COBHA's jurisdiction, the request must specify the area to which the family wants to move. If there is more than one PHA in the area in which the family has selected a unit, the COBHA will choose the receiving PHA.

A family coming from the COBHA Wait List, and receiving a voucher, may exercise portability provided the family had legal residence in the COBHA jurisdiction at the time of application.

A family coming from the COBHA Wait List, and receiving a voucher, that did not have legal residence in the COBHA jurisdiction at the time of application, must lease a unit within the COBHA jurisdiction for the initial 12 months of assistance. Thereafter, the family qualifies to exercise portability.

For income targeting purposes, the family will count towards the initial Housing Authority's goals unless the receiving Housing Authority absorbs the family.



Outgoing portable families are subject to the administrative policies of the receiving Housing Authority, including determination of bedroom size, extensions and reasonable accommodations.

## **16.2 Incoming Portability**

The COBHA will accept a family with a valid voucher from another jurisdiction and administer or absorb the voucher. If administering, the family will be issued a "portable" voucher by the COBHA. The issue date will be the actual date the COBHA issues the voucher to the family; the expiration date will be as stated on the voucher issued by the initial PHA.

The COBHA will issue a "portability voucher" according to its own Subsidy Standards. If the family has a change in family composition which would change the voucher size, the COBHA will change to the proper size based on its own Subsidy Standards.

If the client is requesting a modification to policies based upon the needs of a disabled household member, the client must follow the COBHA procedure for obtaining approval; the COBHA will not accept the certification performed by the initial PHA.

The family must submit a RFTA for an eligible unit to the receiving PHA during the term of the receiving PHA voucher. The COBHA may grant extensions in accordance with this Administrative Plan. However, if the family decides not to lease-up in the COBHA's jurisdiction, they must contact the initial PHA to request an extension.

For admission to the program a family must be income eligible in the area where the family initially leases a unit with assistance under the program.

The COBHA will decide to absorb or manage incoming vouchers based upon an evaluation of the current lease-up rate; the administrative burden of managing the assistance; and the volume of clients coming from the jurisdiction.

The COBHA will review each incoming case and determine to:

- Move forward with assistance based on the information reported on the 50058 from the initial PHA without third party verification; or
- Perform a full eligibility review (including obtaining 3rd party verification) if there are significant differences in household composition or income (i.e. a client porting in from out of State);
- Make a decision to retain the existing "next annual recertification date" or reset the anniversary to one-year from the effective date of the new lease.
- Household composition and income is the same and thus does not redetermine eligibility for a portable family that was already receiving assistance in the initial PHA Section 8 tenant-based program.

Where an incoming portable family is on the COBHA Section 8 Wait List, the family will be withdrawn from the wait list if COBHA absorbs the family. If the COBHA administers

the voucher, the family will remain on the wait list until the family reaches the top of the wait list. At that time, the COBHA will absorb the family and withdraw the family's name from the wait list.

## **17.0 TENANCY APPROVAL AND REQUIREMENTS**

Upon submission of a COBHA Request for Tenancy Approval (RfTA) the COBHA will proceed with the determination of lease approval.

### **17.1 Request for Tenancy Approval**

The COBHA will only issue one-RfTA to a client at a time. If a RfTA is submitted, and later denied, the COBHA will issue a new RfTA after notice that the original RfTA is denied.

In cases where a faxed or photocopied COBHA RfTA is received, COBHA will proceed with the inspection but the original COBHA RfTA must be submitted before execution of a HAP contract.

### **17.2 Rental Lease**

Owners will be required to provide their own, HUD compliant rental lease. HUD no longer provides a "model lease" and the COBHA has ceased to offer a substitute. The initial term of the lease must be 12 months. A shorter initial term may be approved if it is the regular business practice of the owner and it complies with California law. Subsequent renewal terms shall be month-to-month.

The COBHA will approve a lease if all of the following conditions are met:

- The unit is eligible;
- The unit is inspected by COBHA and passes the HQS inspection;
- The lease can be approved and includes the HUD required lease addendum;
- The rent to owner is reasonable;
- The family's share of rent does not exceed 40% of its monthly adjusted income;
- The owner has not been found to be debarred, suspended, or subject to a limited denial of participation by HUD or COBHA;
- The family continues to meet all eligibility and screening criteria; and
- There are no conflicts of interest and the owner can be approved.

If the tenancy approval is denied, COBHA will advise the owner and the family in writing and advise them also of any actions they could take that would enable COBHA to approve the tenancy. Said notice will also advise the family of the number of search days remaining on its voucher.

### **17.3 Housing Assistance Payment Contract**

COBHA will prepare the HAP contract when the unit is approved for tenancy. Generally, the landlord, simultaneous with the signing of the lease and the HUD required tenancy addendum, will execute the contract.

COBHA will not pay any housing assistance to the owner until the contract is executed.

In no case will the contract be executed later than 60 days after the beginning of the lease term. Any contract executed after the 60-day period will be void and the COBHA will not pay housing assistance to the owner.

#### **17.4 Eligible Types of Housing**

COBHA will approve HAP contracts for single family dwellings, apartments (including condominiums), manufactured housing and manufactured home space rentals.

#### **17.5 Ineligible Types of Housing**

The following types of housing cannot be assisted through the Section 8 Housing Choice Voucher Program:

- A public housing or Indian housing unit
- A unit receiving project-based assistance under a Section 8 Housing Choice Voucher Program
- Nursing homes, board and care homes, or facilities providing continual psychiatric, medical or nursing services;
- College or other school dormitories
- Units on grounds of penal, reformatory, medical, mental, and similar public or private institutions
- A unit occupied by its owner or by a person with any interest in the dwelling unit. This restriction does not apply to cooperatives or to assistance on behalf of a manufactured home owner leasing a manufactured home space; and
- A unit receiving any duplicative Federal, State or local housing subsidy. Housing subsidy does not include the housing component of a welfare payment, a social security payment received by the family or a rent reduction because of a tax credit.

#### **17.6 Exceptions**

COBHA will not approve a lease for any of the following special housing types, except as a potential reasonable accommodation for a family with disabilities: congregate housing, group homes, shared housing, cooperative housing, single room occupancy housing or independent group residences.

#### **17.7 Disapproval of Owner**

COBHA will disapprove an owner if:

- The owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24;
- The federal government has instituted an administrative or judicial action against the owner for violation of Fair Housing Act or other federal equal opportunity requirements and such action is pending a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements; or
- The owner has violated obligations under a housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- Has committed fraud, bribery, or any other corrupt act in connection with any federal program;

- Has engaged in any drug-related criminal activity or any violent criminal activity;
- Has a history or practice of:
  - Renting units that fail to meet state or local housing codes; or
  - Failing to terminate tenancy of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or other person under the control of any member of the household that threatens the right to peaceful enjoyment of the premises by other residents;
  - Threatens the health or safety of other residents, of employees of COBHA or of owner employees or other persons engaged in management of the housing;
  - Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or
  - Is drug-related criminal activity or violent criminal activity;
  - Has not paid State or local real estate taxes, fines or assessments; or
  - Is the parent, child, grandparent, grandchild, sister or brother of any member of the family; unless COBHA determines that approving the unit would provide a reasonable accommodation for a family member who is a person with disabilities.

### **17.8 Security Deposit**

The owner may collect a security deposit from the tenant in accord with State and local law and in an amount not in excess of amounts charged in private market practice and not in excess of amounts charged by the owner to unassisted tenants.

New admission voucher holders (including families porting into the jurisdiction) may qualify for assistance via the Security Deposit Loan Fund.

- The maximum loan amount is a 50% match of the deposit paid by the family
- The loan must be repaid prior to the first/next annual recertification (maximum 12 months)
- The minimum amount must be paid each month
- The family may not port out of the jurisdiction unless the loan is paid in full.

Failure to make any of the required payments may result in termination of the Section 8 assistance.

Annually in December, in compliance with the City of Berkeley Rent Stabilization Ordinance, the owner must pay the tenant the interest on the security deposit. Payment may be in the form of cash payment or a rebate towards rent.

The owner must refund the tenant the greater of the actual interest earned on the deposit or \_\_\_\_% of the deposit.

When the tenant moves out of the dwelling unit, the owner, subject to State or local law, may use the security deposit, including any interest on the deposit, in accordance with

the lease, as reimbursement for any unpaid rent payable by the tenant, damages to the unit or for other amounts the tenant owes under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount, if any, used to reimburse the owner, the owner must refund promptly the full amount of the unused balance to the tenant.

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

### **17.9 Change of Ownership**

COBHA requires a written request from the new owner to assume the contract and redirect the housing assistance payments. The following documents must accompany the written request:

- A deed of trust, escrow closing statement or any other proof showing the transfer of title for the property; and
- The new owner's Tax Identification Number or Social Security Number as certified on an IRS form W-9.

COBHA may withhold the housing assistance payments due until the above information is received.

If the COBHA is advised that a property is in foreclosure or probate, or title is otherwise unclear, provided the unit remains in compliance with Housing Quality Standards (HQS) and an eligible family remains in tenancy, the Housing Assistance Payments will be held for distribution when ownership is resolved.

### **17.10 Required Reporting of Changes In Lease or Rent**

If the participant and owner agree to any change(s) in the lease, such change(s) must be in writing, and the owner must immediately give COBHA a copy of the change(s). The lease, including any changes, must be in accordance with both this Administrative Plan and HUD regulations.

The owner must submit and receive approval of a new Request for Tenancy Approval (RfTA) if the participant moves to another unit, even if the unit is in the same building or complex.

The owner must notify the participant in writing of any proposed change in responsibility for utilities or appliances. Said notice must be submitted to the COBHA for approval and appropriate modifications to the family paid rent portion and the housing assistance payments.

The owner must notify the participant in writing of any proposed change in the term of the lease. Said notice must be submitted to the COBHA for approval.

Owners must notify COBHA of any changes in the amount of rent at least 60 days before the change is proposed to go into effect. Any such change(s) are subject to COBHA's approval based on its determination that they are reasonable.

Housing assistance payments will not be continued unless COBHA has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner.

COBHA's approval is not required for changes in the lease other than those specified above.

### **17.10 Termination Of The Housing Assistance Payment (HAP) Contract**

The HAP contract terminates automatically 180 calendar days after the last housing assistance payment to the owner.

If COBHA terminates a HAP contract due to termination of the lease and/or the family's eligibility for continued assistance, the COBHA will provide the owner 30-day advance written notice. Said notice will advise the last day of eligibility for rental assistance. COBHA may terminate the HAP contract if COBHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

When funding under its consolidated ACC is insufficient, COBHA will take the following steps in the order listed below:

- Begin billing for all incoming portable contracts;
- Recall any pending "looking" vouchers;
- Terminate managed contracts where the initial PHA is more than 60 days delinquent in reimbursement of HAP and/or payment of Administrative Fee;
- With the initial Housing Authority's concurrence, COBHA will bill the most recently absorbed portable families, within the current fiscal year, until funding is determined to be sufficient to support continued assistance for families in the program.
- Notify existing landlords of an across the Board % reduction in contract rents;
- Consider termination of active contracts:
  - For families with the lowest monthly HAP;
  - For clients most recently admitted to the program;
  - For families that can be housed in a vacant COBHA Public Housing unit (stat)
- Families whose assistance is transferred to non-Section 8 funding will be required to continue to comply with all Section 8 Housing Choice Voucher Program family obligations.
- Families subsidized through non-Section 8 funding will not be counted in COBHA's authorized Section 8 allocation or in reported budget authority.

### **17.11 Redirecting Housing Assistance**

In determining which families to assist in order to avoid termination of HAP contracts, COBHA will consider the current HAP amount paid in order to maximize the utilization of the non-Section 8 financial resources.

Those families whose HAP contract COBHA has terminated due to insufficient funding will be returned to COBHA's Section 8 wait list and offered the next available voucher in the order they were returned to the wait list.

To the extent that Section 8 ACC funding becomes available, families transferred by COBHA to non-Section 8 funding will be reinstated in the Section 8 Housing Choice Voucher Program.

## **18.0 INSPECTION POLICIES, HOUSING QUALITY STANDARDS**

### **INTRODUCTION**

COBHA conducts a variety of inspections to ensure that units subsidized under the program are kept decent, safe and sanitary and that they meet HUD's Housing Quality Standards (HQS).

### **18.1 Inspection Types**

**Initial Inspections.** Each unit must pass an initial HQS inspection prior to being placed under a Section 8 contract. The initial inspection will be scheduled upon receipt of a properly executed Request for Tenancy Approval.

**Annual Inspections.** Each Section 8 unit must be inspected annually to ensure that the unit continues to comply with HQS.

**Special Inspections.** Inspections conducted in response to a valid complaint about the unit. The complaint may be made by anyone. COBHA will assess the validity of the complaint before conducting the inspection.

**Mandated Inspection.** Inspections initiated at the behest of a third party such as HUD. Emergency Inspections. Inspections conducted in response to a perceived emergency. These take precedence over all other inspections.

**Move-Out Inspections.** A move out inspection will be performed only at the landlord's request if claim is to be submitted for contracts effective before 10/2/95.

These are required for units that went under contract prior to January 1, 1996. These inspections document the condition of the unit at the time of the move-out.

The COBHA may, on a case-by-case basis, as a courtesy to the owner and/or family, perform a move-out inspection.

**Quality Control Inspections.** Supervisory inspections on a sample size based HUD prescribed sampling requirements of the total number of units that were under lease during COBHA's previous year.

## 18.2 Scheduling HQS Inspections

COBHA is required to inspect a dwelling unit before a contract is entered into and at least annually thereafter.

Both the owner and participant must allow COBHA (or its representative) to inspect the dwelling unit during normal business hours if given reasonable notice. COBHA's goal is to provide minimum 10 calendar day advance notice.

Setting Appointments:

- Appointments for units not occupied by assisted families (i.e. new contracts) will be scheduled with the owner or his/her representative. The prospective tenant may, but is not required to be present.
- Appointments for units occupied by assisted families will be scheduled with the family, with a copy of the notice provided to the landlord. If the head of household cannot be present for the scheduled inspection, it is his/her responsibility to:
  - Make arrangements for another adult to be present; or
  - Reschedule the appointment
  - COBHA will not enter the unit unless an adult, 18 years or older, is present.
  - A family that does not make these arrangements or misses two scheduled inspections will have its assistance terminated.

## 18.3 Housing Quality Standards

This section states performance and acceptability criteria for these key aspects of the following housing quality standards:

### SANITARY FACILITIES

#### Performance Requirements

The dwelling unit must include sanitary facilities located in the unit. The sanitary facilities must be in proper operation condition and adequate for personal cleanliness and the disposal of human waste. The sanitary facilities must be usable in privacy.

#### Acceptability Criteria

The bathroom must be located in a separate private room and have a flush toilet in proper operating condition.

- The dwelling unit must have a fixed basin in proper operating condition, with a sink trap and hot and cold running water.
- The dwelling unit must have a shower or a tub in proper operating condition with hot and cold running water.
- The facilities must utilize an approved public or private disposal system (including a locally approvable septic system).

### FOOD PREPARATION AND REFUSE DISPOSAL

#### Performance Requirements



- The dwelling unit must have suitable space and equipment to store, prepare, and serve foods in a sanitary manner.
- There must be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g. garbage cans).

#### Acceptability Criteria

- The dwelling unit must have an oven, a stove or range, and a refrigerator of appropriate size for the family. All of the equipment must be in proper working condition. Either the owner or the family may supply the equipment. A microwave oven may be substituted for a tenant-supplied oven and stove or range. A microwave oven may be substituted for an owner-supplied oven and stove or range if the tenant agrees and microwave ovens are furnished instead of an oven and stove or range to both subsidized and unsubsidized tenants in the building or premises.
- The dwelling unit must have a kitchen sink in proper operating condition, with a sink trap and hot and cold running water. The sink must drain into an approvable public or private system
- The dwelling unit must have space for storage, preparation, and serving of food.
- There must be facilities and services for the sanitary disposal of food waste and refuse, including temporary storage facilities where necessary (e.g. garbage cans).

### SPACE AND SECURITY

#### Performance Requirement

The dwelling unit must provide adequate space and security for the family.

#### Acceptability Criteria

- At a minimum, the dwelling unit must have a living room, a kitchen area, and a bathroom.
- The dwelling unit must have at least one bedroom or living/sleeping room for each two persons. The minimum size requirement for a living/sleeping space is 70 sq. feet.
- Dwelling unit windows that are accessible from the outside, such as basement, first floor, and fire escape windows, must be lockable (such as window units with sash pins or sash locks, and combination windows with latches). Windows that are nailed shut are acceptable only if these windows are not needed for ventilation or as an alternate exit in case of fire.
- The exterior doors of the dwelling unit must be lockable. Exterior doors are doors by which someone can enter or exit the dwelling unit.

### THERMAL ENVIRONMENT

#### Performance Requirement

The dwelling unit must have and be capable of maintaining a thermal environment healthy for the human body.

#### Acceptability Criteria

- There must be a safe system in proper operating condition for heating the dwelling unit (and, where present, a safe cooling system).
- The system must be able to provide adequate heat (and if applicable, cooling ) either directly or indirectly, to each room, in order to assure a healthy living environment appropriate for the climate.
- The dwelling unit must not contain unvented room heaters that burn gas oil, or kerosene. Electric heaters are acceptable.

#### ILLUMINATION AND ELECTRICITY

##### Performance Requirement

- Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants.
- The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances.
- The electrical fixtures and wiring must ensure safety from fire.

#### Acceptability Criteria

- There must be at least one openable window in the living room and in each sleeping room.
- The kitchen area and the bathroom must have a permanent ceiling or wall fixture in proper operating condition
- The kitchen area must have at least one electrical outlet in proper operating condition
- The living room and each bedroom must have at least two electrical outlets in proper operating condition. Permanent overhead or wall-mounted light fixtures may count as one of the required outlets.

#### STRUCTURAL AND MATERIALS

##### Performance Criteria

The dwelling unit must be structurally sound. The structure must not present any threat to the health and safety of the occupants and must protect the occupants from the environment.

#### Acceptability Criteria

- Ceilings, walls and floors must not have any serious defects such as severe buckling, bulging or leaning, large holes, loose surface materials, missing parts, or other serious damage.
- The roof must be structurally sound and weather tight.
- The exterior wall structure and surface must not have any serious defects such as serious leaning, buckling, sagging, large holes, or defects that may result in air infiltration or vermin infestation.
- The condition and equipment of interior and exterior stairs, halls, porches, walkways, etc, must not present a danger of tripping or falling. For example, broken or missing steps or loose boards are unacceptable.
- Elevators must be working and safe

## INTERIOR AIR QUALITY

### Performance Requirement

The dwelling unit must be free of pollutants in the air at levels that threaten the health of the occupants

### Acceptability Criteria

- The dwelling unit must be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust and other harmful pollutants.
- There must be adequate air circulation in the dwelling unit.
- Bathroom areas must have one window that can be opened or other adequate exhaust ventilation.
- Any room used for sleeping must have at least one window. If the window is designed to be opened, the window must work.

## WATER SUPPLY

### Performance Requirement

The water supply must be free from contamination

### Acceptability Criteria

The dwelling must be served by an approval public or private water supply that is sanitary and free from contamination

## LEAD BASED PAINT

### Performance Criteria (Definitions)

- Chewable Surface: Protruding painted surfaces up to 5 feet from the floor or ground that are readily accessible to children under six years of age; for example, protruding corners, window sills and frames, doors and frames, and other protruding woodwork.
- Component: An element of a residential structure identified by type and location, such as a bedroom wall, an exterior window sill, a baseboard in a living room, a kitchen floor, an interior window sill in a bathroom, a porch floor, stair treads in a common stairwell, or an exterior wall.
- Defective Paint Surface: A surface on which the paint is cracking, scaling, chipping or peeling or loose.
- Elevated Blood Level (EBL): Excessive absorption of lead. Excessive absorption is a confirmed concentration of lead in whole blood of 20 ug/dl (micrograms of lead per deciliter) for a single test or of 15-19 ug/dl in two consecutive tests 3-4 months apart.
- HEPA: A high efficiency particle accumulator as used in lead abatement vacuum cleaners.
- Lead-based Paint: A paint surface, whether or not defective, identifying as having a lead content greater than or equal to 1 milligram per centimeter squared (mg/cm<sup>2</sup>), or 0.5% by weight or 5000 parts per million (PPM).
- Authority, Purpose and Applicable Units

- The purpose of this section is to implement Section 302 of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4822, by establishing procedures to eliminate as far as practicable the hazards of lead-based paint poisoning for units assisted under this part.
- This section is issued under 24 CFR 35.24(b)(4) and supercedes, for all housing to which it applies, the requirements of subpart C of 24 CFR part 35.
- The requirements of this Section do not apply to
  - 0-bedroom units
  - Units that are certified by a qualified inspector to be free of lead-based paint; or
  - Units designated exclusively for the elderly.
  - The requirements of subpart A of 24 CFR part 35 apply to all units constructed prior to 1978 covered by a HAP contract under part 982.

#### Performance Requirements

- A qualified lead-based paint inspector is a State or local health or housing agency, certified or regulated by a State or local health or housing agency; or
- An organization recognized by HUD.
- Treatment of defective paint surfaces must be complete within 30 calendar days of COBHA's notification to the owner
- When weather conditions prevent treatment of defective paint conditions on exterior surfaces within the 30-day period, treatment as required below (\_\_\_\_\_) may be delayed for a reasonable time.
- Except as set forth in this section, the requirements apply to
- All painted interior surfaces within the unit (including ceilings but excluding furniture);
- The entrance and hallway providing access to a unit in a multi-unit building; and
- Exterior surfaces up to 5 feet from the floor or ground that are readily accessible to children under six years of age (including walls, stairs, decks, porches, railings, windows and doors, but excluding outbuildings such as garages and sheds).
- If a dwelling unit constructed before 1978 is occupied by a family that includes a child under the age of six years:
  - The initial and each periodic inspection (as required under this part) must include a visual inspection for defective paint surfaces.
  - If defective paint surfaces are found, such surfaces must be treated in accordance with Section \_\_\_\_\_ below
    - COBHA may exempt from such treatment defective paint surfaces that are found in a report by a qualified lead-based paint inspector as set forth in \_\_\_\_\_ not to be lead-based paint, as defined in Section \_\_\_\_\_ above.
    - In addition to the requirements of Section \_\_\_\_\_ above, the initial and each periodic inspection as required by this Section \_\_\_\_\_ for a

dwelling unit constructed before 1978 that is occupied by a family with a child under six years of age with an identified EBL condition:

- Must include a test by a qualified lead-based paint inspector as set forth in \_\_\_\_\_
  - For lead-based paint on protruding painted surfaces up to 5 feet from the floor or ground that are
    - a. readily accessible to children under six years of age and either:
      - In the unit
      - In the entrance and hallway providing access to a unit in a multi-unit building; or
      - On exterior surfaces (including walls, stairs, decks, porches, railings, windows and doors, but excluding outbuildings such as garages and sheds)
      - Testing is not required if previous testing of chewable surfaces is negative for lead-based paint or if the chewable surfaces have already been treated.
      - Lead content must be tested by using an X-ray fluorescence analyzer (XRF) or by laboratory analysis of paint samples.
- Where lead-based paint on chewable surfaces is identified, treatment of the paint surface in accordance with Section \_\_\_\_\_ is required, and treatment shall be completed within the time limits in Section \_\_\_\_\_ and Section \_\_\_\_\_
  - In lieu of the procedures set forth in Section \_\_\_\_\_ COBHA may, at its discretion, waive the testing requirement and require the owner to treat all interior and exterior chewable surfaces in accordance with the methods set out in Section \_\_\_\_\_.
  - Treatment of defective paint surfaces and chewable surfaces must consist of covering or removal of the paint in accordance with the following requirements:
    - A defective paint surface shall be treated if the total area of defective paint on a component is
      - More than 10 square feet on an exterior wall;
      - More than 2 square feet on an interior or exterior component with a large surface area, excluding exterior walls and including, but not limited to, ceilings, floors, doors, and interior walls;
      - More than 10% of the total surface area on an interior or exterior component with a small surface area, but not limited to windowsills, baseboards and trim.
  - Acceptable methods of treatment are removal by:
    - Wet scraping
    - Wet sanding
    - Chemical stripping on or off site
    - Replacing painted components
    - Scraping with infra-red or coil type heat gun with temperatures below 1100 degrees;
    - HEPA vacuum sanding
    - HEPA vacuum needle gun
    - Contained hydro blasting or high pressure wash with HEPA vacuum

- Abrasive sandblasting with HEPA vacuum
- Surfaces must be covered with durable materials with joint edges sealed and caulked as needed to prevent the escape of lead contaminated dust
- Prohibited methods of removal are
  - Open flame burning or torching
  - Machine sanding or grinding without a HEPA exhaust
  - Uncontained hydro blasting or high pressure wash
  - Dry scraping except around electrical outlets or except when treating defective paint spots no more than two square feet in any one interior room or space (hallway, pantry, etc.) or totaling no more than twenty square feet on exterior surfaces.
  - During exterior treatment soil and playground equipment must be protected
- All treatment procedures must be concluded with a thorough cleaning of all surfaces in the room or area of treatment to remove fine dust particles
- Cleanup must be accomplished by wet washing surfaces with lead solubilizing detergent such as trisodium phosphate or an equivalent solution.
- Waste and debris must be disposed of in accordance with all applicable Federal, State and local laws.
- The owner must take appropriate action to protect residents and their belongings from hazards associated with treatment procedures
- Residents must not enter spaces undergoing treatment until cleanup is completed
- Personal belongings that are in work areas must be relocated or otherwise protected from contamination
- Prior to execution of the HAP contract, the owner must inform COBHA and the family of any knowledge of the presence of lead-based paint on the surfaces of the residential unit.

COBHA must attempt to obtain annually from local health agencies the names and addresses of children with identified EBLs and must annually match this information with the names and addresses of participants under this part.

If a match occurs, COBHA must determine whether local health officials have tested the unit for lead-based paint

If the unit has lead-based paint, COBHA must require the owner to treat the lead-based paint.

If the owner does not complete the corrective actions required by this section, the family must be issued a voucher to move.

COBHA must keep a copy of each inspection report for at least three years. If a dwelling unit requires testing, or if the dwelling unit requires treatment of chewable surfaces based on the testing, COBHA must keep the test results indefinitely, and if applicable, the owner certification and treatment.

The records must indicate which chewable surfaces in the dwelling unit have been tested and which were tested and treated in accordance with the standards prescribed in this section

Such chewable surfaces do not have to be tested or treated at any subsequent time

## ACCESS

- The dwelling unit must be able to be used and maintained without unauthorized use of other private properties
- The building must provide an alternate means of exit in case of fire (such as fire stairs or egress through windows).
- The building must provide an alternate means of exit in case of fire (such as fire stairs or egress through windows)

## SITE AND NEIGHBORHOOD

### Performance Requirements

The site and neighborhood must be reasonably free from disturbing noises and reverberations and other dangers to the health, safety, and general welfare of the occupants.

### Acceptability Criteria

The site and neighborhood may not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks or steps; instability; flooding, poor drainage, septic tanks back-ups or sewage hazards; mudslides; abnormal air pollution, smoke or dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; vermin or rodent infestation; or fire hazards.

## SANITARY CONDITION

### Performance Requirements

The dwelling unit and its equipment must be in sanitary condition

### Acceptability Criteria

The dwelling unit and its equipment must be free of vermin and rodent infestation.

## SMOKE DETECTORS

### Performance Requirements

- Except as provided below, each dwelling unit must have at least one battery-operated or hard-wired smoke detector, in proper operating condition, on each level of the dwelling unit, including basements but excepting crawl spaces and unfinished attics.
- Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Prevention Association Standard (NFPA) 74 (or its successor standards)
- If the dwelling unit is occupied by any hearing-impaired person, smoke detectors must have an alarm system, designed for hearing-impaired persons as specified in NFPA 74 (or successor standards).

- For units assisted prior to April 24, 1993, owners who installed battery-operator or hard-wired smoke detectors prior to April 23, 1993, in compliance with HUD's smoke detector requirements, including the regulations published on July 30, 1992 (57 FR 33846), will not be required to subsequently to comply with any additional requirements mandated by NFPA 74 (i.e. the owner would not be required to install a smoke detector in a basement not used for living purposes, nor would the owner be required to change the location of the smoke detectors that have already been installed on the other floors of the unit).

#### **18.4 Emergency Fail Items**

The following items are examples of emergency items that need to be corrected and verified within 24 hours:

- No hot or cold water
- No electricity
- Inability to maintain adequate heat
- Major plumbing leak
- Natural gas leak
- Broken lock(s) on first floor doors or windows
- Broken windows that unduly allow weather elements into the unit
- Electrical outlet smoking or sparking
- Exposed electrical wires which could result in shock or fire
- Unusable toilet when only one toilet is present in the unit
- Security risks such as broken doors or windows that would allow intrusion
- Other conditions which pose an immediate threat to health or safety

**Note:** If the item is identified on a Friday or the last work day before a holiday, the repair must be completed by the next work day.

#### **18.5 Repair Grace Period**

The COBHA will notify the owner and family in writing of any deficiencies that must be repaired and/or corrected to bring the property into compliance with HQS. The notice will advise the date the unit will be reinspected – generally in 30-days. If all the required repairs are corrected and confirmed at the reinspection, there is no impact on the rental subsidy.

#### **18.6 Abatement Period**

When a unit fails to meet HQS and the owner has been given an opportunity to correct the deficiencies, but has failed to do so within the required timeframe the owner will face abatement (forfeiture) of the rental subsidy payments.

COBHA will abate (stop) rental payments for the dwelling unit effective the earlier of the date the unit was scheduled for or actually re-inspected.

When deficiencies are corrected COBHA will end the abatement, effective the date the unit passes inspection, and resume making rental subsidy payments.



Rental subsidies abated for HQS non-compliance are forfeited and the owner is not eligible to receive payment after repairs are completed. If the corrections of deficiencies are not made, the abatement will continue until the HAP contract is terminated.

For tenant caused HQS deficiencies, the owner will not be held accountable and the rent will not be abated. Tenants are held to the same standard and timeframes for correction of deficiencies as owners.

If repairs are not completed by the deadline, COBHA will send a notice of termination to both the tenant and the owner. The tenant will be given the opportunity to request an Informal Hearing.

## **19.0 OCCUPANCY BY FAMILY**

### **19.1 Absence From Unit**

A family is considered absent when no member of the family is residing in its assisted unit. COBHA may use utility bills, statements from neighbors and landlords, visits to the unit, postal records, letters and any other appropriate methods to determine whether the family is absent.

Except as set forth in Section \_\_\_\_\_ below, a family must notify COBHA in writing, as soon as it is reasonably practical, of the absence from the unit (for example, because of travel, hospitalization, jail-time, etc.) of the entire family, or one or more family member(s), including a child or children placed in a foster home or otherwise removed from the home by governmental action, as follows:

- Before the absence begins if the family knows or believes that the absence will be for more than a total of 30 days (irrespective of whether the days are consecutive or not) per consecutive 12 month period; or
- Upon the occurrence if, as a result of a change in circumstances, an anticipated absence from the unit of a total of 30 or fewer days per consecutive 12 month period becomes an absence of more than 30 days.

COBHA will determine, on a case by case basis, whether timely/adequate notice was given.

Except as set forth in Section \_\_\_\_\_ below, COBHA will terminate the housing assistance of a family that is, or a voucher holder who is, absent from the assisted unit for 30 or more days per year without good cause, as determined by COBHA in its sole discretion.

COBHA may continue housing assistance payments of a family that is, or a voucher holder who is, absent from the assisted unit for up to 180 days if the family or voucher holder provides timely notice, as set forth above in Section 19.1.2, that it will be absent from the unit for a verifiable good cause (for example, long-term hospitalization) as determined by COBHA in its sole discretion.

When COBHA terminates the housing assistance of a family or voucher holder the family or voucher holder will ordinarily be terminated from the Section 8 Housing Choice Voucher Program.

In rare circumstances where COBHA terminates the housing assistance of a family that can provide a reasonable target date for its return, COBHA may allow the family to remain in the program even if its housing assistance payment has ceased (for example, a person participating in a residential drug or alcohol recovery program). The family will be issued a new voucher, which will then be suspended for the appropriate period of time.

The allocation of assistance to remaining family members when COBHA terminates the assistance of a voucher holder as set forth in Sections \_\_\_\_\_ and \_\_\_\_\_ above is as set forth in Section (get number from Change in Family Circumstances).

In cases where some members of the family will be absent for more than 30 days per consecutive 12-month period while others remain in the unit, COBHA may, at its sole discretion, re-certify the remaining members. This may result in a smaller unit bedroom count for the remaining members. The remaining family members may continue to reside in the larger unit, but will share a larger portion of the rent burden.

In cases where the adult member(s) of a household are absent, while minors remain in the unit, COBHA will follow the dictates of State and local law and the policy set forth in Section (see for number remaining household members, minors).

Per Public and Indian Housing Notice 2003-5, a suitable guardian will be allowed to move into the assisted unit on a temporary basis to care for any dependent(s) that a military person deployed abroad leaves in the unit. Income of the guardian temporarily living in the unit solely for this purpose will not be counted in determining family income.

### **19.2 Absence of a Family Member While Attending an Institution Of Higher Education**

A family member absent from the assisted unit as a result of being enrolled as a student at an institution of higher education, as defined under section 102 of the Higher Education Act of 1965 (20U.S.C. 1002), may, continue to be a recognized as a family member unless and until the student establishes a separate household. At its discretion, the head of household may request that the student be removed from the household. This may result in a smaller unit bedroom count for the remaining members. The remaining family members may continue to reside in the larger unit, but will share a larger portion of the rent burden.

### **19.3 Absence Due to Military Duty**

Whenever a family member is activated by the Federal Government's activation of Reserve or National Guard personnel, and as a result:

- The family finds it necessary for another adult to temporarily move into a unit solely to serve as a temporary guardian for children residing in the unit, the

presence of the temporary guardian must be approved by the landlord and the income received by the temporary guardian will not be counted in determining family income. If the temporary guardian is determined to be ineligible for the program due to criminal history, the family will be given a reasonable time, generally 30 days, to find a replacement temporary guardian; or

- All members of the family are temporarily absent from the unit, provided the family can return to the unit within 30 days of the conclusion of the active duty, and the family is not absent from the unit for more than 180 days, the family can retain control of the unit by paying the required rent (the COBHA will continue the housing assistance payments)
- If the length of service extends beyond 180 days, COBHA will seek a waiver of the 180 day limit from HUD.

#### **19.4 Guests And Visitors**

A guest or visitor may not reside in a family's unit for more than 30 days within a six-month period.

Any guest or visitor residing in a family's unit for more than 30 days within a six-month period will be considered an unauthorized family member and the family will be subject to sanctions including retroactive adjustment in household income or termination of assistance. This rule will not apply to minors visiting parents under visitation agreements.

Families with guests who stay beyond 30 days within a 6-month time period are required to obtain permission from the COBHA and owner of the unit.

Failure to report long-term guests may result in termination from the program. COBHA will use legal documents, bills, postal verifications and statements from owners and neighbors to verify if a guest in the unit for more than 30 days in a 6-month period.

#### **19.5 Adding Members To The Family**

In accordance with HUD rules, the COBHA will approve all properly documented additions to the household resulting from birth, adoption or court-awarded custody of a child.

COBHA will also approve additions of:

- The significant other of the head of household must be eligible, complete criminal background check; or
- A foster child or foster adult. To avoid payment of excess subsidy beyond that required for the family COBHA will not increase the subsidy (bedroom size) until the agency placing the foster child or foster adult identifies him or her by name and advises that the placement date is within 60 days); or
- A person with no other means of obtaining affordable, safe housing who is a:
  - Minor; or
  - Disabled or elderly adult and his or her spouse.

COBHA will consider other additions to the household provided the person(s) will be members of the household (share income, resources and responsibility for the home) and the addition does not result in an increase in subsidy (bedroom size).

When adding a family member by birth, adoption or court-awarded custody of a child, the family must provide COBHA with documentation determined by COBHA to be sufficient to verify the relationship.

When adding other family members, the family must provide COBHA with documentation determined by COBHA to be sufficient to verify the relationship, establish program eligibility, and determine suitability of the proposed addition. If the addition:

- Does not require a unit with more bedrooms (in accordance with Section \_\_\_\_ ) the family will be required to provide written notice to the landlord of the proposed change. The COBHA will mail written notice to the landlord confirming the new, approved household composition.
- Requires a larger unit to avoid overcrowding, upon receipt of documentation of proper termination of the existing lease, the COBHA will add the person(s) and issue the family a transfer voucher. If the landlord provides written approval, the family member may be added to the family's current unit until the termination date of the HAP contract.

All requests to add members to the household must be submitted in writing, and whenever possible and practical, said notice should be submitted 60 days prior to the proposed addition.

### **19.6.1 Changes In Head Of Household**

The Head of Household may, at any time, relinquish his or her Head of Household status to another family member who meets the requirements of, and is eligible, present, capable, and willing of being designated the Head of Household.

If the Headhouse dies, ceases to have the legal capacity to enter into a lease under state/local law or ceases to be a member of the family, COBHA will work with the remaining household members to transfer Head of Household status.

## **20.0 REEXAMINATIONS**

### **20.1 ANNUAL REEXAMINATIONS**

In accordance with HUD rules, at least annually, COBHA will conduct a reexamination of family composition, income, assets and expenses. The results of the reexamination determine the family's:

- Total tenant payment (TTP);
- Unit size; and
- Continued eligibility for the program.

At its discretion, COBHA will either

- Schedule an individual or group reexamination appointment for the family; or
- Conduct the reexamination, in whole or in part , by mail.

The COBHA may change a family's annual re-certification due date if the new due date does not cause the family's next re-examination to exceed twelve months from whichever is later:

- The effective date of the family's last annual or interim reexamination; or
- If a disabled family member begins working and the incremental earned income is excluded in accordance with HUD requirements on the Earned Income Disallowance (EID), the date that the income disallowance began.

## 20.2 Interim Reexaminations

Program participants must report all changes in household composition, income and assets occurring between annual reexaminations to the COBHA in writing within 14-calendar days.

An interim reexamination is a reexamination of family income and circumstances initiated by the COBHA or the family, and conducted prior to the next scheduled reexamination.

At its sole discretion COBHA will schedule an interim reexamination if:

- A family reports zero income;
- COBHA determines that the income of a family is too unstable to project for 12 months; or
- The unit is, or would become overcrowded by the addition of a family;
- The projected family income already anticipated the break (change) in income (i.e. seasonal employees)
- A family submits a written request for a review of the TTP or a change in subsidy size.

The COBHA will not process an interim and decrease the family's TTP unless:

- The participant has submitted proper documentation of the change;
- The change will last a minimum of 30 consecutive days;
- The family has provided information and/or documentation of income likely to be received within the 30-day day period (i.e. initiation of unemployment insurance benefits)

The COBHA will not process an interim and increase the family's TTP unless:

- The family's total household income is unstable
- One or more adult family members previously reported \$0 income, and now has income; or
- The family reported an interim change that resulted in a decrease since the last annual re-certification

## 20.3 Annual and Interim Reexaminations

As part of any annual or interim reexamination, the family must:

- Provide complete and accurate information regarding income, assets, expenses, and any other information that HUD or COBHA determine to be necessary; and
- Sign the HUD and COBHA consent forms that will be mailed or faxed to the sources to verify the family's circumstances

COBHA will verify the information provided by the family by using the five cascading methods of verification as set forth by HUD regulations.

Upon receipt of required verifications, COBHA will determine the family's annual income and will calculate the family's TTP.

COBHA will give the family at least 30 days written notice of any future increase in the family's TTP as a result of an annual or interim reexamination.

A 30-day notice of a future TTP increase for a noticed amount will also serve as the 30-day notice of a future TTP increase for any lesser amount if the COBHA obtains additional information that would reduce the amount of the increase before the noticed date.

If, after an annual or interim reexamination, COBHA determines that the family did not truthfully respond to COBHA's request for income, asset and expense information resulting in a lower TTP, the COBHA will, at its discretion:

- Initiate termination of the family's assistance; or
- Offer the family an opportunity to execute a repayment agreement and reimburse the COBHA the excess subsidy received.

#### 20.3.1 RETROACTIVE INCREASES

If COBHA determines that the family, by its action or inaction, has unreasonably delayed the reexamination process, COBHA will, without 30-day advance notice, implement any increase in the family's TTP resulting from the reexamination, retroactively to the following effective date:

- The family's anniversary date (for annual re-certifications);
- The first day of the month following the month in which the family experienced a change in income.

#### 20.3.2 FUTURE INCREASES

The effective date of a future increase in the family's TTP as a result of an:

- Annual reexamination is the earlier of the annual anniversary date of the family's last annual reexamination or the first day of the first following month for which COBHA is able to provide 30 days written notice;
- Interim reexamination is the first day of the first month following the month in which the family provided all the information required to document income, assets and expenses for which COBHA can then use to verify via third-party procedures.

#### 20.3.3 DECREASES

The effective date of a decrease in the family's TTP as a result of an annual reexamination is the later of:

- The annual anniversary date of the family's last annual reexamination; or
- The first day of the month following the month in which the change was reported, provided that all necessary verifications that are within the family's reasonable control were submitted by the 15th calendar day of the month (or the next working day if the 15th is not a working day); or
- The first day of the second month in which the change was reported if all the necessary verifications that are within the family's reasonable control were submitted after the 15th calendar day of the month (or the next working day if the 15th is not a working day)
- The effective date of a decrease in the family's TTP as a result of an interim reexamination is the later of the dates as set forth in 21.2.3 above.

#### 20.3.4 REQUIRED REPORTING OF CHANGES IN FAMILY CIRCUMSTANCES

Within 14 calendar days of the change, a family member must notify COBHA in writing by submitting the COBHA supplied form whenever there is:

- A loss of a family member through death, divorce or other circumstances;
- An addition of a family member through marriage, birth, or other circumstances;
- When a family member:
  - Experiences a change in status (for example a non-elderly head of household or spouse turns 62 or becomes disabled);
  - With unstable income (include definition in glossary?), or seasonal or temporary income (e.g. a school district employee) receives additional income;
  - With full-time student status becomes less than full-time as a result of either a reduction in class schedule or failure to satisfactorily complete one or more class(es).

Within 14 calendar days of the change, a family that has had a decrease in its TTP as a result of an interim reexamination initiated by the family must notify COBHA in writing by submitting the COBHA supplied form whenever it experiences an increase in income.

At COBHA's sole discretion, a family that experiences a reportable change in family circumstances may be required to complete an interim reexamination at the time of the change.

All changes reported by the family that do not require a change in TTP prior to the next required reexamination as stated in this section will be filed in the participant file with any supporting documents. Proper third-party verification will be performed at the time of the next required reexamination.

If COBHA determines that a family has failed to report changes as required, COBHA will, at its discretion, initiate a reexamination and implement TTP changes as follows: TTP increases will be effective retroactive to the first of the month following the date that the change occurred.

TTP decreases will not be processed.

### 20.3.5 FAMILY REQUEST FOR A REEXAMINATION

A family may request a re-examination if it experiences any of the following and the change is anticipated to last 30 consecutive days or more:

- A decrease in income which would lower the family's annual income including, but not limited to:
  - Loss of employment
  - Reduction in the number of hours worked by an employed family member;
  - Demotion or decrease in salary;
  - Loss or reduction in welfare income;
  - Increases in medical, disability or child care expenses
- Other changes affecting the calculation of a family's annual or adjusted income including but not limited to a family member:
  - Turning 62 years old;
  - Becoming a full-time (adult) student; or
  - Becoming a person with a disability

Regardless if COBHA conducts a reexamination at the request of the family, the family's TTP will not be lowered if the loss of income is attributable to verified reductions in welfare benefits because of fraud;

- The family's failure to participate in an economic self-sufficiency program; and/or
- The family's failure to comply with work activities requirement.

In the instances set forth above, income will be based on the welfare grant amount to which the family would be entitled if there had been no reduction due to fraud or noncompliance with program requirements.

## 21.0 APPOINTMENT POLICY

### 21.1 Introduction

All families are expected to promptly keep all appointments set with COBHA staff, including periodic unit inspection, briefing sessions, allegation meetings, informal hearings, and other group appointments. To the extent reasonable and practical, COBHA will take a family's unique circumstances into consideration when scheduling appointments (e.g. a family who participates in dialysis on Wednesday mornings).

Unless excused by COBHA, all participants 18 years of age and older must attend all appointments set for the family, except inspections (only one adult, 18 years or older must be present).

When reexaminations are performed via mail, failure to return a completed packet by the specified due date will be considered a "missed appointment".



## **21.2 Late Arrival**

A family will be considered to have missed the appointment if it is more than 15 minutes late for an appointment unless the family can present and document any valid extenuating circumstances for missing the scheduled appointment.

## **21.3 Missed And Rescheduled Appointments**

A family that fails to keep an appointment, or fails to request a rescheduled appointment in writing, at least two days prior to the appointment, will be subject to termination of housing assistance or denial of subsidy.

A family that is unable to attend a scheduled appointment but:

- Contacts COBHA at least two working days before the date of its originally scheduled appointment; and
- Provides documentation verifying the reason the family is unable to attend the scheduled appointment (i.e. verification of hospitalization or imprisonment) will be rescheduled.

At COBHA's sole discretion, the rescheduled appointment may be:

- A group setting;
- On an evening or weekend;
- On a drop-in basis between scheduled appointments.

COBHA will take into consideration extenuating circumstances beyond the control of the family that prevent it from attending a scheduled appointment or requesting a rescheduled appointment (for example, a death or medical emergency in the immediate family or a serious traffic accident).

The participant must provide documentation verifying the reason the family was unable to attend the scheduled appointment or to request a rescheduled appointment (for example, a funeral announcement or verification of hospitalization).

## **22.0 MOVES WITH ASSISTANCE**

### **22.1 Introduction**

During the initial term of its lease, a participant family may only move from its unit with continued assistance if the landlord and the participant have mutually agreed to terminate the lease or if COBHA has terminated the HAP contract.

After the initial term of its lease, a participant family may move to another unit with proper notice to the owner and COBHA.

### **22.2 When A Family May Move**

For families already participating in the Section 8 Housing Choice Voucher Program, COBHA will allow the family to move to a new unit if:

- The assisted lease for the old unit has terminated;

- The owner has given the family a notice to vacate, has notified the family and COBHA of its intent to “Opt-Out” of the program, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated);
- The family has given notice of lease termination (if the family has a right to terminate the lease on notice to the owner);
- COBHA terminates the HAP contract due to owner noncompliance.

### **22.3 Restrictions on Moves**

COBHA will deny a family the ability to move as follows:

- Families are permitted to move no more than once per calendar year;
- Families who were not residents at the time of application in COBHA’s jurisdiction will not be permitted to move outside COBHA’s jurisdiction under portability procedures during the initial year of their assisted occupancy; and
- Families will be denied permission to move if there is insufficient funding for continued assistance.
- Any of the Family Obligations have been violated and the family is not cooperating with the timely scheduling of an allegation meeting and/or informal hearing; or
- COBHA is owed money by the family and the family is not meeting its repayment obligations.

The COBHA Executive Director may approve exceptions to this rule in exceptional or emergency situations.

### **22.4 Effective Date of New Voucher Issuance**

Families who are eligible to move will be issued a Voucher. The term of the Voucher will be in accord with COBHA’s policy detailed earlier in the Administrative Plan. The COBHA will issue the voucher annotated with a “valid after” date that is the earliest of either:

- The expiration of the 30-day notice to vacate period; or
- The effective date of a mutual agreement terminating the prior tenancy.

## **23.0 ALLOCATION OF SECTION 8 ASSISTANCE BY A COURT OF LAW OR UPON A CHANGE IN FAMILY CIRCUMSTANCES**

### **23.1 Definitions**

**Domestic Violence:** Violent acts or threats, including involuntary sexual relations, committed by a current or former member of the household against another member or members of the household.

**Family Break-Up:** The division of one assisted family into two or more “successor families”

**Successor Family:** Each of the two or more families created exclusively from the members of the assisted family by the family break-up containing, at least, one member of majority age. A successor family may be one person.

### **23.2 Allocation Of Assistance By A Court Of Law**

If a court of law allocates an assisted family's Section 8 assistance (for example, because of domestic violence or the break-up of an assisted family) COBHA will abide by the court's decision to the extent permitted by Section 8 regulations.

### **23.3 Allocation of Assistance Upon the Absence of the Voucher Holder**

If, as set forth in Chapter 19, COBHA terminates the housing assistance of the voucher holder due to absence from the assisted unit, COBHA may, at its sole discretion:

- Re-certify some or all of the remaining assisted family members still residing in the unit; or
- Not recertify any of the remaining assisted family members still residing in the unit.
- If COBHA determines that it will not recertify any of the remaining family members still residing in the unit, COBHA will notify the family members that the HAP contract has automatically terminated upon the absence of the voucher holder for a period of time beyond that set forth in Section 19, and that HAP payments are being terminated.

If COBHA determines that it will recertify some or all of the remaining family members and one successor family desires to remain in the unit, COBHA will:

- Terminate the HAP contract, thereby, terminating the lease
- Re-certify the successor family remaining in the unit
- Terminate the assistance of the voucher holder who is absent from the assisted unit; and
- Issue the successor family a new Housing Choice Voucher for a unit with the appropriate number of bedrooms.

The re-certified successor family may use the new Voucher for any appropriately-sized, approvable Section 8 unit including the family's current unit – provide it is approvable.

If more than one successor family wishes to retain the Section 8 assistance COBHA will terminate the HAP contract, thereby terminating the lease; and re-certify one successor family selected in the order that said family:

- Is determined by COBHA to contain one or more family members who is/are the victim(s) of domestic violence that has contributed to the family's break-up. This priority applies regardless of whether or not the victim(s) of whether or not the victim(s) of domestic violence currently reside(s) in the assisted unit;
- Retains primary physical custody of the majority of the assisted household's minor children;
- The adult member of the household who originally received the assistance, if another adult was later added to the household
- The adult member of the household who is elderly and/or has a verifiable disability.

COBHA will terminate the assistance of the voucher holder who has moved from the assisted unit, and issue the selected successor family a new Housing Choice Voucher.

The recertified successor family may use the new Housing Choice Voucher for any appropriately-sized approvable Section 8 unit including the family's current unit, provided it is approvable.

If COBHA, in its sole discretion, determines that the facts of the family break-up are such that the priorities listed above cannot be successfully applied to help determine how to equitably allocate the assistance, COBHA will use its best judgment to allocate the assistance equitably.

Unless and until the existing lease is terminated, it continues to bind each member of the family who is a tenant under the lease whether or not the family member continues to occupy the assisted unit.

### **23.4 Allocation of Assistance When an Assisted Family Lacks, at Least, One Member of Majority Age**

If the only remaining member(s) of an assisted family is/are minor(s) (due, for example, to a custodial parent's death or absence from the unit for a definite or indefinite period of time beyond that set forth in Chapter \_\_\_\_\_) COBHA may, at its sole discretion, allocate the former voucher holder's Section 8 assistance to a person who was not previously part of the assisted family but who has gained legal custody of the minor(s) (such as a formerly non-custodial parent or a grandparent).

If COBHA does not so allocate the former voucher holder's Section 8 assistance, COBHA will notify the minor(s) residing in the unit that the HAP contract has automatically terminated upon the death, or absence of the sole assisted family member of majority age, and that HAP payments are being terminated.

## **24.0 ESTABLISHING AND REVISING VOUCHER PAYMENT STANDARDS**

### **24.1 Establishing The Payment Standards**

Section 8 regulations require that all Housing Authorities set their payment standards between 90% and 110% of the Fair Market Rent (FMR) for each unit size. COBHA will review its established payment standards annually after HUD issues the FMRs.

COBHA will evaluate each payment standard separately for each bedroom size. The payment standard for one bedroom size may increase or decrease while another remains unchanged.

When determining the level at which to set its payment standards, COBHA will consider a number of factors including but not limited to:

- Vacancy rates
- Rents in the market area
- The size and quality of leased units under the program
- The success rates of voucher holders in finding units; and
- The actual percentage of annual income families are paying for rent.
- The number of voucher extensions

COBHA may consider adjusting payment standards at times other than the annual review when circumstances warrant.

## **24.2 Decreased Payment Standards**

If success levels are projected to be high and market rents appear to be lower than FMRs, COBHA will reduce the payment standard.

The HAP contracts for leases actively being negotiated by a landlord and tenant at the time of a reduction in payment standards will not be subject to the reduced standard provided that it is executed within 30 days of the effective date. Whenever there is a decrease in payment standard, the new lower payment standard will be applied upon:

- The move to a new unit; or
- The 2nd annual reexamination

## **24.3 Increased Payment Standards**

COBHA will request any appropriate FMR or Payment Standard increases that are available from HUD (e.g. exception rents at 120% of FMR, or FMRs set at the 50th percentile) if COBHA determines that:

- The success rates are declining; or
- Families are having to rent lower quality units; or
- Families are paying more than 40% of income for rent

Before increasing any payment standard, COBHA will conduct a financial feasibility test to ensure that in using the higher standard, adequate funds will continue to be available to assist families in the program.

Whenever there is an increase in the payment standard, the new increased payment standard will apply to existing contracts upon:

- The move to a new unit; or
- The next annual reexamination

## **25.0 RENT REASONABLENESS**

The COBHA will ensure that all rents paid to owners are reasonable, and are based upon comparable units, located in comparable neighborhoods, as the unit for which rent reasonableness is being determined.

### **25.1 When Rent Reasonableness is Calculated**

As a precondition of any new Housing Assistance Payment Contract; and

- Before any increase in rent to owner is approved; and
- Whenever there is a 5% or greater decrease in the published FMRs compared to the previous FMR effective 60-days or more before the contract anniversary; and
- If COBHA or HUD directs that rent reasonableness be re-determined.

## **25.2 Methodology Used to Determine Rent Reasonableness**

The COBHA will require that every owner submit a “rent reasonableness evaluation worksheet” minimum of three unassisted unit rent comparables for every Request for Tenancy Approval submitted.

The COBHA will use the information provided by the owner to obtain comparables from Go Section 8, accepting the range of acceptable rent amounts as the basis for a decision on the request.

The owner may appeal the COBHA determination by providing additional information on the unit characteristics, or documented comparable rents for similar unassisted, rented units.

The owner may petition for a higher rent by making additional improvements to the property or enhancing the services provided.

COBHA will give additional consideration to:

- Units where the owner provides most/all of the utilities
- Units with more than one bathroom
- Units with significantly more square footage
- Units with significantly more storage
- Units with private garage or reserved parking
- Units with luxury amenities (pool, gym, fireplace, etc)

Owners may review the determination made on their unit and may submit additional information or make improvements to the unit that will enable COBHA to establish a higher market comparable. By accepting each monthly housing assistance payment from COBHA, the owner, or the owner’s representative, certifies that the rent to owner is not more than the rent charged by the owner for comparable unassisted units on the premises.

## **26.0 GROUNDS FOR DENIAL OR TERMINATION OF ASSISTANCE**

### **26.1 Introduction**

COBHA may deny or terminate assistance to a family because of the family’s action or failure to act. In each instance, COBHA will provide the family with a written description of the grounds under which COBHA proposes to deny or terminate assistance and the process by which an applicant may request an informal review or a participant may request an informal hearing.

### **26.2 Form of Denial And Termination**

Denial of assistance for an applicant may include any or all of the following:

- Denial of listing on the wait list
- Denial or withdrawal of a voucher
- Refusal to enter into a HAP contract or approve a lease; and

- Refusal to process or provide assistance under portability procedures.
- Termination of assistance for a participant may include any or all of the following:
- Refusing to enter into a HAP contract or approve a lease;
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures; or
- Termination of Home Ownership Assistance.

### **26.3 Grounds for Denial of Assistance**

COBHA will deny admission to the Section 8 Housing Choice Voucher Program if the family:

- Does not meet one or more of the eligibility criteria;
- Fails to supply any information that COBHA or HUD determines to be necessary including evidence of citizenship or eligible immigration status, and information for use in determining family income and composition; or
- Fails to disclose and verify social security numbers and sign and submit consent forms for obtaining information.

COBHA will deny admission of a family member who:

- Has been convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing; or
- Is subject to lifetime registration requirement under a State sex offender registration program.

COBHA determines, based on illegal drug use, pattern of illegal drug use, or abuse or pattern of abuse of alcohol, may threaten the health, safety or right to peaceful enjoyment of the premises by other residents.

COBHA will deny admission to the Section 8 Housing Choice Voucher Program for five (5) years from the date of eviction if a household member has been evicted from federally assisted housing for drug-related criminal activity. However, COBHA may admit the household if COBHA determines that:

- The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by COBHA; or
- That the circumstances leading to the eviction no longer exists (e.g., the criminal household member has died or is imprisoned).

COBHA may deny admission to the Section 8 Housing choice Voucher Program if any member of the applicant family:

- Is fleeing to avoid prosecution, custody, or confinement after conviction, for a crime or attempt to commit a crime that is a felony (in New Jersey, the term for a felony is "high misdemeanor.")
- Is violating a condition of probation or parole imposed under federal or state law;
- Has ever committed fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program;
- Has been terminated from a Federal housing assistance program;

- Has been evicted from federally assisted housing in the last five years.
- Has engaged in or threatened abusive or violent behavior toward COBHA employees or its agents, or employees or agents of any other Housing Authority
- Currently owes rent or other amounts (including any amounts breached in a repayment agreement) to COBHA or any other Housing Authority for amounts owed in conjunction with Section 8 or public housing
- Has, within the past five years, engaged in
  - Drug-related criminal activity
  - Violent criminal activity; or
  - Other criminal activity which may threaten the health, safety or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity (including but not limited to identify theft)
- Has, within the past year, engaged in illegal use, or possession for personal use, of a controlled substance.

COBHA will not deny assistance for such use or possession by a family member if the family member can demonstrate that he or she:

- Has an addiction to a controlled substance, has a record of such an impairment or is regarded as having such an impairment; and
- Is recovering, or has recovered, from such an addiction and does not currently use or possess controlled substances. COBHA will require the family member to submit evidence of participation in, or successful completion of, a treatment program as a condition to being allowed to reside in the unit.

#### **26.4 Grounds for Termination of Assistance**

COBHA will immediately terminate Section 8 Housing Choice Voucher Program assistance for a family if COBHA determines that any household member has been convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.

COBHA will terminate Section 8 Housing Choice Voucher Program assistance for a family:

- Evicted from housing assisted under the program for serious or repeated violation of the lease.
- That does not meet one or more of the eligibility criteria.
- Fails to supply any reasonable information/documentation that COBHA or HUD determines to be necessary to determine eligibility, including but not limited to household composition, income, assets or citizenship or eligible immigration status;
- Fails to disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- If 180 days have elapsed since COBHA's last housing assistance payment was made and the family has not requested to be recertified to move before the 180 days has elapsed or within 14 days of the proposed notice of termination from COBHA, whichever is later.



COBHA may terminate Section 8 Housing Choice Voucher Program assistance if:

- COBHA determines that any household member's currently engaged in any illegal use of drugs or abuse of alcohol may be a threat to the health, safety, or right to peaceful enjoyment of the premises by other residents.
- The family violates any family obligations under the program, including the obligation to not engage in any drug-related criminal activity or violent criminal activity
- Any family member is fleeing to avoid prosecution, custody, or confinement after conviction, for a crime or attempt to commit a crime that is a felony (in New Jersey, the term for a felony is "high misdemeanor.")
- Any family member is violating a condition of probation or parole imposed under federal or state law
- Any family member engages in or threatened abusive or violent behavior toward COBHA employees or its agents, or employees or agents of any other Housing Authority
- The family has an unsatisfied debt to COBHA and refuses to pay or enter a repayment agreement, or is found in breach of a repayment agreement) to COBHA or any other Housing Authority for amounts owed in conjunction with Section 8 or public housing
- The family has a history of:
  - Failing to cooperate with the timely completion of the annual recertification of eligibility; or
  - Failing to allow the COBHA access to the unit for the annual HQS inspection; or
  - Failing to allow the owner reasonable access to the unit for the purpose of performing required repairs.

## **26.5 Consideration of Circumstances**

In determining whether to deny or terminate assistance because of action or failure to act by members of the family:

- COBHA will consider all relevant circumstances such as seriousness of the case, the extent of participation or culpability of individual family members, efforts made by the family to notify the COBHA of the action(s), mitigating circumstances related to disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure to act.
- COBHA may impose, as a condition of assistance or continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. COBHA may permit the other members of a participant family to continue receiving assistance.

In determining whether to deny admission or terminate assistance for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, COBHA will consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully. For this purpose, COBHA may require the

applicant or tenant 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.

If the family includes a person with disabilities, COBHA's decision concerning such action is subject to consideration of reasonable accommodation in accordance with Chapter 9.

## 26.6 Evidence of Criminal Activity

COBHA may deny admission or terminate assistance if COBHA determines, based on the preponderance of evidence, that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted.

In documenting criminal activity COBHA will rely upon copies of Police reports, written summaries prepared by the appropriate law enforcement agency, or court records. As part of discovery, COBHA will make available to the family, all relevant documents relied upon.

COBHA will give the family an opportunity to dispute the accuracy and relevance of all such records. COBHA will not pass along to the tenant, the cost of a criminal records check.

## 26.7 Repayment Agreements

In lieu of terminating assistance, COBHA may, at its sole discretion, allow a family to enter into a repayment agreement when the family:

- Currently owes rent or other amounts to COBHA or another Housing Authority in connection with the Section 8 or public housing assistance under the 1937 Act; or
- Has not reimbursed any Housing Authority for amounts paid to an owner under a HAP contract for rent, damages to the unit or other amounts owed by the family under the lease.

### 26.7.1 TERMS

The length of the repayment agreement is determined by the amount of debt owed as follows:

<b>Amount Owed</b>	<b>Maximum Repayment Term</b>
Under \$450	6 months
\$450 – \$900	1 year
\$901 - \$2000	2 years
\$2001 - \$5000 *	3 years

\* If the amount owed is greater than \$5,000, a repayment agreement may only be entered into with the Executive Director's written approval.

An initial payment equal to 50% of the total amount is due upon signing;

Subsequent payments are due, in full, each month thereafter on the 5th of each month until the balance is paid in full. Failure to make a required payment will be deemed breach of contract. Two breaches will be grounds for termination of assistance.

A payment received by personal check which is returned for insufficient payment will be considered a non-payment and the participant will incur a charge of \$20 for processing costs.

## **27.0 INFORMAL REVIEW OF DENIAL OF HOUSING ASSISTANCE**

An Informal Review is available to applicants, persons who have not been admitted to the Section 8 Program. Applicants do not have any rights to an Allegation Meeting or Informal Hearing.

### **27.1 Right to Informal Review**

COBHA will give an applicant the opportunity for an Informal Review of its decision to deny housing assistance except for any of the following:

- Discretionary administrative determinations by COBHA
- General policy issues or class grievances
- A determination of the number of bedrooms needed by the family under COBHA's subsidy standards
- COBHA's determination not to approve an extension or suspension of the voucher
- COBHA's determination not to grant approval of a tenancy
- COBHA's determination that a unit selected by an applicant is not in compliance with Housing Quality Standards; or
- COBHA's determination that a unit selected by an applicant is not in compliance with HQS because of family size or composition

### **27.2 The Informal Review**

Will be conducted by a person designated by COBHA (the Informal Reviewer) who is other than the person who made or approved the decision under review or a subordinate of that person.

The Informal Reviewer will consider the documents in the applicant's file and the basis of the appeal as presented by the applicant.

The Informal Reviewer will determine if there is sufficient evidence upon which to make a decision, or if it would serve the client to have him/her participate in a meeting to provide additional testimony or documentation.

The decision of the Informal Reviewer shall be final.

### **27.3 Procedure**

If COBHA denies housing assistance to an applicant, COBHA will provide, by U.S. mail, written notice of the decision within 5 business days of the denial.

- The notice will advise the applicant

- Why assistance is being denied
- If he or she has the right to an Informal Review, and if applicable how to submit the request; and
- The requirement that the applicant state why he or she believes the COBHA action is inappropriate (i.e. error in income calculation)

COBHA will honor the request for an Informal Review if the request is either delivered to COBHA office or postmarked within 14 calendar days of the denial notice.

Exceptions to the 14 day time frame may be granted:

- As a reasonable accommodation for a family with a person with disabilities; or
- In response to extenuating circumstances that prevented an applicant from responding within the time frame (e.g. hospitalization). The applicant must provide documentation (e.g. hospital record, airline tickets, funeral announcement).

The Informal Reviewer will review the merits of the appeal and issue a written decision to the family within 14 calendar days of receipt of the appeal or receipt of any documents requested from the family, whichever is later.

## **28.0 ALLEGATION MEETINGS**

Termination of rental housing assistance is a major action, and one that should be avoided if at all possible, without violating the merits or integrity of the program. To that end, when COBHA has reason to suspect that a family is in violation of one or more family obligations, the family will be afforded an opportunity for an Allegation Meeting, prior to issuance of a notice of proposed termination.

The purpose of the allegation meeting is to share with the family, the particular action or lack thereof, that is subjecting the family to possible termination of assistance, and afford the family an opportunity to provide clarifying or correcting information.

- The family may be represented or supported in the meeting.
- The family may, in accordance with the COBHA Appointment Policy, Chapter \_\_\_\_\_, submit one request to reschedule.
- A written summary of the findings will be prepared within 14 days of the meeting, and shared with the family.
- If the family fails to appear as scheduled, or if the preponderance of the evidence suggests that there is cause for termination, the COBHA will issue a notice of Proposed Termination.

**Note:** An Allegation Meeting will not be offered for repeat infractions of the same or similar violations within the past 24 months.

## **29.0 INFORMAL HEARINGS**

### **29.1 Right to Informal Hearing**

The informal hearing requirements defined in HUD regulation are applicable to participating families who disagree with an action, decision, or inaction of the COBHA. It is the policy of the COBHA to ensure that all families have the benefit of all protections due to them under the law. COBHA will give a participant family an opportunity for an Informal Hearing to consider whether the following decisions are in accordance with the law, HUD regulations and COBHA policies:

- A determination of a family's annual or adjusted income and the use of such income to compute the housing assistance payment.
- A determination of the appropriate utility allowance, if any, for tenant-paid utilities from COBHA's utility allowance schedule;
- A determination of unit size under COBHA's subsidy standards
- A determination that a participant family is residing in a unit with a larger number of bedrooms than appropriate under COBHA's subsidy standards, or COBHA's determination to deny a family's request for an exception from the standards;
- A determination to terminate assistance for any reason;
- A determination to terminate a family's FSS contract, withhold supportive services, or propose forfeiture of the family's escrow account;
- A determination that denies a hardship exception to the minimum rent requirement.

### **29.2 WHEN AN INFORMAL HEARING WILL NOT BE PROVIDED**

COBHA will not grant a participant family the opportunity for an Informal Hearing for any of the following:

- Discretionary administrative determinations by COBHA;
- General policy issues or class grievances;
- Establishment of COBHA's schedule of utility allowances;
- COBHA determination not to approve a family's request for an extension or suspension of a voucher term
- COBHA determination not to approve a unit or lease
- A determination that a unit is not in compliance with HQS unless the family is facing termination because of breach of HQS caused by the family;
- COBHA determination to exercise or not to exercise any right or remedy against an owner under a HAP contract.

### **29.3 Procedure**

A participant family must request an informal hearing in writing within 14 calendar days of the COBHAs written notice proposing termination of assistance (personal delivery or postmark).

Exceptions will be allowed as a reasonable accommodation of a person with disabilities, and for non-disabled families facing extenuating circumstances that prevented submission of the request within the 14 days allowed (e.g. hospitalization).

The request must state why the family disagrees with COBHA's decision. COBHA will schedule the requested hearing and notify the participant. The participant may request

that the hearing be rescheduled, in accordance with the COBHA appointment policy. chapter \_\_\_\_.

#### 29.3.1 HEARING DOCUMENTS

Both parties have the right to “discovery”, that is, the right to review in advance any documents or other physical evidence that the other party will use in the hearing. If the participant invokes discovery, at least three business days prior to the hearing, COBHA will make available for pick-up or mail the participant a copy of all documents that COBHA will use in presenting its case at the hearing.

COBHA will always invoke discovery. The participant (or the participant’s representative) will be required to submit all information that the participant will use in presenting his or her case three business days prior to the hearing.

#### 29.3.2 HEARING OFFICER

The Hearing Officer will be designated by COBHA from within COBHA or from outside the Agency. The Hearing Officer will be someone other than the person who made or approved the decision being appealed or a subordinate of that person.

#### 29.3.3 INFORMAL HEARING

The Hearing Officer is responsible for conducting the hearing according to COBHA procedures ensuring that each side has an opportunity to present evidence while preserving order and keeping all parties. The Hearing Officer may allow a reasonable time after the Informal Hearing for either side to submit relevant information identified during the hearing.

A participant family that does not comply with COBHA’s appointment policy will automatically lose its informal hearing.

#### 29.3.4 INFORMAL HEARING DECISION

- The Hearing Officer’s decision will be based on a preponderance of the evidence presented at the hearing as well as third party and other verifications authorized by the Hearing Officer to be submitted within a specified time frame after the Informal Hearing to substantiate hearing testimony (e.g. proof of address)
- The Hearing Officer will render a decision within 10 working days of the hearing. If third party verification is required, the Hearing Officer will render a decision within 15 business days of receipt of the verification.
- COBHA will forward the written decision to the client via Federal Express or other courier service.
- Failure of the Hearing Officer to render a decision within the stipulated time period because of extenuating circumstances shall not invalidate the decision when rendered. COBHA is not bound by a hearing decision:
- that is concerning a matter for which COBHA is not required to provide an opportunity for an informal hearing or otherwise exceeds the authority of the person conducting the hearing under COBHA hearing procedures; or

- that is contrary to HUD regulations or requirements, or otherwise contrary to Federal, State or local law.
- If the Executive Director overrides a decision made by the Hearing Officer, he/she shall issue notice invalidating same.
- All decisions against the family (upholding the COBHA) shall include an instruction that the family may exercise its right to request a judicial review of the decision.
- The Hearing Officer's decision (and, if applicable, the Executive Director's denial) will be sent to the family via Federal Express or equivalent service.

#### 29.3.5 APPEAL OF HEARING OFFICER'S DECISION

At the Executive Director's sole discretion, a second Informal Hearing will be granted, if the participant can show:

- That the Hearing Officer's decision (or, if applicable, the Executive Director's denial of the Hearing Officer's decision) is contrary to HUD regulation or requirements, or otherwise contrary to Federal, State or local law; or
- A significant injustice not known at the time of the first hearing.
- To request a second hearing, the participant, or the participant's representative, must submit a written request to the Executive Director within 14 calendar days of the date the decision was delivered.
- The request must clearly state
- Why the Hearing Officer's decision (or, if applicable, the Executive Director's denial of the Hearing Officer's decision) is contrary to HUD regulations or requirements, or otherwise contrary to law; or
- Describe the significant injustice not known at the time of the first hearing.

At the Executive Director's sole discretion, a rehearing may be limited to written submissions by both parties.

### 29.4 Violence Against Women Act (VAWA) Provisions

#### 29.4.1 GENERAL

That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking as defined in Section 40002 of the Violence Against Women Act of 1994, is not an appropriate basis for denial or termination of program assistance, if the victim of such violence otherwise qualifies for assistance or admission.

Nothing in this Section shall be construed to supersede any provision of any Federal, State or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

All information provided to an owner, manager or COBHA pursuant to this section, including the fact that an individual is a victim of domestic violence, dating violence or stalking shall be retained in confidence by the landlord and COBHA. This information shall not be entered into any shared database or provided to any related entity, except to the extent that disclosure is:

- Requested or consented to by the individual in writing;
- Required for use in an eviction proceeding; or
- Otherwise required by applicable law.

COBHA will provide notice to the assisted family under Section 8 of the United States Housing Act of 1937 of their rights under this Section, including their right to confidentiality and the limits thereof, and to landlords of their rights and obligations.

#### 29.4.2 INCIDENTS OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING

In responding to an incident or incidents of actual or threatened domestic violence, dating violence, or stalking, a landlord or COBHA may request that an individual certify via a HUD approved certification form that the incident or incidents in question are bona fide incidents of such actual or threatened abuse as defined in Section 40002 of the Violence Against Women Act of 1994;

- Such certification shall include the name of the perpetrator
- The individual shall provide such certification within 14 business days of the date that the participant receives the written request for certification from the owner, manager or public housing agency
- If the individual does not provide the certification within the 14 business days set forth, nothing in this section may be construed to limit the authority of a landlord to evict, or COBHA to terminate the Section 8 rental assistance for, any tenant or lawful occupant that commits violations of the lease and/or voucher.
- The landlord or COBHA may extend the 14-day deadline at its discretion.

An individual may satisfy the certification requirement of this section by:

- Providing the requesting landlord or COBHA with documentation signed by an employee, agent or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or staling of the effects of the abuse, in which professional attests under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in questions are:
  - Bona fide incidents of abuse; and
  - The victim of domestic violence, dating violence, or stalking has signed or attested to the documentation; or
  - Producing a Federal, State, tribal, territorial, or local police or court record.
  - Nothing in this subsection shall be construed to require a landlord or COBHA to demand that an individual demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence, dating violence, sexual assault, or stalking in order to receive any of the benefits provided in this section.

At its discretion, a landlord or COBHA may provide benefits to an individual based solely on the individual's statement or other corroborating evidence.



Compliance with this statute by a landlord or COBHA based on certification specified in Section 50 above shall not alone be sufficient to constitute evidence of an unreasonable act or omission by a landlord or COBHA, or employee thereof.

### **30.0 SECTION 8 HOME OWNERSHIP PROGRAM**

Pending

### **31.0 Project Base Vouchers**

#### **31.1 Introduction**

The Section 8 Project Based Voucher Program allows COBHA to commit a portion of the funding for Section 8 Tenant Based Housing Choice Voucher Program to existing, rehabilitated or newly constructed units under the Project Based Voucher Program for a term up to 10 years.

- The units to be assisted may be vacant or occupied by families who are income eligible to participate in the Housing Choice Voucher Program.
- Projects may provide supportive services for families, if desired.
- Project composition and selection must comply with HUD regulations regarding the Project Based Voucher Program.
- Program participants are subject to all relevant Housing Choice Voucher Program regulations.
- The term of commitment may be extended as permitted by HUD regulations.

#### **31.2 Number of Housing Choice Voucher Units To Be Project Based**

While up to 20% of the Section 8 Housing Choice Voucher Program may be used for project-based assistance at the discretion of COBHA with HUD concurrence, COBHA, will project-base no more than 360 units.

No more than 25% of the units in a proposed project may receive project-based assistance through the Section 8 Housing Choice Voucher Program. Exceptions will be made at COBHA's discretion for projects housing elderly families, disabled families or families receiving supportive services.

#### **31.3 Critical Project Elements**

- The owner must submit a completed HUD form 2530 Previous Participation Certification and resumes for all principal participants
- The owner must provide acceptable evidence of site control
- All projects must meet applicable accessibility requirements as determined by Federal, State and local standards.
- All projects must conform to Section 302 of the Lead-Based Paint Poisoning Prevention Act (excluding studio and single-room occupancy projects)
- Proposed contract rents:
  - Do not exceed the lower of 110% of the Fair Market Rent, the reasonable rent or rent requested by the owner at the time of application.
  - Owners must submit the proposed contract rent per unit, including which utilities, services and equipment are included in the rent. For those

utilities that are not included in the rent, an estimate of the average monthly cost for each unit type for the first year of occupancy.

- Final project rents are subject to the COBHA's Payment Standards (established at 90-110% of the FMRs in effect when initial leasing begins as published by HUD, including any area wide exception rent limitations).
- Ineligible property types:
  - Mobile homes
  - Shared housing
  - Units subsidized under other federal housing programs during the past 12 months, except for units occupied by families currently assisted by the Section 8 Housing Choice Voucher Program that meet Housing Quality Standards, but have a major building component or system in danger of failure
  - HUD owned properties or properties with HUD held mortgages
  - Units owned by state or local government unless the HUD field office approves the site in advance and the government entity agrees to sell the units to another owner prior to the execution of the Agreement.

**Note:** In November 2006, HUD authorized COBHA to approved PBV assistance in high-rise elevator projects that may serve families with children because there is no practical alternative as required by 24 CFR 983.53(b)

### 31.3.1 NEW CONSTRUCTION PROJECTS

Must include an architect's certification that the working drawings, specifications and proposed construction comply with HUD minimum property standards, HQS, local codes and ordinances, and zoning requirements. Construction cannot begin prior to execution of an Agreement to Enter a Housing Assistance Payment Contract.

### 31.3.2 REHABILITATION PROJECTS

- Cannot include units occupied by over-income tenants
- Cannot result in a post-rehabilitation decrease in total units
- Must, post rehabilitation, have appropriate bedroom size units for all pre-rehab tenants
- Must provide a relocation plan for temporary displacement of any current tenants
- Temporary relocation cannot exceed 12 months
- Each tenant must be given 30-day written notice and a copy of the approved relocation plan
- Tenants must be provided alternative housing that is safe, decent and sanitary and receive reimbursement from the owner for reasonable out-of-pocket expenses incurred in connection with the temporary relocation (e.g. moving costs to and from temporary housing, increases in monthly housing costs, increases in utility costs).
- Must be able to certify that no tenant has been required to move during the past 12 months, except for good cause.

**Note:** if the owner submitting the proposal has not owned the property for the last twelve months, this certification may be limited to the owner's actions during ownership and with respect to acquiring the property.

### 31.3.3 EXISTING HOUSING PROJECTS

- Cannot include units occupied by over-income tenants
- Must have appropriate bedroom size units for all pre-rehab tenants
- Must be able to certify that no tenant has been required to move during the past 12 months, except for good cause. NOTE-if the owner submitting the proposal has not owned the property for the last twelve months, this certification may be limited to the owner's actions during ownership and with respect to acquiring the property.

### 31.4 Project Selection Preferences

- Preference will be given to projects in the following order:
- Proposed projects that meet the needs of special populations and provide or arrange for the provision of supportive services for these families. Special populations are defined as:
  - Persons with disabilities;
  - Frail/elderly persons who need assistance with at least three activities of daily living activities;
  - Persons with HIV/AIDS
  - Elderly families;
  - Homeless persons; and
  - Large families (5 or more persons) with economic self-sufficiency needs.
- Proposed projects that are renewing HUD project base assisted contracts and are:
  - Required to raise rents to market on unassisted units as a condition of the extension of the contract; and
  - Required increase exceeds 10%; and
  - The increase will present a significant hardship for current tenants
- Proposed projects that contribute to neighborhood revitalization
- Proposed projects for family units
- All other projects

### 31.5 Location and Project Design

#### 31.5.1 GENERAL

- Proposed projects may not be located in census tracts where the poverty rate is equal to or greater than 20% unless at least one of the following conditions is met:
  - If the poverty rate is greater than 20%, the COBHA will consider whether in the past five years there has been an overall decline in the poverty rate; and
  - Whether the high poverty rate is due to a large concentration of college and university students.

- COBHA will consider the site condition and project design giving preference to projects located near amenities such as public transportation, shopping, schools (for family developments), etc. and suitable design for the neighborhood.
- COBHA will consider the extent to which the project is not isolated from social, recreational, educational, commercial and health facilities and services typically found in neighborhoods of unassisted housing;
- COBHA will give preference to proposed projects where the existing number of Section 8 tenant based units in the census tract is less than 10% of the total project in the tract.

### 31.5.2 DECONCENTRATION

The COBHA's selection of projects for Project-Based assistance will help further its goal of deconcentrating poverty and expanding housing and economic opportunities.

COBHA will consider the extent to which the project is in a census tract:

- Designated by HUD as an Enterprise Zone, Economic Community or Renewal Community;
- Where there is a locally-approved neighborhood improvement plan, such as the Downtown Plan, the West Berkeley Plan, the University Avenue Strategic Plan and the South Shattuck Strategic Plan.
- Where there has been a decrease in affordable units as a result of public housing demolition;
- That is undergoing significant revitalization efforts;
- Where state, local or federal dollars have been invested in the area in achievement of deconcentration goals;
- Where new market rate units are being developed with the likelihood that such market rate units will positively impact the poverty rate in the area;
- Where there are meaningful opportunities for educational and economic advancement, such as employment resource centers, libraries, and colleges.

### 31.6 Project Evaluation

The selection process of units/projects for participation in the Section 8 Project-Based Voucher Program is an open and competitive process. COBHA will follow HUD's advertising and owner application requirements for the program outlined in 24 CFR 983.51.

- All applicants must fully complete the COBHA application form.
- Projects will be ranked by score and the highest-ranked projects will be considered for funding.
- There is no guarantee that any project will be funded in whole or in part
- After all proposals have been evaluated, every owner/developer will be notified of the results
- If a project is selected, the owner/developer will be advised of the steps necessary to execute the Agreement to Enter into a Housing Assistance Payment Contract (AHAP)

### 31.7 Evaluation and Ranking Factors

Conversion of Public Housing

- Conversion of Public Housing to Project-Based Section 8 shall be automatically approved on the condition that it meets HUD criteria for voluntary conversion.
- Site Criteria (8 point maximum)
- Site is or will be adequate size, exposure and contour to accommodate the number and size of units proposed (1)
- Site is not located in areas with above average concentrations of assisted housing and low-income persons/families (2)
- Site is located near social recreational, educational, commercial and health facilities and services (2)
- Site is accessible to public transportation (2)
- Site is not within flood plain (1)
- Project Criteria (15 point maximum)
- Project proposal advances City priority housing needs as outlined in the City's Consolidated Plan for Housing and Community Development (5)
- Project contributes to neighborhood revitalization (rehabilitate blighted property, develop key revitalization sites, repair vacant or uninhabited buildings (5)
- Project links social services for persons with special needs, including homeless or at risk of homelessness, physically and mentally disabled persons, frail/elderly, persons with HIV/AIDS, and victims of domestic violence (5)
- Design and Construction Work Criteria (25 point maximum)
- Design blends with other homes and buildings in the immediate neighborhood (3)
- If rehabilitation project, plan includes rehabilitation work that substantially improves the livability, viability, accessibility and safety of residents (3)
- If new construction, project increases City's supply of affordable housing through new construction (3)
- Project includes adequate public space, including space appropriate for a conducive to cooperative property management, tenant organizations, and on-site community service (3)
- Construction work will provide seismic safety of buildings (5)
- Construction/rehabilitation is estimated to cost:
  - \$1,000 - \$5,000 per unit (1)
  - \$5,001+ per unit (3)
- Applicant Capacity and Experience (10 point maximum)
- Applicant demonstrates project management (construction and property management of units) experience with similar developments, as follows:
  - 1 similar project (1)
  - 2-3 similar projects (4)
  - 4-5 similar projects (6)
  - 6+ similar projects (8)
- Two bonus points will be awarded in this category if any of the projects in 1 (a), (b), (c), or (d) above contains 12 or more units.
- Financing and Leverage (17 point maximum)
- Construction and rehabilitation is being financed through:
  - 100% non-City funds (conventional or developer equity or other State or Federal subsidy) (9)
  - 80% non-City funds (7)

- 60% non-City funds (5)
- 50% non-City funds (3)
- Project substantially reduces the need for subsidy from the City of Berkeley or Redevelopment Agency (8)
- Project Readiness (5 points maximum)
- Applicant demonstrates that the project has achieved significant and approved milestones in the development process, such as approved use permits.
- Affordability (20 points maximum)
- Percentage of units in the project with below market rents available to households with income of 60% or below area median:
  - 20% (2)
  - 30% (5)
  - 40% (8)
  - 50% (10)
- Applicant commits to a plan that will provide for continued affordability of the units in the project for the life of the building (10)

### **31.8 Agreement to Enter a Housing Assistance Payment (AHAP) Contract**

- The AHAP will generally be executed for a term of 10 years, although shorter terms may be considered under unusual circumstances
- The AHAP will not contain a provision for vacancy loss
- The COBHA and the owner/developer will move expeditiously, after project approval, to execute the AHAP.
- It is not necessary to amend or revise the AHAP in response to
  - Increases or decreases in the Fair Market Rents;
  - Increases or decreases in the COBHA Utility Allowances
- A fully executed AHAP includes a listing of the project base units and the approved rent levels. No traditional (tenant based) Housing Assistance Payment (HAP) contract is required.

### **31.9 Program Administration**

#### **31.9.1 ADVERTISING**

The COBHA will issue a Request for Proposal (RFP) to participate in the project based assistance program in a newspaper of general circulation once a week for three consecutive weeks.

Applications will be accepted for at least thirty (30) calendar days from the last day of the newspaper publication. The advertisement will state the number of units available for project basing and whether COBHA requests proposals for existing, rehabilitation or new construction properties.

#### **31.9.2 OWNER/DEVELOPER BRIEFINGS**

COBHA will hold at least one briefing for Owner/Developers after the RFP is issued to answer questions about the RFP process, explain the program requirements and provide information on the scoring process.

### 31.9.3 LEASING

**Initial Leasing:** Approximately 75 calendar days prior to the anticipated “Certificate of Occupancy” the owner/developer shall notify COBHA to refer families for suitability for tenancy. COBHA will perform the Housing Quality Standards (HQS) inspection within 5 working days of the owners certification that:

- Construction is complete;
- Utility service is on for verification of heating, cooking and sanitary facilities.
- Within 5 working days COBHA will notify families of the availability, and allow them 10 calendar days to respond. Within 15 calendar days of the owner’s notice, COBHA will refer families from the Section 8 Housing Choice Voucher that have expressed an interest in receiving Project-Based assistance. (if the interest query was more than six months ago, COBHA will re-notify families on the list prior to making referrals).
- Assuming interest is expressed by families on the wait list, and families with vouchers, preference will be given to families on the wait list, to the extent that they provide all the documents required to determine eligibility in a timely manner.
- If an applicant or group of applicants have been referred for Project Based Assistance, and have indicated they do not wish to be considered for either the current or similar vacancies, COBHA will not refer them for similar vacancies until and unless they respond at the next wait list purge, expressing new interest in Project Based Assistance.
- Unless revised based on experience, COBHA will refer 4 apparently bedroom-size qualified applicants for every vacancy.
- The COBHA will not perform any eligibility review until the owner/developer has completed its screening, made a conditional offer of a lease and advised the COBHA of the status of all the clients referred for leasing.
- The owner must also provide each family not selected, the reason for same.
- With the cooperation of the family, COBHA will, within 30-calendar days attempt to:
  - Complete the eligibility determination;
  - Brief families on the Project Base Program including advising them that they remain on the Section 8 Housing Choice Voucher wait list; and that they may legally terminate the Project Based Lease and transfer to the Tenant Based voucher program at any time (families that have completed the eligibility review will be given their rent portion at the briefing), and
  - Issue a Request for Tenancy Approval
- Families will be allowed 30-days to provide any documents necessary to verify eligibility. One extension of 15 days may be granted by the COBHA Executive Director. Additional extensions may be granted as a reasonable accommodation for a person with disabilities, however, the owner may consider another family for the unit.
- Concurrent with the COBHAs efforts to determine eligibility, COBHA will list the project based vacancies on its “available unit listing” so other clients with tenant based vouchers can consider the opportunity

- If the initial list of referrals does not result in a sufficient number of qualified families for the units:
  - the owner will be asked if time allows for another 30-days to notify additional families on the COBHA wait list;
- If the owner's schedule cannot accommodate the additional time, it may refer families to the COBHA (outside the COBHA wait list).
- Releasing/Unit Turnover
- Immediately upon learning of a vacancy or upcoming vacancy, the owner/developer shall provide the COBHA 30-calendar day notice. If this is not possible, the owner/developer shall give the maximum amount of notice reasonably possible.
- Within 5 working days COBHA will notify families of the opportunity, and allow them 10 calendar days to respond. Within 15 working days of the owner's notice, COBHA will refer families from the Section 8 Housing Choice Voucher Program that have expressed an interest in receiving Project-Based assistance. (if the interest query was more than six months ago, COBHA will re-notify families on the list prior to making referrals).
- Until revised based on experience, COBHA will refer 4 apparently bedroom-size qualified for every vacancy.
- The COBHA will not perform any eligibility review until the owner/developer has completed its screening, made a conditional offer of a lease and advised the COBHA of the status of all the clients referred for leasing
- With the cooperation of the family, COBHA will, within 30-calendar days attempt to:
  - Complete the eligibility determination;
  - Brief the family
  - Issue a Request for Lease Approval and advise the family of its rent portion
  - The COBHA will schedule an inspection of the vacant unit within 5 working days of receipt of the completed Request for Lease Approval

## **32.0 MODERATE REHABILITATION PROGRAM FOR SINGLE ROOM OCCUPANCY (SRO) DWELLINGS FOR HOMELESS INDIVIDUALS**

### **32.1 Introduction**

The Single Family Modernization Program is funded under the McKinney Act. The COBHA Moderate Rehabilitation Program is a joint effort between COBHA and local, not-for-profit agencies that own property that is in need of rehabilitation in order to restore the dwelling to meet local building codes.

The purpose of the Moderate Rehabilitation Program is to provide Section 8 rental assistance for homeless individuals in rehabilitated single room occupancy housing.

The COBHA, on behalf of HUD, enters into a Section 8 Moderate Rehabilitation Program Housing Assistance Payment Contract with a housing provider for a specific building.



The contract for any unit rehabilitated in accordance with the program guarantees the rental subsidy for a minimum of 10 years.

- The Minimum Rent for the program is \$50
- At present the COBHA is providing rental subsidies for two projects:
- University Avenue Homes (1040 University Avenue); and
- Erna P. Harris (1330 University Avenue)

### **32.2 Applicant Qualifications**

All applicants must be homeless individuals defined as:

- An individual who lacks a fixed, regular, and adequate nighttime residence; or
- An individual who has a primary nighttime residence that is
- A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, and motels paid for with emergency shelter vouchers);
- Transitional housing, and prior to that was homeless and living on the streets or in an emergency shelter, and upon leaving transitional housing has no resources to obtain permanent housing
- An institution that provides a temporary residence for individuals intended to be institutionalized, provided that the applicant has spent less than 30 days there and prior to that had been staying in one of the three categories listed above; or
- A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.
- Individuals may not have income above 50% of area median income as defined by HUD.
- If the owner determines, based on a recertification of income, that the resident's current household income exceeds 50% of area median income, the owner must:

### **32.3 Family Participation**

COBHA is responsible for receipt and review of applications, and determination of family eligibility for participation in accordance with HUD regulations. The owner must lease all assisted units under HAP contract with the Moderate Rehabilitation Program to eligible families.

#### **32.3.1 OUTREACH TO HOMELESS INDIVIDUALS**

Because of the generally transient nature of homeless individuals, the BHA will not maintain a Wait or Interest List for the Single Room Occupancy Moderate Rehabilitation Program. To ensure that homeless individuals are aware of this housing opportunity the COBHA shall:

Provide written notice advising:

- The availability of the housing resources at U.A. Homes and Erna P. Harris; and
- Eligibility criteria, including the preference for homeless individuals;
- Interested individuals to contact the property manager at the site (applicants may express interest at one or both properties) to receive consideration for current and/or future vacancies.

The notice shall be

- Posted at the COBHA office and on the website; and
- Mailed annually, in July, to the following organizations serving the homeless population in the City of Berkeley:
  - Berkeley Oakland Supportive Services (BOSS)
  - Berkeley Food and Housing Project (BFHP)
  - Lifelong Medical
  - Women's Daytime Drop-In Center
  - HAC
  - Options
  - YEAH
  - Bonita House
  - Rubicon; and
- Known churches, synagogues, and other religious organizations with homeless outreach programs; and
- Other formal homeless outreach organizations as they are identified
- Facilitate quarterly meetings with the City of Berkeley Housing Department to ensure coordination with homeless outreach efforts and programs

Owner shall purge the Interest List every six months to ensure the list is kept up-to-date. The process for purging the list shall include contacting the applicant via 1st class mail AND phone to the applicant and the applicant's designated representative as it appears on the interest card.

Applicants will be required to submit an update form and return it within thirty calendar days of mailing/phone contact to remain on the Interest List. If an applicant fails to respond within the specified time period, they will be withdrawn, and sent notice that includes:

- The reason for the determination;
- Their right to request an informal review to retain their place.

### 32.3.2 OWNER SELECTION OF INDIVIDUALS

The owner is responsible for maintaining reasonable records to insure that all individuals expressing interest are afforded an opportunity to complete the application. The owner is responsible for identifying and referring potentially eligible individuals to the COBHA for a final determination of eligibility.

The owner may serve clients out of order if it is unable to reach the individual after utilizing reasonable efforts (i.e. mail or telephone).

The owner may refuse any individual, provided the owner does not unlawfully discriminate.

## 32.4 Leasing Vacancies

Screening and evaluating applicants for tenancy is the responsibility of the Owner:

- Owner must conduct a thorough screening on a uniform, consistent and non-discriminatory basis;
- Owner must keep on site, and provide to all applicants, tenants and outreach agencies, a copy of the selection criteria and/or grounds for denial of rental application.
  - To initiate rental subsidy payments on behalf of the individual, the owner shall, 15-30 days prior to the anticipated move-in:
  - Advise the COBHA in writing of the applicant selected for tenancy. Said notice shall be accompanied by:
    - A completed COBHA Personal Declaration;
    - Current (within 30-days) income verification
    - Proof that the individual is currently homeless, or was homeless during the 12 month period prior to the determination of eligibility
- COBHA will promptly:
  - Contact the family to obtain any additional documents required to determine program eligibility;
  - Review the program rules, including the owner, COBHA and family obligations with the family
  - Advise the client (and Owner) of the tenant rent portion
  - Review and obtain the individuals signature on the “Section 8 Moderate Rehabilitation Program Statement of Family Responsibility” (HUD Form 52578A)

### **32.6 Transfer List**

The Owner shall maintain a transfer list for existing clients wishing to move for one unit to another within the property. The list shall include, at minimum:

- The name of the resident
- The date of the request
- The type or location of the desired unit desired
- Any special medical or other documented need warranting transfer

Granting transfers can be costly and administratively burdensome. Accordingly, transfers will only be granted on a needs basis. The Owner shall consider families on the transfer list prior to new applicants.

The Owner may not transfer a tenant from one unit to another without informing the COBHA, neither may the transfer occur prior to the satisfactory completion of a Housing Quality Standards (HQS) inspection.

### **32.7 Notice Of Non-Discrimination**

With respect to the treatment of applicants, Owner will not discriminate against any individual or family because of race, color, creed, national or ethnic origin or ancestry, religion, sexual orientation, gender identify, age, disability, handicap, military status, source of income, marital status, Human Immunodeficiency virus (HIV) or Acquired Immune Deficiency Syndrome (AIDS), or any other arbitrary basis.

No criteria will be applied or information considered pertaining to attributes of behavior that may be imputed by some particular group or category.

All criteria shall be applied equitably and all information considered on an applicant shall be related solely to the attributes and behavior of the individual as they may affect residency.

All criteria shall be applied equitably and all information considered on an applicant shall be related solely to the attributes and behavior of individual members of the household as they may affect residency.

COBHA will assist any individual who alleges discrimination by staff and/or owners including:

- Assisting the family in completing HUD Form 903
- Referring the family to the local legal aid society
- Referring the family to the California Civil Rights Housing Authority;
- Providing the family with the toll free number for HUD's Office of Fair Housing in Washington, D.C.

### **32.7 Grounds for Non Acceptance**

The Owner is responsible for tenant selection and may refuse any individual provided that the Owner does not unlawfully discriminate. The Owner may choose not to accept applicants who meet the federal eligibility guidelines but:

- Demonstrates blatant disrespect, disruptive or anti-social behavior towards management, the property or other residents at any time during the interview, application and move-in process.
- Reports to the interview under the presumed influence of drugs or alcohol.
- Has unexplained unlawful detainer actions within the past 3 years.
- Has a criminal history in the past 5 years involving
- Felonious crimes
- Drug sales
- Violent crimes
- A pattern of criminal offenses
- Is subject to lifetime registration as a sex offender
- Has been terminated from a federal rental subsidy program for manufacturing methamphetamine
- Does not appear for the interview, or fails to provide the required application and/or eligibility documentation within a reasonable period, specified in the written request.
- Falsifies any of the information upon which eligibility is determined.
- Management may deny an application if it determines that there is reasonable cause to believe that the individual's past or present, history of violence or criminal activity may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents
- An applicant may be accepted if it demonstrates a significant change in criminal behavior, such as successful completion of court-mandated treatment.

### **32.8 Annual Reexamination**

At least annually, the COBHA will require the family to participate in a reexamination that will consist of a review of household composition, income and expenses. Failure to cooperate can result in termination of assistance; and

- At least annually, the COBHA will inspect the unit to determine compliance with minimum Housing Quality Standards (HQS). The Owner and Tenant will receive minimum 14-day advance notice of the scheduled inspection.
- If, as a result of the annual reexamination, or other notification, COBHA determines that there are unauthorized household members, COBHA will advise the family and the owner of the requirement to remove the unauthorized person(s).
- If, as a result of the annual or any interim reexamination the COBHA determines that the household size has changed such that the unit is overcrowded in accordance with HQS, the family must
  - Remove the additional persons
  - Forfeit the subsidy and vacate the unit.
  - An individual's eligibility for housing assistance payments will continue provided:
- The tenant's annual income does not exceed 50% of area median. If it does, the owner must:
  - Give the resident six month notice to vacate the unit; or
  - If the owner can meet the lower income percentage without the unit occupied by the tenant (by leasing another unit to a lower income family at the appropriate rent), the owner may continue leasing to the individual, but is free to renegotiate the rent at the expiration of the current lease term.
- The tenant remains in compliance with the lease terms;
  - The tenant is not at \$0 HAP for more than six months. Eligibility may be reinstated as a result of changes in income or expenses.

### **32.9 Vacancy Loss and Damage Claims**

Vacancy loss is a reimbursable expense incurred by the project as a result of the abandonment and/or vacancy of the unit by the subsidized individual. Vacancy loss is paid only for those days that the unit remains habitable but unoccupied by a subsidized individual.

- The Owner should submit a vacancy loss spread sheet detailing the vacancy loss for each unit for which payment is sought.
- If vacancy payments are not submitted to COBHA within two quarters following the end of the quarter when the vacancy occurred, COBHA will not pay for the vacancy loss
- If the vacancy loss includes "unpaid rent", the COBHA will not pay unless the Owner demonstrates reasonable actions to collect from the individual

#### **32.9.1 VACANCIES FROM EXECUTION OF CONTRACT TO INITIAL OCCUPANCY**

If a Contract unit that has been rehabilitated in accordance with this Program is not leased within 15 days of the effective date of the Contract, the Owner will be entitled to

housing assistance payments in the amount of 80% of the Contract Rent. This vacancy loss payment is limited to a period not exceeding 60 days from the effective date of the Contract, provided that the Owner has:

- Taken and continues to take all feasible actions to fill the vacancy; and
- Not rejected any eligible applicant except for good cause acceptable to COBHA.

#### 32.9.2 VACANCIES AFTER INITIAL OCCUPANCY

- If an eligible subsidized household vacates its unit, the Owner may receive the housing assistance payments due under the Contract for so much of the month in which the subsidized household vacates the unit and the unit remains vacant.
- Should the unit continue to remain vacant, the Owner may receive from COBHA a housing assistance payment in the amount of 80% of the Contract Rent.
- The Owner must reimburse any excess rent to COBHA.
- The Owner will not be entitled to any payment under this section unless the Owner:
  - Has provided COBHA notice of the vacancy as required in Section 31.4(B); and
  - Has taken and continues to take all feasible actions to release the unit to a qualified applicant.
- If the Owner evicts an eligible subsidized household, the Owner will not be entitled to any vacancy loss payment unless COBHA determines that the owner complied with all requirements of the Contract, the Lease and all applicable laws.

#### 32.9.3 PROHIBITION OF DOUBLE COMPENSATION FOR VACANCIES

The Owner will not be entitled to housing assistance payments with respect to vacant units under this section if the Owner is entitled to payments from other sources (for example, payments for losses of rental income incurred for holding units vacant for relocations pursuant to Title I of the Housing and Community Development Act of 1974 or payments for unpaid rent under 24 CFR 882.414)

#### 32.9.4 SECURITY DEPOSITS AND DAMAGE CLAIMS

If, at the time of the initial execution of the Lease, the Owner wishes to collect a security deposit, the maximum amount shall be the greater of one month's Total Tenant Payment (TTP) or \$50. However, this amount shall not exceed the maximum amount allowable under State or local law.

- For units leased in place, security deposits collected prior to the execution of a Contract which are in excess of this maximum amount do not have to be refunded until the subsidized household vacate the unit subject to lease terms.
- The subsidized household is expected to pay security deposits and utility deposits from its resources and/or other public or private sources.
- If a subsidized household vacates the unit, the Owner, subject to State and local law, may use the security deposit as reimbursement for any unpaid Tenant Rent or other amounts that the subsidized household owes under the Lease.
- If a subsidized household vacates the unit owing no rent or other amounts under the Lease consistent with State or local law or if such amount is less than the amount of the security deposit, the Owner shall refund the full amount of the

unused balance to the subsidized household. Security deposits will accrue simple interest at the average rate paid on six-month certificates.

- The applicable interest rate will be published by the City of Berkeley Rent Stabilization Program by November 15th of each year.
- The owner shall refund the amount of earned or imputed interest (through November) to the tenant each December as a cash payment or credit towards rent or other debts.
- If the security deposit is insufficient to reimburse the Owner for the unpaid Tenant Rent or other amounts that the subsidized household owes under the Lease, or if the Owner did not collect a security deposit, provided the owner has taken reasonable actions to collect from the household, the Owner may claim reimbursement from COBHA for an amount not to exceed:
  - The amount owed the Owner; or
  - Two month's Contract Rent minus, in either case the greater of the security deposit actually collected or the amount of security deposit the Owner could have collected under the Program . Any reimbursement under this section must be applied first toward any unpaid Tenant Rent due under the Lease and then to any other amounts owed, No reimbursement may be claimed for unpaid rent for the period after the subsidized household vacates.

Designated COBHA employees will review the documentation for expenses incurred and verify their legitimacy. An inspection of the premises may be arranged to validate the accuracy of the damage claim.

Damage claims must be submitted to COBHA before the end of the next calendar quarter after move-out.

## 32.10 Reconciliation and Communication

### 32.11 Termination Of Owner's Hap Contract By Cobha

Owners participating in the Modernization Rehabilitation Single Room Occupancy Program can have their current contracts terminated and may be banned from future participation for violating Program rules and regulations. COBHA has the option to deny participation by a property owner if the Owner has:

- Collected side payments. Money paid by the Section 8 subsidized household cannot exceed the approved amounts as stated in the Lease Agreement for rent, security deposits or utilities. Owners may charge the tenant for excessive use of utilities (water, sewer and garbage) if the allowable amount is exceeded and falls within the guidelines of the Water Department's definition of average usage for the number of occupants.
- Collected Housing Assistance Payments for units not occupied by Section 8 approved participants;
- Bribed or attempted to bribe COBHA employees to certify substandard units as standard, or to violate any other program rules or regulations;
- A record of chronic poor maintenance including failing to complete needed repairs required for HQS compliance and other provisions of the Housing Contract
- Received water/sewer/garbage shut offs for Section 8 properties and failed to act comprehensively and in a timely manner to restore service to the building including all units and common areas
- Failed to report Program abuse to the COBHA of which they are aware
- Falsified documentation required by COBHA, including efforts to fraudulently represent the date document(s) and/or information was provided
- Submitted fraudulent vacancy loss and/or damage claims
- If the owner has engaged or threatened abusive or violent behavior toward a participant or COBHA personnel or its agents
- Not paid State or local real estate taxes, fines, assessments, or repaid COBHA or overpayments on Section 8 assisted units
- Failed to provide effective property management and maintenance, which leads to unsafe conditions
- Overcharged Section 8 Program participants by renting unassisted, comparable units at lower amounts, or
- Violated obligations under the Section 8 HAP Contract:
- If the Owner has violated any obligation under the HAP contract for the dwelling unit, including the Owner's obligation to maintain the building, including the common areas and each living unit in accordance with HQS
- If the Owner has violated any obligation under any other housing assistance payments contract under Section 8 of the 1937 Act
- If the Owner has committed fraud, bribery or any other corrupt or criminal act in connection with any other federal housing program;
- If the Owner has engaged in drug trafficking.
- If it is determined that the Owner has breached the Contract, COBHA may implement one or more of the following sanctions:



- Recovery of overpayments
- Abatement or other reduction of housing assistance payments
- Termination of housing assistance payments
- Termination of the HAP Contract
- The HAP Contract may also be terminated if:
  - The subsidized household has been required to move from the unit because of overcrowding and fails to reduce the household size or move
- COBHA determines, in accordance with HUD requirement, that funding under its Consolidated Annual Contributions Contract (CAAC) is insufficient to support continued assistance for families in the Program
- The Owner must report all changes in unit occupancies, including move-ins and move-outs within 14 calendar days.

The subsidized household is not a party to, or third party beneficiary, of the HAP Contract. The subsidized household may not exercise any right or remedy against the Owner under the HAP Contract. Even if the subsidized household continues to occupy the unit, the COBHA may exercise any right or remedy against the Owner under the HAP Contract.

### **32.12 COBHA Owned Housing**

Units owned by COBHA and not receiving subsidy under any other program are eligible housing units for Housing Choice Voucher holders. In order to comply with Federal regulation, COBHA will do the following:

- Make known through the briefing process, both orally and in writing, the availability of COBHA owned units (notification will also include other properties owned/managed by the private sector available to Housing Choice Voucher holders).
- Obtain the services of one or more independent entities to:
  - Determine rent reasonableness for the unit.
  - Assist the family in negotiating the rent.
  - Inspect the unit for compliance with HQS

COBHA will gain HUD approval for the independent agencies/entities utilized to perform the above functions. COBHA will compensate the independent agencies/entities from its ongoing administrative fee income.

COBHA, or independent agencies/entities, will not charge the family any fee or charge for the services provided by the independent agencies/entities.

### **33.0 GLOSSARY**

Act: 1937 Housing Act: The United States Housing Act of 1937 [42 U.S.C. 1437 et seq.]

Absorption: In portability, the point at which a receiving housing authority stops billing the initial housing authority for assistance on behalf of a portable family. [24 CFR 982.4]

Adjusted annual income: The amount of household income, after deductions for specified allowances, on which tenant TTP is based.

**Administrative fee:** Fee paid by HUD to the housing authority for the administration of the program.

**Administrative Plan:** The plan that describes housing authority policies for the administration of the tenant-based programs.

**Admission:** The point when the family becomes a participant in the program. In a tenant-based program, the date used for this purpose is the effective date of the first HAP Contract for a family (first day of initial lease term).

**Adult:** A household member who is 18 years or older or who is the head of the household, or spouse, or co-head. An adult must have the legal capacity to enter a lease under State and local law.

**Allowances:** Amounts deducted from the household's annual income in determining adjusted annual income (the income amount used in the TTP calculation). Allowances are given for elderly families, dependents, medical expenses for elderly families, disability expenses, and child care expenses for children under 13 years of age. Other allowances can be given at the discretion of the housing authority.

**Amortization payment:** In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home. If furniture was included in the purchase price, the debt service must be reduced by 15% to exclude the cost of the furniture. The amortization cost is the initial financing, not refinancing. Set-up charges may be included in the monthly amortization payment.

**Annual Contributions Contract (ACC):** The written contract between HUD and a housing authority under which HUD agrees to provide funding for a program under the 1937 Act, and the housing authority agrees to comply with HUD requirements for the program.

**Annual income:** All amounts, monetary or not, that:

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

Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

Are not specifically excluded from Annual Income.

Annual Income also includes amounts derived (during the 12-month period) from assets to which any member of the family has access.

**Applicant (applicant family):** A family that has applied for admission to a program but is not yet a participant in the program.

**Assets:** See net family assets.

**Asset Income:** Income received from assets held by household members. If assets total more than \$5,000, income from the assets is "imputed" and the greater of actual asset income and imputed asset income is counted in annual income.

**Assisted lease (lease):** A written agreement between an owner and a family for the leasing of a dwelling unit to the family. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the housing authority.

**Certificate:** A document issued by a housing authority to a family selected for admission to the Certificate Program. The certificate describes the program and the procedures for housing authority approval of a unit selected by the family. The certificate also states the obligations of the family under the program.

**Certification:** The examination of a household's income, expenses, and family composition to determine the household's eligibility for program participation and to calculate the household's TTP for the following 12 months.

**Child:** For purposes of citizenship regulations, a member of the family other than the family head or spouse who is under 18 years of age.

**Child care expenses:** Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

**Citizen:** A citizen or national of the United States.

**Common space:** In shared housing: Space available for use by the assisted family and other occupants of the unit.

**Congregate housing:** Housing for elderly or persons with disabilities that meets the HQS for congregate housing.

**Consent form:** Any consent form approved by HUD to be signed by assistance applicants and participants for the purpose of obtaining income information from employers and SWICAs, return information from the Social Security Administration, and return information for unearned income from the Internal Revenue Service. The consent forms may authorize the collection of other information from assistance applicants or participants to determine eligibility or level of benefits.

**Contiguous MSA:** In portability, an MSA that shares a common boundary with the MSA in which the jurisdiction of the initial housing authority is located.

**Continuously assisted:** An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the Section 8 Housing Choice Voucher Program.

**Cooperative:** Housing owned by a non-profit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing.

**Covered Families:** Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("Social Service Agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

**Day(s):** The term "day(s)" throughout this document refers to calendar days.

**Decent, safe, and sanitary:** Housing is decent, safe, and sanitary if it satisfies the applicable housing quality standards.

**Department:** The Department of Housing and Urban Development.

**Dependent:** A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

**Dependent Allowance:** An amount, equal to \$480 multiplied by the number of dependents, that is deducted from the household's annual income in determining adjusted annual income.

**Disability Assistance Expense Allowance:** In determining adjusted annual income, the amount of disability assistance expenses deducted from annual income for families with a disabled household member.

**Disability assistance expenses:** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

**Disabled family:** A family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

**Disabled person:** See "person with disabilities."

**Displaced family:** A family in which each member, or whose sole member, is a person displaced by governmental action (such as urban renewal), or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

**Displaced person:** A person displaced by governmental action (such as urban renewal), or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

**Domicile:** The legal residence of the household head or spouse as determined in accordance with State and local law.

**Drug-related criminal activity:** Illegal use or personal use of a controlled substance, and the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use, of a controlled substance.

**Drug trafficking:** The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance.

**Economic self-sufficiency program:** Any program designed to encourage, assist, train or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include programs for job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including a substance abuse or mental health treatment program), or other work activities.

**Elderly family:** A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

**Elderly Family Allowance:** For elderly families, an allowance of \$400 is deducted from the household's annual income in determining adjusted annual income.

**Elderly person:** A person who is at least 62 years of age.

**Evidence of citizenship or eligible status:** The documents that must be submitted to evidence citizenship or eligible immigration status.

Exception rent: An amount that exceeds the published fair market rent.

Extremely low-income families: Those families whose incomes do not exceed 30% of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30% of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Fair Housing Act: Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.).

Fair market rent (FMR): The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately-owned existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. FMRs are published periodically in the Federal Register.

Family includes but is not limited to:

A family with or without children (the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size);

- a) An elderly family;
- b) A near-elderly family;
- c) A disabled family;
- d) A displaced family;
- e) The remaining member of a tenant family; and
- f) A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Family members: include all household members except live-in aides. All family members permanently reside in the unit, although they may be temporarily absent for short periods of time.

Family Rent to Owner: In the Section 8 Housing Choice Voucher Program, the portion of rent to owner paid by the family.

Family self-sufficiency program (FSS program): The program established by a housing authority to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

Family share: The portion of rent and utilities paid by the family or the gross rent minus the amount of the housing assistance payment.

Family unit size: The appropriate number of bedrooms for a family as determined by the housing authority under the housing authority's subsidy standards.

FMR/exception rent limit: The Section 8 existing housing fair market rent published by HUD headquarters, or any exception rent. For a tenancy in the Section 8 Housing Choice Voucher Program, the housing authority may adopt a payment standard up to the FMR/exception rent limit.

Full-time student: A person who is attending school or vocational training on a full-time basis.

Gross rent: The sum of the rent to the owner plus any utilities.

Group Home: A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide).

**Head of household:** The adult member of the family who is the head of the household for purposes of determining income eligibility and TTP.

**Household members:** include all individuals who reside or will reside in the unit and who are listed on the lease, including live-in aides, foster children and foster adults. All household members are listed on the HUD-50058 Form.

**Housing Assistance Payment (HAP):** The monthly assistance by a housing authority, which includes (1) a payment to the owner for rent to the owner under the family's lease, and (2) an additional payment to the family if the total assistance payment exceeds the rent to owner.

**Housing Assistance Plan:** A housing plan that is submitted by a unit of general local government and approved by HUD as being acceptable under the standards of 24 CFR 570.

**Housing quality standards (HQS):** The HUD minimum quality standards for housing assisted under the Section 8 Housing Choice Voucher Program.

**Housing voucher:** A document issued by a housing authority to a family selected for admission to the Section 8 Housing Choice Voucher Program. This document describes the program and the procedures for housing authority approval of a unit selected by the family. The voucher also states the obligations of the family under the program.

**Housing voucher holder:** A family that has an unexpired housing voucher.

**HUD:** The Department of Housing and Urban Development.

**Imputed income:** For households with net family assets of more than \$5,000, the amount calculated by multiplying net family assets by a HUD-specified percentage. If imputed income is more than actual income from assets, the imputed amount is used in determining annual income.

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

**In-Kind Payments:** Contributions other than cash made to the family or to a family member in exchange for services provided or for the general support of the family (e.g., groceries provided on a weekly basis, baby sitting provided on a regular basis, automobile provided for transportation, etc.).

**Income category:** Designates a family's income range. There are three categories: low income, very low income and extremely low-income.

**Incremental income:** The increased portion of income between the total amount of welfare and earnings of a family member prior to enrollment in a training program and welfare and earnings of the family member after enrollment in the training program. All other amounts, increases and decreases, are treated in the usual manner in determining annual income.

**Initial Housing Authority:** In portability, both: (1) a housing authority that originally selected a family that later decides to move out of the jurisdiction of the selecting housing authority; and (2) a housing authority that absorbed a family that later decides to move out of the jurisdiction of the absorbing housing authority.

**Initial payment standard:** The payment standard at the beginning of the HAP contract term.

**Initial rent to owner:** The rent to owner at the beginning of the initial lease term.

Interim (examination): A reexamination of a household's income, expenses, and household status conducted between annual recertifications when a change in a household's circumstances warrant such a reexamination.

Jurisdiction: The area in which the housing authority has authority under State and local law to administer the program.

Lease: A written agreement between an owner and tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP Contract between the owner and the housing authority.

Legal capacity: The participant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

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

- a) Is determined to be essential to the care and well-being of the persons;
- b) Is not obligated for the support of the persons; and
- c) Would not be living in the unit except to provide the necessary supportive services.

Low-income families: Those families whose incomes do not exceed 80% of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80% of the median for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family incomes.

Manufactured home: A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS.

Manufacture home space: In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space.

Medical expenses: Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.

Mixed family: A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Moderate rehabilitation: Rehabilitation involving a minimum expenditure of \$1000 for a unit, including its prorated share of work to be accomplished on common areas or systems, to:

- a) upgrade to decent, safe and sanitary condition to comply with the Housing Quality Standards or
- b) other standards approved by HUD, from a condition below these standards (improvements being of a modest nature and other than routine maintenance); or
- c) repair or replace major building systems or components in danger of failure.

Monthly adjusted income: One twelfth of adjusted income.

Monthly income: One twelfth of annual income.

Mutual housing is included in the definition of "cooperative".

National: A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Near-elderly family: A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons who are at least

50 years of age but below the age of 62 living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

Net family assets:

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

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

c) In determining net family assets, housing authorities or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen: A person who is neither a citizen nor national of the United States.

Notice Of Funding Availability (NOFA): For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

Occupancy standards: The standards that the housing authority establishes for determining the appropriate number of bedrooms needed to house families of different sizes or composition.

Owner: Any person or entity, including a cooperative, having the legal right to lease or sublease existing housing.

Participant (participant family): A family that has been admitted to the housing authority's Section 8 Housing Choice Voucher Program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the housing authority for the family (first day of initial lease).

Payment standard: In a voucher tenancy, the maximum monthly assistance payment for a family (before deducting the total tenant payment by family contribution). For a voucher tenancy, the housing authority sets a payment standard in the range from 90% to 110% of the current FMR.

Person with disabilities: As defined in 24 CFR 8.3, any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. For purposes of qualifying for low-income housing, it does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.



**Portability:** Renting a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the initial housing authority.

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

**Private space:** In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

**Preservation:** This program encourages owners of eligible multifamily housing projects to preserve low-income housing affordability and availability while reducing the long-term cost of providing rental assistance. The program offers several approaches to restructuring the debt of properties developed with project-based Section 8 assistance whose HAP contracts are about to expire.

**Processing Entity:** The person or entity that is responsible for making eligibility and related determinations and an income reexamination. In the Section 8 and public housing programs the processing entity is the responsibility entity.

**Proration of assistance:** The reduction in a family's housing assistance payment to reflect the proportion of family members in a mixed family who are eligible for assistance.

**Public Housing:** housing assisted under the 1937 Act, other than under Section 8.

Public housing includes dwelling units in a mixed finance project that are assisted by a PHA with capital or operating funds.

**Public Housing Agency (PHA):** A State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing.

**Reasonable rent:** A rent to owner that is not more than charged: (a) for comparable units in the private unassisted market; and (b) for a comparable unassisted unit in the premises.

**Receiving Housing Authority:** In portability, a housing authority that receives a family selected for participation in the tenant-based program of another housing authority. The receiving housing authority issues a voucher, and provides program assistance to the family.

**Re-certification:** A reexamination of a household's income, expenses, and family composition to determine the household's TTP for the following 12 months.

**Remaining member of a tenant family:** A member of the family listed on the lease who continues to live in an assisted household after all other family members have left.

**Rent to owner:** The monthly rent payable to the owner under the lease. Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

**Responsible Entity:** For the public housing program, the Section 8 tenant-based assistance program (24 CFR 982), and the Section 8 project-based certificate or voucher program (24 CFR 983), and the Section 8 moderate rehabilitation program (24 CFR 882), responsible entity means the PHA administering the program under an ACC with HUD;

**Self-Declaration:** A type of verification statement by the tenant as to the amount and source of income, expenses, or family composition.

**Set-up charges:** In a manufactured home space rental, charges payable by the family for assembly, skirting and anchoring the manufactured home.

**Shared housing:** A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family.

**Shelter allowance:** That portion of a welfare benefit (e.g., TANF) that the Social Service Agency designates to be used for rent and utilities.

**Single person:** Someone living alone or intending to live alone who does not qualify as an elderly person, a person with disabilities, a displaced person, or the remaining member of a tenant family.

**Single room occupancy housing (SRO):** A unit for occupancy by a single eligible individual capable of independent living that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities.

**Special admission:** Admission of an applicant that is not on the housing authority waiting list, or admission without considering the applicant's waiting list position.

**Special housing types:** Special housing types include: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

**Specified welfare benefit reduction:** A reduction of welfare benefits by the Social Service Agency, in whole or in part, for a family member, as determined by the Social Service Agency, because of fraud by a family member in connection with the welfare program; or because of Social Service Agency sanction against a family member for noncompliance with a Social Service Agency requirement to participate in an economic self-sufficiency program.

"Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the Social Service Agency: a) at the expiration of a lifetime or other time limit on the payment of welfare benefits; b) because a family member is not able to obtain employment, even though the family member has complied with Social Service Agency economic self-sufficiency or work activities requirements; or c) because a family member has not complied with other Social Service Agency requirements.

**State Wage Information Collection Agency (SWICA):** The State agency receiving quarterly wage reports from employers in the State, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

**Statement of family responsibility:** An agreement in the form prescribed by HUD, between the housing authority and a family to be assisted under the Moderate Rehabilitation Program, stating the obligations and responsibilities of the family.

**Subsidy standards:** Standards established by a housing authority to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**Suspension:** Stopping the clock on the term of a family's voucher, for such period as determined by the housing authority, from the time when the family submits a request for housing authority approval to lease a unit, until the time when the housing authority approves or denies the request. Also referred to as tolling.

**Temporary Assistance to Needy Families (TANF):** The program that replaced the Assistance to Families with Dependent Children (AFDC) that provides financial

assistance to needy families who meet program eligibility criteria. Benefits are limited to a specified time period.

Tenant: The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Third-party (verification): Oral or written confirmation of a household's income, expenses, or household composition provided by a source outside the household, such as an employer, doctor, school official, etc.

Tolling: see Suspension.

Total tenant payment (TTP): Total tenant payment is the amount calculated under Section 3(a)(1) of the 1937 Act which is the highest of :

30% of the family's monthly adjusted income;

10% of the family's monthly income;

Minimum TTP; or

If the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under Section 3(a)(1) shall be the amount resulting from one application of the percentage.

Up-Front Income Verification (UIV): The verification of income through an independent source, making use of income information databases such as those maintained by the Social Security Administration and the Internal Revenue Service and made available through HUD's Tenant Assessment Sub-System (TASS), State Wage Information Collection Agencies (SWICAs) and private vendors, before or during a family reexamination.

Utility allowance: If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a housing authority or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility hook-up charge: In a manufactured home space rental, costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

Utility reimbursement: In the Section 8 Housing Choice Voucher Program, the portion of the housing assistance payment that exceeds the amount of the rent to owner. It is only paid when the housing assistance payment exceeds the rent to owner. In the certificate program, if the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Verification: The process of obtaining statements from individuals who can attest to the accuracy of the amounts of income, expenses, or household member status (e.g., employers, public assistance agency staff, doctors). The three types of verification are:

- a) Third-party verification, either written or oral, obtained from employers, public assistance agencies, schools, etc.
- b) Documentation such as a copy of a birth certificate or bank statement
- c) Family certification or declaration (only used when third-party or documentation verification is not available)

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

Veteran: Applicants whose Head of Household or spouse/significant other is a current member of the military, an honorably discharged veteran, or the surviving spouse of an honorably discharged veteran.

Violent criminal activity: Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Voucher (rental voucher): A document issued by a housing authority to a family selected for admission to the Section 8 Housing Choice Voucher Program. This document describes the program and the procedures for housing authority approval of a unit selected by the family and states the obligations of the family under the program.

Voucher holder: A family holding a voucher with unexpired search time.

Waiting list admission: An admission from the housing authority waiting list. [24 CFR 982.4]

Welfare assistance. Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, State or local governments (including assistance provided under the Temporary Assistance for Needy Families (TANF) program, as that term is defined under the implementing regulations issued by the Department of Health and Human Services at 45 CFR 260.31). [24 CFR 5.603(d)]

Welfare rent: In "as-paid" welfare programs, the amount of the welfare benefit designated for shelter and utilities.

Welfare -to-Work (MTW) families: Families assisted with voucher funding awarded under the HUD Welfare-to-Work Voucher Program.

#### Acronyms

AAF Annual Adjustment Factor

ACC Annual Contributions Contract

ADL Activities for Daily Living

AHAP Agreement to Enter a Housing Assistance Payment Contract

AMI Area Median Income

COBHA City of Berkeley Housing Authority

CACC Consolidated Annual Contributions Contract

CFR Code of Federal Regulations

CHFA California Housing Finance Agency

COLA Cost of Living Adjustment

EDD Employment Development Department

FHA Federal Housing Administration

FMR Fair Market Rent

FSS Family Self Sufficiency (program)

HAP Housing Assistance Payment

HCDA Housing and Community Development Act

HCVP Housing Choice Voucher Program

HQS Housing Quality Standards

HUD Department of Housing and Urban Development

IADL Instrumental Activities for Daily Living

INS (U.S.) Immigration and Naturalization Service

NAHA (Cranston-Gonzalez) National Affordable Housing Act

NOFA Notice of Funding Availability

OMB (U.S.) Office of Management and Budget

PBV Project-Based Voucher (program)

PHA Public Housing Agency

QHWRA Quality Housing and Work Responsibility Act of 1998

SSA Social Security Administration and/or Social Security Income

SSI Supplemental Security Income

SSP State Supplementary Payments – optional state SSI add-on

TANF Temporary Assistance for Needed Families

TASS Tenant Assessment Subsystem

TTP Total Tenant Payment