

**§943.151**

part 85 of this title. HUD may, on a case-by-case basis, exempt such a joint venture partner from the need to comply with requirements under part 85 of this title if HUD determines that the joint venture has developed an acceptable alternative procurement plan.

(c) *Contracting with identity-of-interest parties.* A joint venture partner may contract with an identity-of-interest party for goods or services, or a party specified in the selected bidder's response to a RFP or RFQ (as applicable), without the need for further procurement if:

(1) The PHA can demonstrate that its original competitive selection of the partner clearly anticipated the later provision of such goods or services;

(2) Compensation of all identity-of-interest parties is structured to ensure there is no duplication of profit or expenses; and

(3) The PHA can demonstrate that its selection is reasonable based upon prevailing market costs and standards, and that the quality and timeliness of the goods or services is comparable to that available in the open market. For purposes of this paragraph (c), an "identity-of-interest party" means a party that is wholly owned or controlled by, or that is otherwise affiliated with, the partner or the PHA. The PHA may use an independent organization experienced in cost valuation to determine the cost reasonableness of the proposed contracts.

**§943.151 What procurement standards apply to a joint venture itself?**

(a) When the joint venture as a whole is controlled by the PHA or an identity of interest party of the PHA, the joint venture is subject to the requirements of part 85 of this title.

(b) If a joint venture is not controlled by the PHA or an identity of interest party of the PHA, then the rules that apply to the other partners apply. See §943.150.

**PART 945—DESIGNATED HOUSING—PUBLIC HOUSING DESIGNATED FOR OCCUPANCY BY DISABLED, ELDERLY, OR DISABLED AND ELDERLY FAMILIES**

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AUTHORITY: 42 U.S.C. 1473e and 3535(d).

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**Subpart A—General**

**§945.101 Purpose.**

The purpose of this part is to provide for designated housing as authorized by section 7 of the U.S. Housing Act of 1937 (42 U.S.C. 1437e). Section 7 provides public housing agencies with the option, subject to the requirements and procedures of this part, to designate public housing projects, or portions of public housing projects, for occupancy by disabled families, elderly families, or mixed populations of disabled families and elderly families.

**§945.103 General policies.**

(a) *Agency participation.* Participation in this program is limited to public housing agencies (PHAs) (as this term is defined in 24 CFR 913.102) that elect to designate public housing projects for occupancy by disabled families, elderly families, or disabled families and elderly families, as provided by this part.

(b) *Eligible housing*—(1) *Designation of public housing.* Projects eligible for designation under this part are public housing projects as described in the definition of “project” in § 945.105.

(2) *Additional housing resources.* To meet the housing and supportive service needs of elderly families, and disabled families, including non-elderly disabled families, who will not be housed in a designated project, PHAs shall utilize housing resources that they own, control, or have received preliminary notification that they will obtain (e.g., section 8 certificates and vouchers). They also may utilize housing resources for which they plan to apply during the period covered by the allocation plan, and that they have a reasonable expectation of obtaining. PHAs also may utilize, to the extent practicable, any housing facilities that they own or control in which supportive services are already provided, facilitated or coordinated, such as mixed housing, shared housing, family housing, group homes, and congregate housing.

(3) *Exemption of mixed population projects.* A PHA with a public housing project with a mixed population of elderly families and disabled families that plans to house them in such project in accordance with the requirements of 24 CFR part 960, subpart D, is not required to meet the designation requirements of this part.

(c) *Family Participation in designated housing*—(1) *Voluntary participation.* The election to reside in designated housing is voluntary on the part of a family. No disabled family or elderly family may be required to reside in designated housing, nor shall a decision not to reside in designated housing adversely affect the family with respect to occupancy of another appropriate project.

(2) *Meeting stated eligibility requirements.* Nothing in this part shall be construed to require or permit a PHA to accept for admission to a designated project a disabled family or elderly family who does not meet the stated eligibility requirements for occupancy in the project (for example, income), as set forth in HUD’s regulations in 24 CFR parts 912 and 913, and in the PHA’s admission policies.

#### § 945.105 Definitions.

The terms *Department*, *Elderly person*, *HUD*, *NAHA*, *Public Housing Agency (PHA)*, and *Secretary* are defined in 24 CFR part 5.

*Act* means the United States Housing Act of 1937 (42 U.S.C. 1437–1440).

*Accessible units* means units that meet the requirement of accessibility with respect to dwellings as set forth in the second definition of “accessible” in 24 CFR 8.3.

*Allocation plan.* See § 945.201.

*CHAS* means the comprehensive housing affordability strategy required by section 105 of the National Affordable Housing Act (42 U.S.C. 12705) or any successor plan prescribed by HUD.

*Designated family* means the category of family for whom the project is designated (e. g., elderly family in a project designated for elderly families).

*Designated housing or designated project* means a project (or projects), or a portion of a project (or projects) (as these terms are defined in this section), that has been designated in accordance with the requirements of this part.

*Disabled family* means a family whose head or spouse or sole member is a person with disabilities. The term “disabled family” may include two or more persons with disabilities living together, and one or more persons with disabilities living with one or more persons who are determined to be essential to the care or well-being of the person or persons with disabilities. A disabled family may include persons with disabilities who are elderly.

*Elderly family* means a family whose head, spouse, or sole member is an elderly person. The term “elderly family” includes an elderly person, two or more elderly persons living together, and one or more elderly persons living with one or more persons who are determined to be essential to the care or well-being of the elderly person or persons. An elderly family may include elderly persons with disabilities and other family members who are not elderly.

*Family* includes but is not limited to a single person as defined in this part, a displaced person (as defined in 24 CFR part 912), a remaining member of a tenant family, a disabled family, an elderly family, a near-elderly family, and a

family with children. It also includes an elderly family or a disabled family composed of one or more elderly persons living with one or more disabled persons.

*Housing* has the same meaning as “project,” which is defined in this section.

*Mixed population project* means a public housing project reserved for elderly families and disabled families. This is the project type referred to in NAHA as being designated for elderly and disabled families. A PHA that has a mixed population project or intends to develop one need not submit an allocation plan or request a designation. However, the project must meet the requirements of 24 CFR part 960 subpart D.

*Near-elderly family* means a family whose head, spouse, or sole member is a near-elderly person. The term “near-elderly family” includes two or more near-elderly persons living together, and one or more near-elderly persons living with one or more persons who are determined to be essential to the care or well-being of the near-elderly person or persons. A near-elderly family may include other family members who are not near-elderly.

*Near-elderly person* means a person who is at least 50 years of age but below the age of 62, who may be a person with a disability.

*Non-elderly disabled person* means a person with a disability who is less than 62 years of age.

*Person with disabilities* means a person who—

(a) Has disability as defined in section 223 of the Social Security Act (42 U.S.C. 423), or

(b) Is determined to have a physical, mental, or emotional impairment that—

(1) Is expected to be of long-continued and indefinite duration,

(2) Substantially impedes his or her ability to live independently, and

(3) Is of such a nature that such ability could be improved by more suitable housing conditions, or

(c) Has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(5)).

The term “person with disabilities” does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

*Portion of project* includes: One or more buildings in a multi-building project; one or more floors of a project or projects; a certain number of dwelling units in a project or projects. (Designation of a portion of a project does not require that the buildings, floors or units be contiguous.)

*Project* means low-income housing developed, acquired, or assisted by a PHA under the U.S. Housing Act of 1937 (other than section 8) for which there is an Annual Contributions Contract (ACC) between HUD and the PHA. For purposes of this part, the terms *housing* and *public housing* mean the same as project. Additionally, as used in this part, and unless the context indicates otherwise, the term *project* when used in the singular includes the plural, and when used in the plural, includes the singular, and also includes a “portion of a project,” as defined in this section.

*Public housing or public housing project.* See definition of “project” in this section.

*Service provider* means a person or organization qualified and experienced in the provision of supportive services, and that is in compliance with any licensing requirements imposed by State or local law for the type of service or services to be provided. The service provider may provide the service on either a for-profit or not-for-profit basis.

*Single person* means a person who lives alone or intends to live alone, who is not an elderly person, a person with disabilities, a displaced person, or the remaining member of a tenant family.

*Supportive service plan.* See § 945.205.

*Supportive services* means services available to persons residing in a development, requested by disabled families and for which there is a need, and may include, but are not limited to, meal services, health-related services, mental health services, services for non-medical counseling, meals, transportation, personal care, bathing, toileting, housekeeping, chore assistance, safety, group and socialization

activities, assistance with medications (in accordance with any applicable State laws), case management, personal emergency response, and other appropriate services.

[59 FR 17662, Apr. 13, 1994, as amended at 61 FR 5214, Feb. 9, 1996]

### Subpart B—Application and Approval Procedures

#### § 945.201 Approval to designate housing.

(a) *Designated housing for elderly families.* To designate a project for occupancy by elderly families, a PHA must have a HUD-approved allocation plan that meets the requirements of § 945.203.

(b) *Designated housing for disabled families.* To designate a project for occupancy by disabled families, a PHA must have a HUD-approved allocation plan that meets the requirements of § 945.203, and a HUD-approved supportive service plan that meets the requirements of § 945.205.

(c) *Designated housing for elderly families and disabled families.* (1) A PHA that provides or intends to provide a mixed population project (a project for both elderly families and disabled families) is not required to meet the requirements of this part. The PHA is required to meet the requirements of 24 CFR part 960, subpart D.

(2) A PHA that intends to provide designated housing for elderly families or for disabled families must identify any existing or planned mixed population projects, reserved under 24 CFR part 960, subpart B, as additional housing resources, in its allocation plan, in accordance with § 945.203(c)(6).

#### § 945.203 Allocation plan.

(a) *Applicable terminology.* (1) As used in this section, the terms “initial allocation plan” refers to the PHA’s first submission of an allocation plan, and “updated allocation plan” refers to the biennial update (once every two years) of this plan, which is described in paragraph (f) of this section.

(2) As provided in § 945.105, the term “project” includes the plural (“projects”) and includes a portion of a project.

(b) *Consultation in plan development.* These consultation requirements apply to the development of an initial allocation plan as provided in paragraph (c) of this section, or any update of the allocation plan as provided in paragraph (f) of this section.

(1) In preparing the draft plan, the PHA shall consult with:

(i) The State or unit of general local government where the project is located;

(ii) Public and private service providers;

(iii) Representative advocacy groups for each of these family types: disabled families, elderly families, and families with children, where such advocacy groups exist;

(iv) Representatives of the residents of the PHA’s projects proposed for designation, including representatives from resident councils or resident management corporations where they exist; and

(v) Other parties that the PHA determines would be interested in the plan, or other parties that have contacted the PHA and expressed an interest in the plan.

(2) Following the completion of the draft plan, the PHA shall:

(i) Issue public notices regarding its intention to designate housing and the availability of the draft plan for review;

(ii) Contact directly those individuals, agencies and other interested parties specified in paragraph (b)(1) of this section, and advise of the availability of the draft plan for review;

(iii) Allow not less than 30 days for public comment on the draft allocation plan;

(iv) Make free copies of the draft plan available upon request, and in accessible format, when appropriate;

(v) Conduct at least one public meeting on the draft allocation plan;

(vi) Give fair consideration to all comments received; and

(vii) Retain any records of public meetings held on the allocation plan (or updated plan) and any written comments received on the plan for a period of five years commencing from the date of submission of the allocation plan to HUD. These records must be available for review by HUD.

(c) *Contents of initial plan.* The initial allocation plan shall contain, at a minimum, the information set forth in this paragraph (c).

(1) *Identification of the project to be designated and type of designation to be made.* The PHA must:

(i) Identify the type of designation to be made (i.e., housing for disabled families or housing for elderly families);

(ii) Identify the building(s), floor(s), or unit(s) to be designated and their location, or if specific units are not designated, the number to be designated; and

(iii) State the reasons the building(s), floor(s), or unit(s) were selected for designation.

(2) *Identification of groups and persons consulted and comments submitted.* The PHA must:

(i) Identify the groups and persons with whom the PHA has consulted in the development of the allocation plan;

(ii) Include a summary of comments received on the plan from the groups and persons consulted; and

(iii) Describe how the plan addresses these comments.

(3) *Profile of proposed designated project in pre-designation state.* This component of the plan must include, for the projects, buildings, or portions of buildings to be designated:

(i) The total number of families currently occupying the project, and

(A) The number of families who are members of the group for whom the project is to be designated, and

(B) The number of families who are not members of the group for whom the project is to be designated;

(ii) An estimate of the total number of elderly families and disabled families who are potential tenants of the project (i.e., as the project now exists), based on information provided by:

(A) The waiting list from which vacancies in the project are filled; and

(B) A local housing needs survey, if available, such as the CHAS, for the jurisdiction within which the area served by the PHA is located;

(iii) An estimate of the number of potential tenants who will need accessible units based on information provided by:

(A) The needs assessment prepared in accordance with 24 CFR 8.25, and

(B) A housing needs survey, if available, such as the CHAS or HUD-prescribed successor survey;

(iv) The number of units in the project that became vacant and available for occupancy during the year preceding the date of submission of the allocation plan to HUD;

(v) The average length of vacancy for dwelling units in the project for the year preceding the date of submission of the allocation plan to HUD;

(vi) An estimate of the number of units in the project that the PHA expects to become vacant and available for occupancy during the two-year period following the date of submission of the allocation plan to HUD (i.e., if the project were not to be designated);

(vii) An estimate of the average length of time elderly families and non-elderly persons with disabilities currently have to wait for a dwelling unit.

(4) *Projected profile of project in designated state.* This component of the plan must:

(i) Identify the source of the families for the designated project (e.g., current residents of the project, families currently on the waiting list, residents of other projects, and potential tenants based on information from the local housing needs survey);

(ii) For projects proposed to be designated for occupancy by elderly families an estimate of the number of:

(A) Units in the project that are anticipated to become vacant and available for occupancy during the two-year period following the date of submission of the allocation plan to HUD;

(B) Near-elderly families who may be needed to fill units in the designated project for elderly families, as provided in § 945.303(c);

(iii) Describe any impact the designation may have on the average length of time applicants in the group for which the project is designated and other applicants will have to wait for a dwelling unit.

(5) *PHA occupancy policies and procedures.* This component of the plan must describe any changes the PHA intends to make in its admission policies to accommodate the designation, including:

(i) How the waiting list will be maintained;

(ii) How dwelling units will be assigned; and

(iii) How records will be maintained to document the effect on all families who would have resided in the designated project if it had not been designated.

(6) *Strategy for addressing the current and future housing needs of the families in the PHA's jurisdiction.* The PHA must:

(i) Identify the housing resources currently owned or controlled by the PHA, including any mixed population projects, in existence, as provided in 24 CFR part 960, subpart D, that will be available to these families;

(ii) Describe the steps to be taken by the PHA to respond to any need for accessible units that will no longer be available for applicants who need them. The PHA has a continuing obligation under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) to provide accessible dwellings even if the project designation removes accessible dwellings from the inventory of possible dwellings for non-elderly persons with disabilities;

(iii) If a project is being designated for elderly families, describe the steps the PHA will take to facilitate access to supportive services by non-elderly disabled families. The services should be equivalent to those available in the designated project and requested by non-elderly disabled families. If the PHA funds supportive services for the designated project for elderly families, the PHA must provide the same level of services, upon the request of non-elderly disabled families.

(iv) If a project is being designated for elderly families, identify the additional housing resources that the PHA determines will be sufficient to provide assistance to not less than the number of non-elderly disabled families that would have been housed by the PHA if occupancy in units in the designated project were not restricted to elderly families (one-for-one replacement is not required). Among these resources may be:

(A) Normal turnover in existing projects;

(B) Existing housing stock that previously was not available to or considered for non-elderly disabled families.

Examples are dwellings in general occupancy (family) projects that are reconfigured to meet the dwelling size needs of the non-elderly disabled families, or were previously occupied by elderly families who will relocate to the designated project for elderly families, or were previously vacant because there had not been a demand for dwellings of that size in that location;

(C) Housing for which the PHA has received preliminary notification that it will obtain; and

(D) Housing for which the PHA plans to apply during the period covered by the allocation plan, and which it has a reasonable expectation of obtaining.

(v) Where a project is being designated for elderly families, explain how the PHA plans to secure the required additional housing resources. In the case of housing for which the PHA plans to apply, the PHA must provide sufficient information about the housing resource and its application to establish that the PHA can reasonably expect to obtain the housing.

(vi) Describe incentives, if any, that the PHA intends to offer to:

(A) Families who are members of the group for whom a project was designated to achieve voluntary transfers *to* the designated project; and

(B) Families who are not members of the group for whom a project was designated to achieve voluntary transfers *from* the project proposed to be designated;

(d) *Criteria for allocation plan approval.* HUD shall approve an initial allocation plan, or updated allocation plan, if HUD determines that:

(1) The information contained in the plan is complete and accurate (a plan that is incomplete, i.e., missing required statements or items, will be disapproved), and the projections are reasonable;

(2) Implementation of the plan will not result in a substantial increase in the vacancy rates in the designated project;

(3) Implementation of the plan will not result in a substantial increase in delaying or denying housing assistance to families on the PHA's waiting list because of designating projects;

(4) The plan for securing sufficient additional housing resources for non-

elderly disabled persons can reasonably be achieved; and

(5) The plan conforms to the requirements of this part.

(e) *Allocation plan approval or disapproval.*—(1) *Written notification.* HUD shall notify each PHA, in writing, of approval or disapproval of the initial or updated allocation plan.

(2) *Timing of notification.* An allocation plan shall be considered to be approved by HUD if HUD fails to provide the PHA with notification of approval or disapproval of the plan, as required by paragraph (e)(1) of this section, within:

(i) 90 days after the date of submission of an allocation plan that contains comments, as provided in paragraph (c)(2) of this section; or

(ii) 45 days after the date of submission of all other plans, including

(A) Initial plans for which no comments were received;

(B) Updated plans, as provided in paragraph (f) of this section; and

(C) Revised initial plans or revised updated plans, as provided in paragraph (e)(4) of this section.

(3) *Approval limited solely to approval of designated housing.* HUD's approval of an initial plan or updated allocation plan under this section may not be construed to constitute approval of any request for assistance for major reconstruction of obsolete projects, assistance for development or acquisition of public housing, or assistance under 24 CFR part 890 (supportive housing for persons with disabilities).

(4) *Resubmission following disapproval.* If HUD disapproves an initial allocation plan, a PHA shall have a period of not less than 45 days or more than 90 days following notification of disapproval as provided in paragraph (e)(2) of this section, to submit amendments to the plan, or to submit a revised plan.

(f) *Biennial update of plan.*—(1) *General.* Each PHA that owns or operates a public housing project that is designated for occupancy under this part shall update its allocation plan not less than once every two years, from the date of HUD approval of the initial allocation plan. A PHA that wishes to amend or revise its plan later than 90 days after HUD disapproval must begin

the hearing and consultation process again.

(2) *Failure to submit updated plan.* If the PHA fails to submit the updated plan as required by this paragraph (f), the Secretary may revoke the designation in accordance with the provisions of paragraph (f)(4)(ii) of this section.

(3) *Contents of updated plan.* The updated allocation plan shall contain, at a minimum, the following information:

(i) The most recent update of the allocation plan data, and projections for the next two years;

(ii) An assessment of the accuracy of the projections contained in previous plans and in the updated allocation plan;

(iii) The number of times a vacancy was filled in accordance with § 945.303(c);

(iv) A discussion of the impact of the designation on the designated project and the other public housing projects operated by the PHA, using the data obtained from the system developed in § 945.203(c), including

(A) The number of times there was a substantial increase in delaying housing assistance to families on the PHA's waiting list because projects were designated; and

(B) The number of times there was a substantial increase in denying housing assistance to families on the PHA's waiting list because projects were designated;

(v) A plan for adjusting the allocation of designated units, if necessary.

(4) *Criteria for approval of updated plan.* (i) HUD shall approve an updated allocation plan based on HUD's review and assessment of the updated plan, using the criteria in (d) of this section. If HUD considers it appropriate, the review and assessment shall include any on-site review and monitoring of PHA performance in the administration of its designated housing and in the allocation of the PHA's housing resources. Notification of approval or disapproval of the updated allocation plan shall be provided in accordance with paragraph (e) of this section;

(ii) If a PHA's updated plan is not approved, HUD may require PHAs to change the designation of existing or planned projects to other categories,

such as general occupancy or mixed population projects.

(5) *Notification of approval or disapproval of updated plan.* HUD shall notify each PHA submitting an updated plan of approval or disapproval of the updated plan, in accordance with the form of notification and within the time periods required by paragraph (e) of this section.

(Approved by the Office of Management and Budget under control number 2577-0192)

**§ 945.205 Designated housing for disabled families.**

(a) *General.* (1) In general, HUD will approve designated projects for disabled families only if there is a clear demonstration that there is both a need and a demand by disabled families for such designation. In the absence of such demonstrated need and demand, PHAs should provide for the housing needs of disabled families in the most integrated setting possible.

(2) To designate a project for disabled families, a PHA must submit the allocation plan required by § 945.203 and the supportive service plan described in paragraph (b) of this section.

(3) In its allocation plan,

(i) The PHA may not designate a project for persons with a specific disability;

(ii) The designated project does not have to be made up of contiguous units. PHAs are encouraged to place the units in the project, whether contiguous or not, in the most integrated setting possible.

(4) The consultation process for the allocation plan provided in § 945.203(b) and consultation process for the supportive service plan provided in this section may occur concurrently.

(5) If the PHA conducts surveys to determine the need or demand for a designated project for disabled families or for supportive services in such project, the PHA must protect the confidentiality of the survey responses.

(b) *Supportive Service Plan.* The plan shall describe how the PHA will provide or arrange for the provision of the appropriate supportive services requested by the disabled families who will occupy the designated housing and who have expressed a need for these services.

(1) *Contents of plan.* The supportive service plan, at a minimum, must:

(i) Identify the number of disabled families who need the supportive services and who have expressed an interest in receiving them;

(ii) Describe the types of supportive services that will be provided, and, if known, the length of time the supportive services will be available;

(iii) Identify each service provider to be utilized, and describe the experience of the service provider in delivering supportive services;

(iv) Describe how the supportive services will be provided to the disabled families that the designated housing is expected to serve (how the services will be provided depends upon the type of service offered; e.g., if the package includes transportation assistance, how transportation assistance will be provided to disabled families);

(v) Identify all sources of funding upon which the PHA is relying to deliver supportive services to residents of the designated housing for disabled families, or the supportive service resources to be provided in lieu of funding;

(vi) Submit evidence of a specific contractual commitment or commitments provided to the PHA by the sources identified in paragraph (b)(1)(v) of this section to make funds available for supportive services, or the delivery of supportive services available to the PHA for at least two calendar years;

(vii) Identify any public and private service providers, advocates for the interests of designated housing families, and other interested parties with whom the PHA consulted in the development of this supportive service plan, and summarize the comments and recommendations made by these parties. (These comments must be maintained for a period of five years, and be available for review by HUD as provided in paragraph (b)(2)(vii) of this section.);

(viii) If applicable, address the need for residential supervision of disabled families (on-site supervision within the designated housing) and how this supervision is to be provided;

(ix) Include any other information that the PHA determines would assist HUD in assessing the suitability of the PHA's supportive service plan; and

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(x) Include any additional information that HUD may request, and which is appropriate to a determination of the suitability of the supportive service plan.

(2) *Public review and comment on the supportive service plan.* In preparing the initial supportive service plan, or any update of the supportive service plan, the PHA shall:

(i) Issue public notices regarding its intention to provide supportive services to designated housing for disabled families and the availability of the draft supportive service plan;

(ii) Send notices directly to interested individuals and agencies that have contacted the PHA and have expressed an interest in the supportive service plan, and to parties specified in paragraph (b)(1)(vii) of this section;

(iii) Allow not less than 30 days for public comment on the supportive service plan;

(iv) Make free copies of the draft plan available upon request, and in accessible format, when appropriate;

(v) Conduct at least one public meeting regarding the supportive service plan;

(vi) Give fair consideration to all comments received; and

(vii) Retain any records of the public meetings held on the supportive service plan, and any written comments received on the supportive service plan for a period of five years, from the date of submission of the supportive service plan. These records must be available for review by HUD.

(c) *Approval.* HUD shall approve designated housing for disabled families if the allocation plan meets the requirements of § 945.203, including demonstrating both a need and a demand for designated housing for disabled families, and if HUD determines on the basis of the information provided in the supportive service plan that:

(1) There is a sufficient number of persons with disabilities who have expressed an interest in occupying a designated project for disabled families, and who have expressed a need and demand for the supportive services that will be provided;

(2) The supportive services are adequately designed to meet the needs of

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the disabled families who have indicated a desire for them;

(3) The service provider has current or past experience administering an effective supportive service delivery program for persons with disabilities;

(4) If residential supervision is required, a written commitment to provide this supervision in the designated housing.

(Approved by the Office of Management and Budget under control number 2577–0192)

### Subpart C—Operating Designated Housing

#### § 945.301 General requirements.

The application procedures and operation of designated projects shall be in conformity with the regulations of this part, and the regulations applicable to PHAs in 24 CFR Chapter IX, including 24 CFR parts 913, 960 and 966, and, in particular, the nondiscrimination requirements of 24 CFR 960.211(b)(3), that include but are not limited to section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), Fair Housing Act (42 U.S.C. 3601–3619), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), the Age Discrimination Act (42 U.S.C. 6101–6107), Executive Order 11246 (3 CFR 1964–1965 Comp., p. 339), Executive Order 11063, as amended by Executive Order 12259 (3 CFR 1958–1963 Comp., p. 652 and 3 CFR 1980 Comp., p. 307), the Americans with Disabilities Act (42 U.S.C. 12101–12213) (to the extent the Americans with Disabilities Act is applicable) and the implementing regulations of these statutes and authorities; and other applicable Federal, State, and local laws prohibiting discrimination and promoting equal opportunity.

#### § 945.303 Requirements governing occupancy in designated housing.

(a) *Priority for occupancy.* Except as provided in paragraph (c) of this section, in determining priority for admission to designated housing, the PHA shall make units in the designated housing available only to designated families.

(b) *Compliance with preference regulations.* Among the designated families,

the PHA shall give preference in accordance with the preferences in 24 CFR part 960, subpart B.

(c) *Eligibility of other families for housing designated for elderly families*—(1) *Insufficient elderly families*. If there are an insufficient number of elderly families for the units in a project designated for elderly families, the PHA may make dwelling units available to near-elderly families, who qualify for preferences under 24 CFR part 960, subpart B. The election to make dwelling units available to near-elderly families if there are an insufficient number of elderly families should be explained in the PHA's allocation plan.

(2) *Insufficient elderly families and near-elderly families*. If there are an insufficient number of elderly families and near-elderly families for the units in a project designated for elderly families, the PHA shall make available to all other families any dwelling unit that is:

- (i) Ready for re-rental and for a new lease to take effect; and
- (ii) Vacant for more than 60 consecutive days.

(d) *Tenant choice of housing*. (1) Subject to paragraph (d)(2) of this section, the decision of any disabled family or elderly family not to occupy or accept occupancy in designated housing shall not have an adverse affect on:

- (i) The family's admission to or continued occupancy in public housing; or
- (ii) The family's position on or placement on a public housing waiting list.

(2) The protection provided by paragraph (d)(1) of this section shall not apply to any family who refuses to occupy or accept occupancy in designated housing because of the race, color, religion, sex, disability, familial status, or national origin of the occupants of the designated housing or the surrounding area.

(3) The protection provided by paragraph (d)(1) of this section shall apply to an elderly family or disabled family that declines to accept occupancy, respectively, in a designated project for elderly families or for disabled families, and requests occupancy in a general occupancy project or in a mixed population project.

(e) *Appropriateness of dwelling unit to family size*. This part may not be con-

strued to require a PHA to offer a dwelling in a designated project to any family who is not of appropriate family size for the dwelling unit. The temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size.

(f) *Prohibition of evictions*. Any tenant who is lawfully residing in a dwelling unit in a public housing project may not be evicted or otherwise required to vacate the unit because of the designation of the project, or because of any action taken by HUD or the PHA in accordance with this part.

(g) *Prohibition of coercion to accept supportive services*. As with other HUD-assisted housing, no disabled family or elderly family residing in designated housing may be required to accept supportive services made available by the PHA under this part.

(h) *Availability of grievance procedures in 24 CFR part 966*. The grievance procedures in 24 CFR part 966, subpart B, which applies to public housing tenants, is applicable to this part.

## PART 954—INDIAN HOME PROGRAM

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