

PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

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Subpart A—Applicability, Definitions, Equal Opportunity Requirements

SOURCE: 65 FR 16724, Mar. 29, 2000, unless otherwise noted.

EFFECTIVE DATE NOTE: At 65 FR 16724, Mar. 29, 2000, subpart A to part 960 was added, effective Apr. 28, 2000.

§ 960.101 Applicability.

This part is applicable to public housing.

§ 960.102 Definitions.

(a) *Definitions found elsewhere:* (1) *General definitions.* The following terms are defined in part 5, subpart A of this title: *1937 Act*, *HUD*, *MSA*, *public housing*, *public housing agency* (PHA), *Section 8*.

(2) *Definitions under the 1937 Act.* The following terms are defined in part 5, subpart D of this title: *annual contributions contract* (ACC), *applicant*, *elderly family*, *elderly person*, *extremely low income family*, *family*, *low income family*, *person with disabilities*.

(3) *Definitions and explanations concerning income and rent.* The following terms are defined or explained in part 5, subpart F of this title: *Annual income* (see § 5.609); *economic self-sufficiency program*, *tenant rent*, *total tenant payment* (see § 5.628), *utility allowance*.

(b) *Additional definitions.* In addition to the definitions in paragraph (a), the following definitions and cross-references apply:

Ceiling rent. See § 960.253(d).

Designated housing. See part 945 of this chapter.

Disabled families. See § 5.403 of this title.

Eligible families. Low income families who are eligible for admission to the public housing program.

Flat rent. See § 960.253(b).

Income-based rent. See § 960.253(c).

Mixed population development. A public housing development, or portion of a development, that was reserved for elderly and disabled families at its inception (and has retained that character). If the development was not so reserved at its inception, the PHA has obtained HUD approval to give preference in tenant selection for all units in the development (or portion of development) to elderly families and disabled families. These developments were formerly known as elderly projects.

Over-income family. A family that is not a low income family. See subpart E of this part.

PHA plan. See part 903 of this chapter.

Residency preference. A preference for admission of persons who reside in a specified geographic area.

Tenant-based. See §982.1(b) of this chapter.

§960.103 Equal opportunity requirements.

(a) *Applicable requirements.* The PHA must administer its public housing program in accordance with all applicable equal opportunity requirements imposed by contract or federal law, including the authorities cited in §5.105(a) of this title.

(b) *PHA duty to affirmatively further fair housing.* The PHA must affirmatively further fair housing in the administration of its public housing program.

(c) *Equal opportunity certification.* The PHA must submit signed equal opportunity certifications to HUD in accordance with §903.7(o) of this title, including certification that the PHA will affirmatively further fair housing.

Subpart B—Admission

§960.201 Purpose.

(a) This subpart states HUD eligibility and selection requirements for admission to public housing.

(b) See also related HUD regulations in this title concerning these subjects:

- (1) 1937 Act definitions: part 5, subpart D;
- (2) Restrictions on assistance to non-citizens: part 5, subpart E;

(3) Family income and family payment: part 5, subpart F;

(4) Public housing agency plans: part 903;

(5) Rent and reexamination: part 960, subpart C;

(6) Mixed population developments: part 960, subpart D;

(7) Occupancy by over-income families or police officers: part 960, subpart E.

[65 FR 16725, Mar. 29, 2000]

EFFECTIVE DATE NOTE: At 65 FR 16725, Mar. 29, 2000, §960.201 as revised, effective Apr. 28, 2000. For the convenience of the user, the superseded text is set forth as follows:

§960.201 Purpose and scope.

The purpose of this subpart is to prescribe standards and criteria for tenant selection and annual reexamination of income and family composition by each public housing agency (PHA) in accordance with the U.S. Housing Act of 1937 (the Act) and the Annual Contributions Contract (ACC).

[49 FR 21491, May 21, 1984]

§960.202 Eligibility and targeting for admission.

(a) *Who is eligible?* (1) *Basic eligibility.* An applicant must meet all eligibility requirements in order to receive housing assistance. At a minimum, the applicant must be a family, as defined in §5.403 of this title, and must be income-eligible, as described in this section. Such eligible applicants include single persons.

(2) *Low income limit.* No family other than a low income family is eligible for admission to a PHA's public housing program.

(b) *Targeting admissions to extremely low income families.*—(1) *Targeting requirement.* (i) Not less than 40 percent of the families admitted to a PHA's public housing program during the PHA fiscal year from the PHA waiting list shall be extremely low income families. This is called the "basic targeting requirement".

(ii) To the extent provided in paragraph (b)(2) of this section, admission of extremely low income families to the PHA's Section 8 voucher program during the same PHA fiscal year is credited against the basic targeting requirement.

(iii) A PHA must comply with both the targeting requirement found in this

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part and the deconcentration requirements found in part 903 of this chapter.

(2) *Credit for admissions to PHA voucher program.* (i) If admissions of extremely low income families to the PHA's voucher program during a PHA fiscal year exceeds the 75 percent minimum targeting requirement for the PHA's voucher program (see §982.201(b)(2) of this chapter), such excess shall be credited (subject to the limitations in paragraph (b)(2)(ii) of this section) against the PHA's basic targeting requirement for the same fiscal year.

(ii) The fiscal year credit for voucher program admissions that exceed the minimum voucher program targeting requirement shall not exceed the lower of:

(A) Ten percent of public housing waiting list admissions during the PHA fiscal year;

(B) Ten percent of waiting list admission to the PHA's Section 8 tenant-based assistance program during the PHA fiscal year; or

(C) The number of qualifying low income families who commence occupancy during the fiscal year of PHA public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low income family means a low income family other than an extremely low income family.

(c) *Income used for eligibility and targeting.* Family annual income (see §5.609) is used both for determination of income eligibility under paragraph (a) and for PHA income targeting under paragraph (b) of this section.

(d) *Reporting.* The PHA must comply with HUD-prescribed reporting requirements that will permit HUD to maintain the data, as determined by HUD, necessary to monitor compliance with income eligibility and targeting requirement.

[65 FR 16725, Mar. 29, 2000]

EFFECTIVE DATE NOTE: At 65 FR 16725, Mar. 29, 2000, §960.202 was revised, effective Apr. 28, 2000. For the convenience of the user, the superseded text is set forth as follows:

§ 960.202 Applicability.

This subpart is applicable to all dwelling units assisted under the U.S. Housing Act of 1937 in projects owned by or leased to PHAs

and leased or subleased by PHAs to tenants, and is not applicable to Section 23 and Section 10(c) leased housing projects, the Section 23 Housing Assistance Payments Program, and the Section 8 Housing Assistance Payments Program where the owners enter into leases directly with the tenants. This subpart is not applicable to the Low-Rent Housing Homeownership Opportunities Program (Turnkey III), to the Mutual Help Homeownership Opportunities Program, or to Indian Tribal Housing Authorities.

§ 960.203 [Reserved]

§ 960.204 Tenant selection policies.

(a) *Selection policies.* (1) The PHA shall establish and adopt written policies for admission of tenants.

(2) These policies shall be designed:

(i) To provide for deconcentration and income-mixing in accordance with the PHA plan (see §903.7 of this title).

(ii) To preclude admission of applicants whose habits and practices reasonably may be expected to have a detrimental effect on the residents or the project environment;

(iii) To establish objective and reasonable policies for selection by the PHA among otherwise eligible applicants.

(3) The PHA tenant selection policies shall include the following:

(i) Requirements for applications and waiting lists (see 24 CFR 1.4);

(ii) Description of the policies for selection of applicants from the waiting list;

(iii) Policies for verification and documentation of information relevant to acceptance or rejection of an applicant, including documentation and verification of citizenship and eligible immigration status under 24 CFR part 5; and

(iv) Policies for participant transfer between units, projects, and programs. For example, a PHA could adopt a criterion for voluntary transfer that the tenant had met all obligations under the current program, including payment of charges to the PHA.

(b) These selection policies shall:

(1) Be duly adopted; and

(2) Be publicized by posting copies thereof in each office where applications are received and by furnishing copies to applicants or tenants upon request, free or at their expense, at the discretion of the PHA.

(c) Such policies shall be submitted to the HUD field office upon request from that office.

[59 FR 36655, July 18, 1994, as amended at 60 FR 14861, Mar. 20, 1995; 61 FR 9048, Mar. 6, 1996; 61 FR 13626, Mar. 27, 1996; 65 FR 16725, Mar. 29, 2000]

EFFECTIVE DATE NOTE: At 65 FR 16725, Mar. 29, 2000, §960.204 was amended by revising paragraph (a)(2)(i), removing paragraph (a)(2)(iii) and redesignating (a)(2)(iv) as the new (a)(2)(iii), inserting a semicolon after "waiting list" in paragraph (a)(3)(ii), and removing paragraphs (a)(3)(ii)(A) through (D), effective Apr. 28, 2000. For the convenience of the user, the superseded text is set forth as follows:

§ 960.204 Tenant selection policies.

- (a) * * *
(2) * * *

(i) To attain, to the maximum extent feasible, a tenant body in each project that is composed of families with a broad range of incomes and to avoid concentrations of the most economically deprived families with serious social problems;

* * * * *

(iii) To give a preference in selection of tenants to applicants who qualify for a federal preference, ranking preference, or local preference, in accordance with 24 CFR part 5; and

* * * * *

- (3) * * *
(ii) * * *

(A) How the "federal preferences" (described in 24 CFR part 5) will be used;

(B) How any "ranking preferences" (described in 24 CFR part 5) will be used;

(C) How any "local preferences" (described in 24 CFR part 5) will be used; and

(D) How any residency preference will be used;

* * * * *

§ 960.205 Standards for PHA tenant selection criteria.

(a) The tenant selection criteria to be established and information to be considered shall be reasonably related to individual attributes and behavior of an applicant and shall not be related to those which may be imputed to a particular group or category of persons of which an applicant may be a member. The PHA may use preferences based on

the employment status of family members.

(b) In selection of families for admission to its public housing program, or to occupy a public housing development or unit, the PHA is responsible for screening family behavior and suitability for tenancy. The PHA may consider all relevant information, which may include, but is not limited to:

(1) An applicant's past performance in meeting financial obligations, especially rent;

(2) A record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences which may adversely affect the health, safety or welfare of other tenants; and

(3) A history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety or welfare of other tenants.

(c) The requirements with respect to deconcentrating poverty and producing a mix of incomes in the PHA's public housing developments are found in the PHA Plan rule, at part 903 of this title.

(d) In the event of the receipt of unfavorable information with respect to an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct and to factors which might indicate a reasonable probability of favorable future conduct or financial prospects. For example:

(1) Evidence of rehabilitation;

(2) Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs and the availability of such programs;

(3) Evidence of the applicant family's willingness to attempt to increase family income and the availability of training or employment programs in the locality.

[40 FR 33446, Aug. 8, 1975. Redesignated at 49 FR 6714, Feb. 23, 1984, and amended at 49 FR 21492, May 21, 1984; 50 FR 9269, Mar. 7, 1985; 59 FR 36656, July 18, 1994; 61 FR 9048, Mar. 6, 1996; 65 FR 16725, Mar. 29, 2000]

EFFECTIVE DATE NOTE: At 65 FR 16726, Mar. 29, 2000, §960.205 was amended by revising paragraphs (b) introductory text and (c), effective Apr. 28, 2000. For the convenience of the user, the superseded text is set forth as follows:

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§ 960.205 Standards for PHA tenant selection criteria.

* * * * *

(b) The criteria to be established in relation to avoiding concentration of families with serious social problems in PHA projects and information to be considered shall be reasonably related to whether the conduct of the applicant in present or prior housing has been such as would not be likely to interfere with other tenants in such a manner as to diminish their enjoyment of the premises by adversely affecting their health, safety or welfare or to affect adversely the physical environment or the financial stability of the project if the applicant were admitted to the project. Relevant information respecting habits or practices to be considered may include, but is not limited to:

* * * * *

(c) The criteria to be established shall be reasonably related to attaining, to the maximum extent feasible, a tenant body in each project that is composed of families with a broad range of incomes. PHAs shall develop criteria, by local preference or otherwise, which will be reasonably calculated to attain the basic objective. The criteria developed shall be sufficiently flexible to assure administrative feasibility. A dwelling unit should not be allowed to remain vacant for the purpose of awaiting application by a family falling within the appropriate range.

* * * * *

§ 960.206 Waiting list: Local preferences in admission to public housing program.

(a) Establishment of PHA local preferences. (1) The PHA may adopt a system of local preference for selection of families admitted to the PHA's public housing program. The PHA system of selection preferences must be based on local housing needs and priorities as determined by the PHA. In determining such needs and priorities, the PHA shall use generally accepted data sources. Such sources include public comment on the PHA plan (as received pursuant to § 903.17 of this chapter), and on the consolidated plan for the relevant jurisdiction (as received pursuant to part 91 of this title).

(2) The PHA may limit the number of applicants that qualify for any local preference.

(3) PHA adoption and implementation of local preferences is subject to HUD requirements concerning income-targeting (§ 960.202(b)), deconcentration and income-mixing (§ 903.7), and selection preferences for developments designated exclusively for elderly or disabled families or for mixed population developments (§ 960.407).

(4) The PHA must inform all applicants about available preferences and must give applicants an opportunity to show that they qualify for available preferences.

(b) Particular local preferences.—(1) Residency requirements or preferences. (i) Residency requirements are prohibited. Although a PHA is not prohibited from adopting a residency preference, the PHA may only adopt or implement residency preferences in accordance with non-discrimination and equal opportunity requirements listed at § 5.105(a) of this title.

(ii) A residency preference is a preference for admission of persons who reside in a specified geographic area ("residency preference area"). A county or municipality may be used as a residency preference area. An area smaller than a county or municipality may not be used as a residency preference area.

(iii) Any PHA residency preferences must be included in the statement of PHA policies that govern eligibility, selection and admission to the program, which is included in the PHA annual plan (or supporting documents) pursuant to part 903 of this chapter. Such policies must specify that use of a residency preference will not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant family.

(iv) A residency preference must not be based on how long an applicant has resided or worked in a residency preference area.

(v) Applicants who are working or who have been notified that they are hired to work in a residency preference area must be treated as residents of the residency preference area. The PHA may treat graduates of, or active participants in, education and training

programs in a residency preference area as residents of the residency preference area if the education or training program is designed to prepare individuals for the job market.

(2) *Preference for working families.* The PHA may adopt a preference for admission of working families (families where the head, spouse, or sole member, is employed). However, an applicant must be given the benefit of the working family preference if the head and spouse, or sole member is age 62 or older, or is a person with disabilities.

(3) *Preference for person with disabilities.* The PHA may adopt a preference for admission of families that include a person with disabilities. However, the PHA may not adopt a preference for persons with a specific disability.

(4) *Preference for victims of domestic violence.* The PHA should consider whether to adopt a local preference for admission of families that include victims of domestic violence.

(5) *Preference for single persons who are elderly, displaced, homeless or a person with disabilities.* The PHA may adopt a preference for admission of single persons who are age 62 or older, displaced, homeless, or persons with disabilities over other single persons.

(c) *Selection for particular unit.* In selecting a family to occupy a particular unit, the PHA may match characteristics of the family with the type of unit available, for example, number of bedrooms. In selection of families to occupy units with special accessibility features for persons with disabilities, the PHA must first offer such units to families which include persons with disabilities who require such accessibility features (see §§ 8.27 and 100.202 of this title).

(d) *Housing assistance limitation for single persons.* A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a resident family may not be provided a housing unit with two or more bedrooms.

(e) *Selection method.* (1) The PHA must use the following to select among applicants on the waiting list with the same priority for admission:

- (i) Date and time of application; or
- (ii) A drawing or other random choice technique.

(2) The method for selecting applicants must leave a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in the PHA plan.

[65 FR 16726, Mar. 29, 2000]

EFFECTIVE DATE NOTE: At 65 FR 16726, Mar. 29, 2000, § 960.206 was revised, effective Apr. 28, 2000. For the convenience of the user, the superseded text is set forth as follows:

§ 960.206 Verification procedures.

(a) *General.* Adequate procedures must be developed to obtain and verify information with respect to each applicant. (See 24 CFR parts 5 and 913.) Information relative to the acceptance or rejection of an applicant or the grant or denial of a ranking preference, or a local preference under 24 CFR part 5 must be documented and placed in the applicant's file.

(b) *Suggested sources of information.* Sources of information may include, but are not limited to, the applicant (by means of interviews or home visits), landlords, employers, family social workers, parole officers, court records, drug treatment centers, clinics, physicians or police departments where warranted by the particular circumstances.

(c) *Tenant advisory boards.* The PHA may establish Tenant Advisory Boards for consultation in connection with the tenant selection process.

(Approved by the Office of Management and Budget under control number 2577-0083)

[40 FR 33446, Aug. 8, 1975. Redesignated at 49 FR 6714, Feb. 23, 1984, and amended at 53 FR 1179, Jan. 15, 1988; 53 FR 6601, Mar. 2, 1988; 54 FR 39711, Sept. 27, 1989; 56 FR 7545, Feb. 22, 1991; 59 FR 36656, July 18, 1994; 60 FR 14861, Mar. 20, 1995; 61 FR 13627, Mar. 27, 1996]

§ 960.208 Notification to applicants.

(a) The PHA must promptly notify any applicant determined to be ineligible for admission to a project of the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination.

(b) When a determination has been made that an applicant is eligible and satisfies all requirements for admission, including the tenant selection criteria, the applicant must be notified of

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the approximate date of occupancy insofar as that date can be reasonably determined.

[53 FR 1179, Jan. 15, 1988 and 53 FR 6601, Mar. 2, 1988, as amended at 59 FR 36656, July 18, 1994; 61 FR 9048, Mar. 6, 1996. Redesignated at 65 FR 16726, Mar. 29, 2000]

EFFECTIVE DATE NOTE: At 65 FR 16726, Mar. 29, 2000, § 960.208 was removed and § 960.207 was redesignated as the new § 960.208, effective Apr. 28, 2000. For the convenience of the user, the superseded text is set forth as follows:

§ 960.208 Rent.

The amount of rent payable by the tenant to the PHA shall be the Tenant Rent, as defined in 24 CFR part 5, subpart F.

[61 FR 54504, Oct. 18, 1996]

§ 960.209 Reexamination of family income and composition.

(a) *Regular reexaminations.* The PHA must reexamine the income and composition of all tenant families at least once every 12 months and determine whether the family's unit size is still appropriate. After consultation with the family and upon verification of the information, the PHA must make appropriate adjustments in the Total Tenant Payment and Tenant Rent in accordance with part 913 of this chapter. At the time of the annual reexamination of family income and composition, the PHA must require the family to disclose and verify Social Security Numbers, as provided by part 5, subpart B, of this title. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see part 5, subpart B, of this title. At the first regular reexamination after June 19, 1995, the PHA shall follow the requirements of 24 CFR part 5 concerning obtaining and processing information on the citizenship or eligible immigration status of all family members. Thereafter, at each regular reexamination, the PHA shall follow the requirements of 24 CFR part 5 concerning verification of the immigration status of any new family member.

(b) *Interim reexaminations.* The family must comply with provisions in its lease regarding interim reporting of changes in income. If the PHA receives

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information concerning a change in the Family's income or other circumstances between regularly scheduled reexaminations, the PHA must consult with the family and make any adjustments determined to be appropriate. Any change in the family's income or other circumstances that results in adjustment in the Total Tenant Payment or Tenant Rent must be verified. See part 5, subpart B, of this title for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see part 5, subpart B, of this title. At any interim reexamination after June 19, 1995 when there is a new family member, the PHA shall follow the requirements of 24 CFR part 5 concerning obtaining and processing information on the citizenship or eligible immigration status of the new family member.

(c) *Termination.* For provisions requiring termination of participation for failure to establish citizenship or eligible immigration status, see 24 CFR part 5 for provisions concerning assistance to certain mixed families (families whose members include those with citizenship and eligible immigration status and those without eligible immigration status) in lieu of termination of assistance.

[56 FR 7545, Feb. 22, 1991, as amended at 60 FR 14861, Mar. 20, 1995; 61 FR 11119, Mar. 18, 1996; 61 FR 13627, Mar. 27, 1996]

EFFECTIVE DATE NOTE: At 65 FR 16726, Mar. 29, 2000, § 960.209 was removed, effective Apr. 28, 2000.

§ 960.210 Restriction on eviction of families based upon income.

No PHA shall commence eviction proceedings, or refuse to renew a lease, based on the income of the tenant family unless: (a) It has identified, for possible rental by the family, a unit of decent, safe, and sanitary housing of suitable size available at a rent not exceeding the Tenant Rent as defined and calculated in accordance with part 913 of

this chapter, or (b) it is required to do so by local law.

[49 FR 21492, May 21, 1984]

EFFECTIVE DATE NOTE: At 65 FR 16726, Mar. 29, 2000, §960.210 was removed, effective Apr. 28, 2000.

Subpart C—Rent and Reexamination

SOURCE: 65 FR 16726, Mar. 29, 2000, unless otherwise noted.

EFFECTIVE DATE NOTE: At 65 FR 16726, Mar. 29, 2000, subpart C to part 960 was added, effective Apr. 28, 2000.

§ 960.253 Choice of rent.

(a) *Rent options.* (1) *Annual choice by family.* Once a year, the PHA must give each family the opportunity to choose between the two methods for determining the amount of tenant rent payable monthly by the family. The family may choose to pay as tenant rent either a flat rent as determined in accordance with paragraph (b) of this section, or an income-based rent as determined in accordance with paragraph (c) of this section. Except for financial hardship cases as provided in paragraph (d) of this section, the family may not be offered this choice more than once a year.

(2) *Relation to minimum rent.* Regardless of whether the family chooses to pay a flat rent or income-based rent, the family must pay at least the minimum rent as determined in accordance with §5.630 of this title.

(b) *Flat rent.* (1) The flat rent is based on the market rent charged for comparable units in the private unassisted rental market. It is equal to the estimated rent for which the PHA could promptly lease the public housing unit after preparation for occupancy.

(2) The PHA must use a reasonable method to determine the flat rent for a unit. To determine the flat rent, the PHA must consider:

(i) The location, quality, size, unit type and age of the unit; and

(ii) Any amenities, housing services, maintenance and utilities provided by the PHA.

(3) The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued

residency by families who are attempting to become economically self-sufficient.

(4) If the family chooses to pay a flat rent, the PHA does not pay any utility reimbursement.

(5) The PHA must maintain records that document the method used to determine flat rents, and also show how flat rents are determined by the PHA in accordance with this method, and document flat rents offered to families under this method.

(c) *Income-based rent.* (1) An income-based rent is a tenant rent that is based on the family's income and the PHA's rent policies for determination of such rents.

(2) The PHA rent policies may specify that the PHA will use percentage of family income or some other reasonable system to determine income-based rents. The PHA rent policies may provide for depositing a portion of tenant rent in an escrow or savings account, for imposing a ceiling on tenant rents, for adoption of permissive income deductions (see §5.611(b) of this title), or for another reasonable system to determining the amount of income-based tenant rent.

(3) The income-based tenant rent must not exceed the total tenant payment (§5.628 of this title) for the family minus any applicable utility allowance for tenant-paid utilities. If the utility allowance exceeds the total tenant payment, the PHA shall pay such excess amount (the utility reimbursement) either to the family or directly to the utility supplier to pay the utility bill on behalf of the family. If the PHA elects to pay the utility supplier, the PHA must notify the family of the amount of utility reimbursement paid to the utility supplier.

(d) *Ceiling rent.* Instead of using flat rents, a PHA may retain ceiling rents that were authorized and established before October 1, 1999, for a period of three years from October 1, 1999. After this three year period, the PHA must adjust such ceiling rents to the level required for flat rents under this section; however, ceiling rents are subject to paragraph (a) of this section, the annual reexamination requirements, and the limitation that the tenant rent

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plus any utility allowance may not exceed the total tenant payment.

(e) *Information for families.* For the family to make an informed choice about its rent options, the PHA must provide sufficient information for an informed choice. Such information must include at least the following written information:

(1) The PHA's policies on switching type of rent in circumstances of financial hardship, and

(2) The dollar amounts of tenant rent for the family under each option. If the family chose a flat rent for the previous year, the PHA is required to provide the amount of income-based rent for the subsequent year only the year the PHA conducts an income reexamination or if the family specifically requests it and submits updated income information. For a family that chooses the flat rent option, the PHA must conduct a reexamination of family income at least once every three years.

(f) *Switch from flat rent to income-based rent because of hardship.* (1) A family that is paying a flat rent may at any time request a switch to payment of income-based rent (before the next annual option to select the type of rent) if the family is unable to pay flat rent because of financial hardship. The PHA must adopt written policies for determining when payment of flat rent is a financial hardship for the family.

(2) If the PHA determines that the family is unable to pay the flat rent because of financial hardship, the PHA must immediately allow the requested switch to income-based rent. The PHA shall make the determination within a reasonable time after the family request.

(3) The PHA policies for determining when payment of flat rent is a financial hardship must provide that financial hardship include the following situations:

(i) The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance;

(ii) The family has experienced an increase in expenses, because of changed circumstances, for medical costs, child

care, transportation, education, or similar items; and

(iii) Such other situations determined by the PHA to be appropriate.

§ 960.255 Self-sufficiency incentives—
Disallowance of increase in annual income.

(a) *Definitions.* The following definitions apply for purposes of this section.

Disallowance. Exclusion from annual income.

Previously unemployed includes a person who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in public housing:

(i) Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment;

(ii) Whose annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or

(iii) Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the PHA in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance—provided that the total amount over a six-month period is at least \$500.

(b) *Disallowance of increase in annual income.* (1) *Initial twelve month exclusion.* During the cumulative twelve month period beginning on the date a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA must exclude from annual income (as defined in § 5.609 of this title) of a qualified family

any increase in income of the family member as a result of employment over prior income of that family member.

(2) *Second twelve month exclusion and phase-in.* During the second cumulative twelve month period after the date a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) *Maximum four year disallowance.* The disallowance of increased income of an individual family member as provided in paragraph (b)(1) or (b)(2) of this section is limited to a lifetime 48 month period. It only applies for a maximum of twelve months for disallowance under paragraph (b)(1) and a maximum of twelve months for disallowance under paragraph (b)(2), during the 48 month period starting from the initial exclusion under paragraph (b)(1) of this section.

(c) *Inapplicability to admission.* The disallowance of increases in income as a result of employment under this section does not apply for purposes of admission to the program (including the determination of income eligibility and income targeting).

(d) *Individual Savings Accounts.* As an alternative to the disallowance of increases in income as a result of employment described in paragraph (b) of this section, a PHA may choose to provide for individual savings accounts for public housing residents who pay an income-based rent, in accordance with a written policy, which must include the following provisions:

(1) The PHA must advise the family that the savings account option is available;

(2) At the option of the family, the PHA must deposit in the savings account the total amount that would have been included in tenant rent payable to the PHA as a result of increased income that is disallowed in accordance with paragraph (b) of this section;

(3) Amounts deposited in a savings account may be withdrawn only for the purpose of:

- (i) Purchasing a home;
- (ii) Paying education costs of family members;
- (iii) Moving out of public or assisted housing; or
- (iv) Paying any other expense authorized by the PHA for the purpose of promoting the economic self-sufficiency of residents of public housing;

(4) The PHA must maintain the account in an interest bearing investment and must credit the family with the net interest income, and the PHA may not charge a fee for maintaining the account;

(5) At least annually the PHA must provide the family with a report on the status of the account; and

(6) If the family moves out of public housing, the PHA shall pay the tenant any balance in the account, minus any amounts owed to the PHA.

§ 960.257 Family income and composition: Regular and interim reexaminations.

(a) *When PHA is required to conduct reexamination.* (1) For families who pay an income-based rent, the PHA must conduct a reexamination of family income and composition at least annually and must make appropriate adjustments in the rent after consultation with the family and upon verification of the information.

(2) For families who choose flat rents, the PHA must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every three years.

(3) For all families who include non-exempt individuals, as defined in § 960.601, the PHA must determine compliance once each twelve months with community service and self-sufficiency requirements in subpart F of this part.

(4) The PHA may use the results of these reexaminations to require the family to move to an appropriate size unit.

(b) *Interim reexaminations.* A family may request an interim reexamination of family income or composition because of any changes since the last determination. The PHA must make the

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interim reexamination within a reasonable time after the family request. The PHA must adopt policies prescribing when and under what conditions the family must report a change in family income or composition.

(c) *PHA reexamination policies.* The PHA must adopt admission and occupancy policies concerning conduct of annual and interim reexaminations in accordance with this section, and shall conduct reexaminations in accordance with such policies. The PHA reexamination policies must be in accordance with the PHA plan.

§ 960.259 Family information and verification.

(a) *Family obligation to supply information.* (1) The family must supply any information that the PHA or HUD determines is necessary in administration of the public housing program, including submission of required evidence of citizenship or eligible immigration status (as provided by part 5, subpart E of this title). "Information" includes any requested certification, release or other documentation.

(2) The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or an interim reexamination of family income and composition in accordance with HUD requirements.

(3) For requirements concerning the following, see part 5, subpart B of this title:

(i) Family verification and disclosure of social security numbers;

(ii) Family execution and submission of consent forms for obtaining wage and claim information from State Wage Information Collection Agencies (SWICAs).

(4) Any information supplied by the family must be true and complete.

(b) *Family release and consent.* (1) As a condition of admission to or continued assistance under the program, the PHA shall require the family head, and such other family members as the PHA designates, to execute a consent form (including any release and consent as required under § 5.230 of this title) authorizing any depository or private source of income, or any Federal, State or local agency, to furnish or release to the PHA or HUD such information as

the PHA or HUD determines to be necessary.

(2) The use or disclosure of information obtained from a family or from another source pursuant to this release and consent shall be limited to purposes directly connected with administration of the program.

(c) *PHA responsibility for reexamination and verification.* (1) The PHA must obtain and document in the family file third party verification of the following factors, or must document in the file why third party verification was not available:

(i) Reported family annual income;

(ii) The value of assets;

(iii) Expenses related to deductions from annual income; and

(iv) Other factors that affect the determination of adjusted income or income-based rent.

§ 960.261 Restriction on eviction of families based on income.

No PHA shall commence eviction proceedings based on the income of the tenant family unless:

(a) It has determined that there is decent, safe, and sanitary housing of suitable size for the family available at a rent not exceeding the tenant rent; or

(b) It is required to do so by local law.

Subpart D—Preference for Elderly Families and Disabled Families in Mixed Population Projects

SOURCE: 59 FR 17667, Apr. 13, 1994, unless otherwise noted.

§ 960.401 Purpose.

This subpart establishes a preference for elderly families and disabled families for admission to mixed population public housing projects, as defined in § 960.405.

§ 960.403 Applicability.

(a) This subpart applies to all dwelling units in mixed population projects (as defined in § 960.405), or portions of mixed population projects, assisted under the U.S. Housing Act of 1937. These projects formerly were known as elderly projects.

(b) This subpart does not apply to section 23 and section 10(c) leased housing projects or the section 23 Housing Assistance Payments Program where the owners enter into leases directly with the tenants, or to the Section 8 Housing Assistance Payments Program, the Low-Rent Housing Homeownership Opportunities Program (Turnkey III), the Mutual Help Homeownership Opportunities Program, or to Indian Housing Authorities. (For applicability to Indian Housing Authorities, see part 905 of this chapter.) Additionally, this subpart is not applicable to projects designated for elderly families or designated for disabled families in accordance with 24 CFR part 945.

§ 960.405 Definitions.

Designated housing. See definition of “designated housing” in 24 CFR part 945.

Disabled families. See definition of “disabled families” in 24 CFR part 945.

Elderly families. See definition of “elderly families” in 24 CFR part 945.

Mixed population project is a public housing project, or portion of a project, that was reserved for elderly families and disabled families at its inception (and has retained that character). If the project was not so reserved at its inception, the PHA has obtained HUD approval to give preference in tenant selection for all units in the project (or portion of project) to elderly families and disabled families. These projects formerly were known as elderly projects.

EFFECTIVE DATE NOTE: At 65 FR 16729, § 960.405 was removed, effective Apr. 28, 2000.

§ 960.407 Selection preference for mixed population developments.

(a) The PHA must give preference to elderly families and disabled families equally in determining priority for admission to mixed population developments. The PHA may not establish a limit on the number of elderly families or disabled families who may be accepted for occupancy in a mixed population development.

(b) In selecting elderly families and disabled families to occupy units in mixed population developments, the PHA must first offer units that have special accessibility features for per-

sons with disabilities to families who include persons with disabilities who require the accessibility features of such units (see §§ 8.27 and 100.202 of this title).

[65 FR 16729, Mar. 29, 2000]

EFFECTIVE DATE NOTE: At 65 FR 16729, § 960.407 was revised, effective Apr. 28, 2000. For the convenience of the user, the superseded text is set forth as follows:

§ 960.407 Selection preference; other preferences; single person occupancy.

(a) A PHA must give preference to elderly families and disabled families equally in determining priority for admission to mixed population projects. A PHA may not establish a limit on the number of elderly families or disabled families who may be accepted for occupancy in a mixed population project.

(b) The PHA must follow its policies and procedures for applying the Federal preferences contained in subpart B of this part when selecting applicants for admission from among elderly families and disabled families.

(c) Elderly families and disabled families who do not qualify for a Federal preference contained in subpart B of this part, and who are given preference for admission under paragraph (a) of this section over non-elderly families and non-disabled families that qualify for such a Federal preference, are not subject to the statutory 10 percent limitation on admission of families without a Federal preference over families with such a Federal preference that may initially receive assistance in any one-year period, as provided in 24 CFR 960.211(b)(2)(ii).

(d) If an elderly or disabled applicant is a single person, as this term is defined in 24 CFR part 945, the elderly single person or the disabled single person shall be given a preference for admission to mixed population projects over single persons who are neither elderly nor disabled.

(e) In offering available units to elderly families and disabled families in mixed population projects, units with accessible features should first be offered to persons with disabilities who require the accessibility features of the unit in accordance with the requirements of 24 CFR 8.27 and 24 CFR 100.202(c)(3).

[59 FR 17667, Apr. 13, 1994]

Subpart E—Occupancy by Over-Income Families or Police Officers

SOURCE: 65 FR 16729, Mar. 29, 2000, unless otherwise noted.

EFFECTIVE DATE NOTE: At 65 FR 16729, Mar. 29, 2000, subpart E to part 960 was revised, effective Apr. 28, 2000.

§ 960.503

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§ 960.503 Occupancy by over-income families.

A PHA that owns or operates fewer than two hundred fifty (250) public housing units, may lease a unit in a public housing development to an over-income family (a family whose annual income exceeds the limit for a low income family at the time of initial occupancy), in accordance with its PHA annual plan (or supporting documents), if all the following conditions are satisfied:

(a) There are no eligible low income families on the PHA waiting list or applying for public housing assistance when the unit is leased to an over-income family;

(b) The PHA has publicized availability of the unit for rental to eligible low income families, including publishing public notice of such availability in a newspaper of general circulation in the jurisdiction at least thirty days before offering the unit to an over-income family;

(c) The over-income family rents the unit on a month-to-month basis for a rent that is not less than the PHA's cost to operate the unit;

(d) The lease to the over-income family provides that the family agrees to vacate the unit when needed for rental to an eligible family; and

(e) The PHA gives the over-income family at least thirty days notice to vacate the unit when the unit is needed for rental to an eligible family.

§ 960.505 Occupancy by police officers to provide security for public housing residents.

(a) *Police officer.* For purpose of this subpart E, "police officer" means a person determined by the PHA to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State or local government or by any agency of these governments. An officer of an accredited police force of a housing agency may qualify.

(b) *Occupancy in public housing.* For the purpose of increasing security for residents of a public housing development, the PHA may allow police officers who would not otherwise be eligible for occupancy in public housing, to

reside in a public housing dwelling unit. The PHA must include in the PHA annual plan or supporting documents the number and location of the units to be occupied by police officers, and the terms and conditions of their tenancies; and a statement that such occupancy is needed to increase security for public housing residents.

EFFECTIVE DATE NOTE: At 65 FR 16729, Mar. 29, 2000, subpart E to part 960 was revised, effective Apr. 28, 2000. For the convenience of the user, the superseded text is set forth as follows:

Subpart E—Exemption From Eligibility Requirements for Police Officers and Other Security Personnel

SOURCE: 59 FR 39405, Aug. 2, 1994, unless otherwise noted.

§ 960.501 Purpose and scope.

The purpose of this subpart is to permit the admission to public housing of police officers and other security personnel, who are not otherwise eligible for such housing under any other admission requirements or procedures, under a plan submitted by a public housing agency (HA) and approved by the Department, and to set forth standards and criteria for the approval of such plans. The Department's objective in granting the exemption allowed by this subpart is to permit long term residence in public housing developments by police officers and security personnel, whose visible presence is expected to serve as a deterrent to criminal activity in and around public housing.

§ 960.503 Definitions.

Eligible families means families that are eligible for residence in public housing assisted under the United States Housing Act of 1937.

Officer means a professional police officer or other professional security provider. Police officers and other security personnel are considered professional if they are employed full time, i.e., not less than 35 hours per week, by a governmental unit or a private employer and compensated expressly for providing police or security services. As used in this subpart, "Officer" may refer to the Officer as so defined or to the Officer and his or her family taken together, depending on the context.

Plan means the written plan submitted by a public housing agency (PHA) to the Department, under which, if approved, the Department will exempt Officers from the normal eligibility requirements for residence in public housing and allow Officers, who are otherwise not eligible, to reside in public housing units. An HA may have only one

plan in effect at any one time, which will govern exemptions under this subpart for all public housing managed by that HA.

[59 FR 39405, Aug. 2, 1994, as amended at 61 FR 5215, Feb. 9, 1996]

§ 960.505 Exemption from eligibility requirements; plan submission; plan approval or disapproval.

(a) *Conditions for exemption.* The Department may exempt Officers from the eligibility requirements for admission to public housing, provided that:

(1) The Officers would not be eligible, under any other admission requirements or procedures, for admission to the public housing development without such an exemption; and

(2) The exemption is given under a properly submitted plan that satisfies the standards and criteria set forth in § 960.507 of this part and, accordingly, has been approved by the Department.

(b) *Plan submission.* A plan is properly submitted when it is received by the local HUD Field Office with jurisdiction over the HA.

(c) *Notification of plan approval or disapproval.* The Department will notify an HA of the approval or disapproval of its plan within thirty days of its submission. Plan approval by the Department constitutes granting of the exemption for the purposes of this subpart.

§ 960.507 Plan standards and criteria.

(a) *Minimum requirements.* To be approved, a plan must satisfy the following requirements:

(1) The plan must identify the total number of units under management by the HA; the specific housing developments, and the number of units they contain, where the HA intends to place Officers; and the particular units (stating number of bedrooms) within each development that would be allocated to Officers. For each unit identified, the plan must state the amount of rent that the Officer will pay and facts and circumstances (such as, the rent that would ordinarily be charged for the unit, the HA's annual maintenance cost for the unit, the degree of difficulty in attracting Officers to reside in the unit, the extent of the crime problem in the development, and the anticipated benefits of the Officer's presence) that demonstrate the reasonableness of that amount, as required under § 960.509(a) of this subpart.

(2) The plan must identify specifically the benefits to the community and to the HA that will result from the presence of Officers in each affected development.

(3) The plan must describe the existing physical and social conditions in and around each affected development, providing specific evidence of criminal activity (such as, frequency of telephone calls to local police, number of arrests and types of offenses in-

volved, and data on drug abuse in the community) in order to permit the Department to make an informed assessment of the level of need for increased security.

(4) The plan must afford the Department a reasonable basis, which necessarily includes the certifications required under § 960.507(b) of this part, for determining that the use by Officers of the identified dwelling units will:

(i) Increase security for other public housing residents;

(ii) Result in a limited loss of income to the HA; and

(iii) Not result in a significant reduction of units available for residence by Eligible Families.

(b) *Certifications by HA.* Only upon making the determination described in § 960.507(a)(4) of this part will the Department approve a plan. Further, the Department will not make such a determination unless the plan contains a written statement, signed by an authorized officer or other agent of the HA, certifying that:

(1) The dwelling units proposed to be allocated to Officers are situated so as to place the Officers in close physical proximity to other residents;

(2) No resident families will have to be transferred to other dwelling units in order to make available the units proposed to be allocated to Officers;

(3) The dwelling units proposed to be allocated to Officers will be rented under a lease that contains the terms described in § 960.509 of this part; and

(4) The number of dwelling units proposed to be allocated to Officers under the plan does not exceed the limits set forth in § 960.507(c) of this part or, in the alternative, any units so allocated in excess of the applicable maximum number are vacant units for which there are no Eligible Families. This certification on the part of the HA satisfies the requirements of §§ 960.507(a)(4)(ii) and (iii) of this part.

(c) *Unit allocation table.* For purposes of the certification required by § 960.507(b)(4) of this part, the following table sets forth the maximum number of units to be allocated to Officers as a function of the total number of units under management by the HA:

UNIT ALLOCATION TABLE

Total units under management	Units to be allocated
500-999	5
1000-4999	10
5000-9999	15
10,000+	20

The maximum number of units to be allocated by HAs with less than 500 units under management will be determined by the Field Office on a case by case basis.

§ 960.600

(Approved by the Office of Management and Budget under OMB control number 2577-0185)

§ 960.509 Special rent requirements and other terms and conditions.

The HA shall lease units to Officers under a lease agreement that is consistent with the requirements of this section and 24 CFR part 966. The requirements of this section shall take precedence if there is any inconsistency between them and 24 CFR part 966.

(a) *Reasonable rent.* The lease shall provide for a reasonable rent, which may be a flat amount not related to the Officer's income. The HA should attempt to establish a rent that will provide an incentive to Officers to reside in the units but that is also consistent with the limited loss of income requirement of § 960.507(a)(4)(ii) of this part. As required in § 960.507(a)(1) of this part, the plan must state facts and circumstances (such as, the rent that would ordinarily be charged for the unit, the HA's annual maintenance cost for the unit, the degree of difficulty in attracting Officers to reside in the unit, the extent of the crime problem in the development, and the anticipated benefits of the Officer's presence) that demonstrate the reasonableness of the rent amount.

(b) *Continued employment.* The lease shall provide that the Officer's right of occupancy is dependent on the continuation of the employment that qualified the Officer for residency in the development under the plan. The lease also shall provide that the Officer will move out of the leased unit within a reasonably prompt time, to be established by the lease, after termination of employment.

§ 960.511 Applicability of the annual contributions contract; effect on the Performance Funding System.

(a) *Annual contributions contract.* Except to the extent that eligibility requirements are exempted under § 960.505 of this part, public housing units occupied by Officers in accordance with a plan submitted and approved under this subpart will be subject to the terms and conditions of the annual contributions contract (ACC) between the HA and the United States of America. This subpart does not override any of the terms and conditions of the ACC except insofar as they are inconsistent with the provisions of this subpart.

(b) *Performance funding system.* For purposes of the operating subsidy under the Performance Funding System (PFS) described in part 990, subpart A of this chapter, dwelling units allocated to Officers in accordance with this subpart are excluded from the total unit months available, as defined in § 990.102 of this chapter. Also for purposes of the operating subsidy under the PFS, the full amount of any rent paid by Officers in accordance with this subpart is included in other income, as defined in § 990.102 of this chapter. HAs may receive operating subsidy

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for one unit per housing development to promote economic self-sufficiency services or anti-drug programs, including housing police officers and security personnel. An HA may request consideration of such units in its calculation of operating subsidy eligibility through the appropriate local HUD Office.

Subpart F—When Resident Must Perform Community Service Activities or Self-Sufficiency Work Activities

SOURCE: 65 FR 16729, Mar. 29, 2000, unless otherwise noted.

EFFECTIVE DATE NOTE: At 65 FR 16729, subpart F to part 960 was added, effective Apr. 28, 2000.

§ 960.600 Implementation.

PHAs and residents must comply with the requirements of this subpart beginning with PHA fiscal years that commence on or after October 1, 2000. Unless otherwise provided by § 903.11 of this chapter, Annual Plans submitted for those fiscal years are required to contain information regarding the PHA's compliance with the community service requirement, as described in § 903.7 of this chapter.

§ 960.601 Definitions.

(a) *Definitions found elsewhere.*

(1) *General definitions.* The following terms are defined in part 5, subpart A of this title: *public housing, public housing agency* (PHA).

(2) *Definitions concerning income and rent.* The following terms are defined in part 5, subpart F of this title: *economic self-sufficiency program, work activities.*

(b) *Other definitions.* In addition to the definitions in paragraph (a) of this section, the following definitions apply:

Community service. The performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities.

Exempt individual. An adult who:

(1) Is 62 years or older;

(2)(i) Is a blind or disabled individual, as defined under 216(i)(1) or 1614 of the

Social Security Act (42 U.S.C. 416(i)(1); 1382c), and who certifies that because of this disability she or he is unable to comply with the service provisions of this subpart, or

(ii) Is a primary caretaker of such individual;

(3) Is engaged in work activities;

(4) Meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*) or under any other welfare program of the State in which the PHA is located, including a State-administered welfare-to-work program; or

(5) Is a member of a family receiving assistance, benefits or services under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*) or under any other welfare program of the State in which the PHA is located, including a State-administered welfare-to-work program, and has not been found by the State or other administering entity to be in noncompliance with such a program.

Service requirement. The obligation of each adult resident, other than an exempt individual, to perform community service or participate in an economic-self sufficiency program required in accordance with § 960.603.

§ 960.603 General requirements.

(a) *Service requirement.* Except for any family member who is an exempt individual, each adult resident of public housing must:

(1) Contribute 8 hours per month of community service (not including political activities); or

(2) Participate in an economic self-sufficiency program for 8 hours per month; or

(3) Perform 8 hours per month of combined activities as described in paragraphs (a)(1) and (a)(2) of this section.

(b) *Family violation of service requirement.* The lease shall specify that it shall be renewed automatically for all purposes, unless the family fails to comply with the service requirement. Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve month lease term, but not for termination of ten-

ancy during the course of the twelve month lease term (see § 966.4(l)(2)(i) of this chapter).

§ 960.605 How PHA administers service requirements.

(a) *PHA policy.* Each PHA must develop a local policy for administration of the community service and economic self-sufficiency requirements for public housing residents.

(b) *Administration of qualifying community service or self-sufficiency activities for residents.* The PHA may administer qualifying community service or economic self-sufficiency activities directly, or may make such activities available through a contractor, or through partnerships with qualified organizations, including resident organizations, and community agencies or institutions.

(c) *PHA responsibilities.* (1) The PHA policy must describe how the PHA determines which family members are subject to or exempt from the service requirement, and the process for determining any changes to exempt or non-exempt status of family members.

(2) The PHA must give the family a written description of the service requirement, and of the process for claiming status as an exempt person and for PHA verification of such status. The PHA must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt persons.

(3) The PHA must review family compliance with service requirements, and must verify such compliance annually at least thirty days before the end of the twelve month lease term. If qualifying activities are administered by an organization other than the PHA, the PHA shall obtain verification of family compliance from such third parties.

(4) The PHA must retain reasonable documentation of service requirement performance or exemption in participant files.

(5) The PHA must comply with non-discrimination and equal opportunity requirements listed at § 5.105(a) of this title.

§ 960.607

§ 960.607 Assuring resident compliance.

(a) *Third-party certification.* If qualifying activities are administered by an organization other than the PHA, a family member who is required to fulfill a service requirement must provide signed certification to the PHA by such other organization that the family member has performed such qualifying activities.

(b) *PHA notice of noncompliance.* (1) If the PHA determines that there is a family member who is required to fulfill a service requirement, but who has violated this family obligation (non-compliant resident), the PHA must notify the tenant of this determination.

(2) The PHA notice to the tenant must:

(i) Briefly describe the noncompliance;

(ii) State that the PHA will not renew the lease at the end of the twelve month lease term unless:

(A) The tenant, and any other non-compliant resident, enter into a written agreement with the PHA, in the form and manner required by the PHA, to cure such noncompliance, and in fact cure such noncompliance in accordance with such agreement; or

(B) The family provides written assurance satisfactory to the PHA that the tenant or other noncompliant resident no longer resides in the unit.

(iii) State that the tenant may request a grievance hearing on the PHA determination, in accordance with part 966, subpart B of this chapter, and that the tenant may exercise any available judicial remedy to seek timely redress for the PHA's nonrenewal of the lease because of such determination.

(c) *Tenant agreement to comply with service requirement.* If the tenant or another family member has violated the service requirement, the PHA may not renew the lease upon expiration of the term unless:

(1) The tenant, and any other non-compliant resident, enter into a written agreement with the PHA, in the form and manner required by the PHA, to cure such noncompliance by completing the additional hours of community service or economic self-sufficiency activity needed to make up the total number of hours required over

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the twelve-month term of the new lease, and

(2) All other members of the family who are subject to the service requirement are currently complying with the service requirement or are no longer residing in the unit.

§ 960.609 Prohibition against replacement of PHA employees.

In implementing the service requirement under this subpart, the PHA may not substitute community service or self-sufficiency activities performed by residents for work ordinarily performed by PHA employees, or replace a job at any location where residents perform activities to satisfy the service requirement.

**PART 963—PUBLIC HOUSING—
CONTRACTING WITH RESIDENT-
OWNED BUSINESSES**

Subpart A—General

- Sec.
- 963.1 Purpose.
- 963.3 Applicability.
- 963.5 Definitions.

Subpart B—Contracting with Resident-Owned Businesses

- 963.10 Eligible resident-owned businesses.
- 963.12 Alternative procurement process.

AUTHORITY: 42 U.S.C. 1437 and 3535(d).

SOURCE: 57 FR 20189, May 11, 1992, unless otherwise noted.

Subpart A—General

§ 963.1 Purpose.

The purpose of this part is to enhance the economic opportunities of public housing residents by providing public housing agencies with a method of soliciting and contracting with eligible and qualified resident-owned businesses (as defined in this part) for public housing services, supplies, or construction. The contract award method provided by this part is based on the established procurement procedures set forth in 24 CFR 85.36, with solicitation as provided by these procedures limited to resident-owned businesses. The contract award method provided by this