

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 re-

spect 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,

## § 945.105

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

## 24 CFR Ch. IX (4-1-10 Edition)

(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;