

# **VALDESE HOUSING AUTHORITY**

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## **ADMISSION AND CONTINUED OCCUPANCY POLICY**

*Revised October , 1996*

## INTRODUCTION

Presented in this manual are the approved Policies and Procedures governing admission to and continued occupancy of the housing development operated by Valdese Housing Authority.

The Policies herein are designed to meet the needs of low-income families for decent safe and sanitary housing which provides a suitable living environment and fosters social diversity. The Housing Authority agrees to comply with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Orders 11063, 11246, and 11375., and all rules and regulations, and requirements issued pursuant thereto.

The policies and procedures herein have been approved by the Valdese Housing Authority Board of Commissioners and reviewed and approved, as applicable, by the Department of Housing and Urban Development. Any changes or amendments shall be by resolution of the Valdese Housing Authority Board of Commissioners.

ADOPTED: December 10, \_\_\_\_\_, 1996



**CHAIRMAN, BOARD OF COMMISSIONERS  
VALDESE HOUSING AUTHORITY**

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# ADMISSIONS AND CONTINUED OCCUPANCY POLICY

## VALDESE HOUSING AUTHORITY

### SECTION 1

#### DEFINITION OF TERMS

**ADJUSTED INCOME:** Annual income, less allowable HUD deductions

**ANNUAL CONTRIBUTIONS CONTRACT (ACC):** A written agreement between HUD and the HA wherein the federal government guarantees permanent financing of public housing projects as well as makes up the difference between project revenues and debt service on bonded indebtedness through an annual contribution or subsidy paid to the HA. The HA guarantees that it will maintain the low rent projects in the projects.

**ANNUAL INCOME:** The anticipated total annual income of an eligible family from all sources for the 12 month period following the date of determination of income, computed in accordance with HUD regulations.

**ASSETS:** (See Net Family Assets)

**BOARD OF COMMISSIONERS:** Locally appointed citizens who serve as Commissioners and policy makers of a local housing agency for a specified term, and usually without financial compensation.

**CARE ATTENDANT:** A person necessarily residing with a family by reason of employment by or for such family as determined by HA to be essential for the care and well being of a family member. The care attendant is not considered a family member for the purpose of determining family income and establishing rent nor is the care attendant obligated for the support of the person or family. However, the necessity of such an arrangement must be evidenced by a doctor's certificate, or by welfare or other responsible sources. Under no circumstances may such an arrangement be continued longer than necessary or permitted only for the convenience of the resident or such employee. This provision is applicable for admission and continued occupancy and is not restricted to elderly families.

**CHILD:** A member of the family, other than the family head or spouse, who is under 18 years of age.

**CHILD CARE EXPENSES:** Amounts paid by the family for the care of minors under 13 years of age where such care is necessary to enable a family member to be employed or for an adult to further their education.

**CITIZEN:** A citizen or national of the United States.

**DEDUCTIONS:** A amount subtracted from annual income that each family is eligible for as established by HUD. (See Adjusted Income)

**DEPENDENT:** A member of the family household (excluding foster children) other than the family head or spouse, who is under 18 years of age or is a Disabled Person or Handicapped Person, or is a full-time student 18 years of age or older.

**DISABLED PERSON:** A person who is under a disability as defined in Section 233 of the Social Security Act (42 U.S.C. 423) or section 42 U.S.C. 6001(7).

**DISPLACED PERSON:** A person displaced by governmental action or a person whose unit has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to the Federal Disaster Relief laws.

**ELDERLY FAMILY:** A family whose head or spouse or whose sole member is at least 62 years of age or a disabled or handicapped person, regardless of age (and may include two or more persons in this status living together), or one or more persons essential to the elderly, handicapped, or disabled person's care and well being.

**ELDERLY PERSON:** Any person who is 62 years of age or older.

**ELDERLY UNIT:** A housing unit designed for occupancy by elderly families as distinguished from a family unit.

**ELIGIBLE FAMILY:** A family meeting the definition of "Family" defined herein and who is within the income limits for admission.

**EMANCIPATED MINOR:** Any juvenile who is 16 years of age or older and who has resided in the same county in North Carolina for six (6) months next preceding the filing of a petition may petition the court in that county for a judicial decree of emancipation. A married juvenile is also emancipated the same Article (19979, c.815, s.1.) If granted, the HA may accept the application of this person(s).

**EVIDENCE OF CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS:** The document which must be submitted to evidence citizenship or eligible immigration status (See evidence outlined in this Policy).

**FAMILIAL FAMILY:** One or more individuals under 18 years of age being domiciled with; (a) a parent or another person having legal custody of such individual or individuals; or (b) the designee of such parent or other person having such custody with the written permission of such parent or other person; and includes any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

**FAMILY:** Two or more persons related by blood, marriage, adoption, guardianship or operation of law, (including foster children), regularly living together as a single household; or two or more persons who are not related, but are living together in a stable family-type relationship as a single household, and can verify shared income and/or resources. The definition of family includes and Elderly Family, (including a Disabled and Handicapped Person), and Displaced Person, a Single Person, and the remaining member of a resident family.

**FOSTER CHILD CARE PAYMENT:** Payment to eligible households by state, local or private agencies appointed by the State, to administer payments for the care of foster children.

**FULL TIME STUDENT:** A person who is carrying a subject load that is considered full time for day students under the standards and practices of the educational institution attended. An educational institution includes a vocational school with diploma or certificate program, as well as an institution offering a college degree.

**GRIEVANCE PROCEDURE:** A procedure used by the resident or seek a hearing by a Hearing Officer or panel concerning the Housing Authority's action or failure to act involving the resident's rights, duties, welfare or status under the Lease.

**GUEST:** A person in the leased unit with the consent of a household member.

**HANDICAP ASSISTANCE EXPENSES:** Reasonable expenses that are anticipated, during the period for which Annual Income is computed, for attendant care and auxiliary apparatus for handicapped or disabled family members, which enable a family member (including the handicapped member) to work.

**HANDICAPPED PERSON:** A person having a physical or mental impairment which: 1) is expected to be of long-continued and indefinite duration; 2) Substantially impedes his/her ability to live independently, and 3) is of such a nature that such ability could be improved by more suitable housing conditions.

**HEAD OF HOUSEHOLD:** The adult member of the household who is held responsible for the family with respect to obligations and responsibilities under the terms of the Lease. "Head of Household" includes both husband and wife, if both are present in the household, jointly and separately.

**HOUSING AGENCY: (HA)** Formerly Public Housing Agency. Any state, county, municipality, or other governmental entity or public body authorized under state enabling legislation to engage in the development or administration of low-rent public housing or slum clearance.

**HUD:** The Department of Housing and Urban Development.

**IMPUTED INCOME:** HUD approved passbook rate times total cash value of assets; calculated when assets exceed \$5,000.00.

**INCOME LIMITS:** Income Limits established by HUD for admission to low-income housing by eligible families, and adopted by the HA.

**INITIAL OCCUPANCY:** The date on which a resident first assumes possession of or occupies an individual dwelling unit.

**INS:** The United States Immigration and Naturalization Service.

**INVOLUNTARILY DISPLACED:** See written system of Preferences for selection established by the VHA.

**LEASE:** A written agreement between the HA and an eligible family for the leasing of a dwelling unit.

**LIVE-IN-AIDE:** A person who resides with an elderly, disabled, or handicapped person or persons and who (a) is determined by the HA to be essential to the care and well-being of the person(s); (b) is not obligated for support of the person(s); and (c) would not be living in the unit except to provide necessary supportive services.

**LOWER INCOME FAMILY:** A family whose income does not exceed 80% of the median income for the area as determined by HUD, with adjustments for smaller or larger families.

**MEDICAL EXPENSES:** Total medical expenses, including medical insurance premiums, that are anticipated during the period for which annual Income is computed, and that are not covered by insurance. This deduction is for elderly families only.



**MINIMUM RENT:** The greater of ten percent (10%) of gross monthly income or \$50.00. (This agency has established and adopted a minimum rent of \$50.00 for residents.)

**MINOR:** An unmarried member of the family (excluding foster children) other than the family head or spouse, who is under 18 years of age.

**MIXED FAMILY:** A family whose members include those with citizenship or eligible immigrations status, and those without citizenship or eligible immigration status.

**MONTHLY ADJUSTED INCOME:** One-twelfth of Annual Income after Allowances.

**MONTHLY INCOME:** One-twelfth of Annual Income.

**NATIONAL:** A person who owes permanent allegiance to the United States, for example; as a result of birth in a United States territory or possession.

**NET FAMILY ASSETS:** Net Cash Value after deducting any reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investments, excluding interests in Indian Trust land and excluding equity accounts in **HUD** Homeownership Programs.

**NONCITIZEN:** A person who is neither a citizen or national of the United States.

**PAYING MORE THAN 50% OF FAMILY INCOME AS RENT:** See written system of preferences established by the **VHA**.

**PRE-OCCUPANCY CONFERENCE:** The meeting or interview between a new resident family and the HA before moving in, during which the Lease and conditions of occupancy are reviewed with the resident family and any questions answered.

**PUBLIC HOUSING AGENCY:** See Housing Agency.

**REEXAMINATION:** Process of HA to reverify family's income and other eligibility requirements every 12 months as required.

**REEXAMINATION EFFECTIVE DATE:** The date on which rents become effective after reexamination each year.

**SECURITY DEPOSIT:** An amount deposited by the resident with the **HA** to cover the cost of resident caused damages or unpaid rent upon termination of the Lease.

**SERVICEMAN:** A person now in the active military or naval service of the United States.

**SINGLE PERSON:** A person who lives alone or intends to live alone, and who does not qualify as an elderly family, or a displaced person, or as the remaining member of a resident family.

**SPOUSE:** The husband or wife of the Head of Household.

**SUBSTANDARD HOUSING:** See written system of Preferences for selection established by **VHA**.

**TEMPORARILY ABSENT:** Absent from the household for more than 30 days.

**TENANT:** A resident of public housing in accordance with a Lease executed with the **HA**.

**TENANT GRIEVANCE:** A dispute that a resident may have with the **HA** for action or failure to act in accordance with the resident's Lease which adversely affects the resident's rights, duties, welfare, or status.

**TENANT RENT:** The amount of payable monthly by the resident as rent to the **HA**. Where all utilities (except telephone) and other essential housing services are supplied by the **HA**, Tenant Rent equals Total Tenant Payment.

**TOTAL TENANT PAYMENT:** The amount of rent payable by the resident for rent and utilities.

**UTILITIES:** Utilities mean water, electricity, gas, other heating, refrigeration and cooking fuels, trash collection, and sewerage services. Telephone service is not included as a utility.

**UTILITY ALLOWANCES:** The **HA's** estimate of the average monthly utility bills for an energy-conscious household. Utility allowances vary by unit type and are listed on the **HA's** posted Utility Allowance schedule.

**VACANCY LOSS:** Income not received by the **HA** due to units being vacant.

**VERY LOW INCOME FAMILY:** A lower income family whose annual income does not exceed 50% of the median income for the area, as determined by **HUD**, with adjustments for smaller and larger families.

**VETERAN:** Any person who has served in the active military or naval services of the United States and shall have been discharged or released therefrom under conditions other than dishonorable.

**WRITTEN SYSTEM OF PREFERENCES FOR SELECTION:** Preferences given applicants seeking housing assistance who are Involuntarily Displaced, Living in Substandard Housing, or Paying more than 50% of Family Income for Rent.

**WORK ORDER:** A form used to request maintenance work for used following the discovery of the need for any repair work.

**SECTION II**  
**CONDITIONS GOVERNING ELIGIBILITY**

**1. ELIGIBILITY FOR ADMISSION**

The Valdese Housing Authority, herein after called (**VHA** or **HA**) will admit as residents to its low-rent development, applicants meeting all of the following requirement:

- (1) Who qualify as a family as defined in Section I.
- (2) Whose annual income does not exceed the applicable Income Limits for admission as established by the Department of Housing and Urban Development and adopted by the **VHA**.
- (3) Whose family composition conforms to the subsidy standards which are appropriate to the vacant unit.
- (4) Whose past performance in meeting financial obligations, especially rent, is satisfactory.
- (5) Who have no record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences which would adversely affect the health, safety or welfare of other residents.
- (6) Whose lease has not been terminated by **VHA** within three (3) years of the application date. After the three (3) year period, the applicant will be considered under the same criteria as all other applicants if they can satisfy the **VHA** that the reason their lease was terminated is unlikely to occur under the terms of a new lease.
- (7) Who have no history of criminal activity that involve crimes of physical violence to persons or property, or other criminal acts which would adversely affect the health, safety or welfare of other residents. Applicants that have a record of drug related criminal activity shall not be admitted to housing in the **VHA's** developments unless they can prove they have successfully completed a supervised drug or alcohol rehabilitation program; has otherwise been rehabilitated successfully; or is participating in a supervised drug or alcohol rehabilitation program. Eligibility based on this criteria shall be determined, on a case-by-case basis by **VHA**, focusing on concrete evidence of the seriousness and recentness of criminal activity as the best predictors of resident suitability. **SEE VHA's ONE STRIKE POLICY.**
- (8) Who do not owe rent or other charges to the **VHA** or any Section 8 Housing Agency. If the applicant owes the **VHA** money from previous occupancy (move-out balance debt), this debt must be paid in full prior to applicant's application being approved for housing.
- (9) Who are at least 18 years of age or older.
- (10) Who has met the disclosure, documented verification and certification requirements for disclosure of Social Security Numbers.
- (11) Who are citizens, or noncitizens who have eligible immigration status, in one of the following categories:

(i) A noncitizen lawfully admitted for permanent residence, as defined by section 101(a)(20) of Immigration and Nationality Act (INA), as an immigrant, as defined by section 101(a)(15) , of the INA (8 U.S.C.1101(a)(20) and 1101(a)(15)), respectively (immigrants). This category includes a noncitizen admitted under section 210 or 210A of the INA (8 U.S.C.1160 or 1161), (special agricultural worker) who has been granted lawful temporary resident status);

(ii) A noncitizen who entered the U.S. before January 1, 1972, or such later date as enacted by law, and has continuously maintained residence in the U.S. since then, and who is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercised of permanent residence as a result of an exercised of discretion by the Attorney general under section 249 of the INA ( 8 U.S.C. 1259);

(iii) A noncitizen who is lawfully present in the U.S. pursuant to an admission under section 207 of the INA (9 U.S.C. 1157) (refugee status); pursuant to the granting of asylum (which has not been terminated) under section 208 of the INA (8 U.S.C. 1158) ( asylum status; or as a result of being granted conditional entry under section 203(a)(7) of the INA (8U.S.C. 1153(a)(7) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic national calamity;

(iv) A noncitizen who is lawfully present in the U.S. as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest under section 212 (d)(5) of the INA (8 U.S.C. 1182(2)(5)) (parole status);

(v) A noncitizen who is lawfully present in the U.S. as a result of the Attorney General's withholding deportation under section 243(h) of the INA (8 U.S.C. 1253(h)) (threat to life or freedom); or

(vi) A noncitizen lawfully admitted for temporary or permanent residence under section 245A of the INA (8 U.S.C.1255a)(amnesty granted under INA 245A).

## 2. APPLICATION AND OTHER REQUIRED FORMS/INFORMATION

Each applicant for housing operated by the VHA must complete an Application and other required forms. All application forms must be dated, and signed by the applicant and spouse, and all adult family members, if possible. Form 9886, Authorization For Release of Information/Privacy Act Notice must be signed by all adult members. Social Security Numbers or Employer Identification Numbers are required to be furnished the VHA, of all family members, who are at least six years of age or older. Family members who do not have a Social Security Number must sign a certification that they do not have one. Certification of family members who are less than 18 years of age may be executed by the parents or guardian. This certification should:

- a. State the individual's name
- b. State that the individual has not been assigned a Social Security Number
- c. State that the individual will disclose the number if they get one later
- d. Be signed and dated.

Individuals who have applied for legalization under the Immigration Reform and Control Act of 1986 (IRCA) will not have a Social Security Card until they are granted temporary lawful resident status, but are assigned a Social Security Number. The letter assigning them the number is acceptable verification until they are granted temporary resident status. If an individual can provide their number by not the documentation, written certification must be executed by the individual or guardian, if under 18. The certification should:

- a. State the individual's name
- b. State the Social Security Number
- c. State that the individual is unable to submit the documentation
- d. Be signed and dated

Applicants have 60 days from the date of certification to obtain documentation to verify the Social Security number disclosed. Applicants who are 62 years of age or older may be granted an additional 60-day extension.

Other documents that may be used for verification must show the Social Security number and the number must have been verified by the agency issuing the document. Examples of other documents acceptable are:

- \* Driver's License
- \* Bank Statements
- \* Earning Statements or Payroll Stubs
- \* Federal, State, or local agency issued identification card
- \* Unemployment benefit letter
- \* Employer or trade union issued identification card
- \* Retirement benefit letter
- \* Medical Insurance Company issued identification card
- \* Life Insurance Policies
- \* IRS Form 1099
- \* Verification of Social Security benefits with the SSA
- \* Benefit award letters from government agencies
- \* Court records (marriage and divorce, judgements or bankruptcy records, real estate or tax

notices.

- \* Other documents that the Housing Authority determines to be adequate evidence of a valid Social Security number.

Applicants who do not meet the Social Security requirements will be denied admission. Residents who do not meet the Social Security requirements are ineligible for continued assistance, which will be terminated.

### **3. CERTIFICATION REQUIRED**

The Executive Director or his official designee shall certify on every application for admission or continued occupancy that all claims have been verified and that the determinations of the VHA are correct.

#### 4. **WRITTEN SYSTEM OF PREFERENCES FOR SELECTION**

Preferences are used to establish the order of placement on the waiting list. A preference does not guarantee admission. Each applicant must also meet VHA's standards and criteria for tenant selection before being offered a unit. (See Tenant Selection Policies and Procedures) The written system of preferences established by VHA for selection of applicants from the waiting list within each bedroom size is as follows:

**FIRST:** Families who qualify for one of the following preferences:

**PREFERENCES:** Involuntarily Displaced  
Living in Substandard Housing  
Paying more than 50% of Family Income as Rent

**SECOND:** Other Eligible Families who do not qualify for a Preference.

Within each preference category above, date and time of application will decide if two or more applicants have the same preference.

The VHA may admit 50% of applicants in any one 12 month period that are non-preference families.

The VHA will intend preference to Elderly Families, including Disabled Persons and Handicapped Persons over Single Persons on the waiting list.

Applicants may claim a preference when they initially apply for admission or at any time while they are on the waiting list.

#### 5. **DEFINING SELECTION PREFERENCES**

The VHA will give preference to applicants who are otherwise eligible for assistance and who, at the time they are seeking housing assistance, are Involuntarily Displaced, Living in Substandard Housing, or Paying More than 50% of Family Income in Rent, and defined as follows:

**A. Involuntarily Displaced.** An applicant qualifies for a preference on the basis of involuntarily displacement if either of the following apply:

(1) The applicant has been involuntarily displaced and is not living in standard, permanent housing;

or



(2) The applicant will be involuntarily displaced within no more than six months from the date of Preference status certification by the family or verification by the VHA.

An applicant is or will be involuntarily displaced if the applicant has vacated or will have to vacate the unit where the applicant lives because of one or more of the following:

(1) **Displacement by disaster.** An applicant's unit is inhabitable because of a disaster, such as a fire or flood.

(2) **Displaced by government action.** Activity carried on by an agency of the United States or by any State or local governmental body or agency in connection with code enforcement or a public improvement or development program.

(3) **Displacement by action of housing owner.** Action by a housing owner forces the applicant to vacate its unit and;

(a) The applicant cannot control or prevent the owner's action

(b) The owner action occurs although the applicant met all previously imposed conditions of occupancy;

(c) The action taken by the owner is other than a rent increase.

Reasons for an applicant's having to vacate a housing unit include, but are not limited to:

(i) Conversion of an applicant's housing unit to non-rental or non-residential use;

(ii) Closing of an applicant's housing unit for rehabilitation or for any other reason;

(iii) Notice to an applicant that the applicant must vacate a unit because the owner wants the unit for the owner's personal or family use or occupancy;

(iv) Sale of a housing unit in which an applicant resides under an agreement that the unit must be vacant when possession is transferred;

(v) Any other legally authorized act that results or will result in the withdrawal by the owner of the unit or structure from the rental market.

(4) **Displacement by domestic violence.** An applicant is involuntarily displaced if:

(a) The applicant has vacated a housing unit because of domestic violence, or

(b) The applicant lives in a housing unit with a person who engages in domestic violence.

Domestic violence means actual or threatened physical violence directed against one or more members of the applicant family by a spouse or other member of the household.

(c) To qualify as involuntarily displaced because of domestic violence:

(i) The **VHA** must determine that the domestic violence occurred recently or is of a continuing nature; and

(ii) The applicant must certify that the person who engaged in such violence will not reside with the applicant family unless the **VHA** has given advance written approval. If the family is admitted, **VHA** may deny or terminate assistance to the family for breach of this certification.

(5) **Displacement to avoid reprisals.** An applicant family is involuntarily displaced if:

(a) A family member(s) provided information on criminal activities to law enforcement agency; and

(b) Based on a threat assessment, a law enforcement agency recommends rehousing the family to avoid or minimize a risk of violence against family members as a reprisal from providing such information.

(c) The **VHA** may establish appropriate safe guards to conceal the identity of families requiring protection against such reprisals.

(6) **Displacement by hate crimes.** An applicant is involuntarily displaced if:

(a) One or more members of the applicant's family have been the victim of one or more hate crimes; and

(b) The applicant has vacated a housing unit because of such crime, or the fear associated with such crime, or has destroyed the applicant's peaceful enjoyment of the unit.

**"Hate crime"** means actual or threatened physical violence or intimidation that is directed against a person or his/her property and that is based on the person's race, color, religion, sex, national origin, handicap or familial status. **VHA** must determine that the hate crime involved, occurred recently, or is of a continuing nature.

(7) **Displacement by inaccessibility of unit.** An applicant is involuntarily displaced if:

- (a) A member of the family has a mobility or other impairment that makes the person unable to use critical elements of the unit; and
- (b) The owner is not legally obligated to make the change to the unit that would make critical elements accessible to the disabled person as a reasonable accommodation.

(8) **Displacement because of HUD disposition of a multi-family project.** Involuntarily Displacement includes displacement because of disposition of a multi-family rental housing project by HUD under Section 203 of the Housing and Community Development Amendments of 1978.

**B. Living in Substandard Housing. A unit is substandard if:**

- (1) It is dilapidated;
  - (2) Does not have operable indoor plumbing;
  - (3) Does not have a usable flush toilet inside the unit for the exclusive use of the family;
  - (4) Does not have a usable bathtub or shower inside the unit for the exclusive use of the family;
  - (5) Does not have electricity, or has inadequate or unsafe electrical service;
  - (6) Does not have a safe or adequate source of heat;
  - (7) Should, but does not, have a kitchen; or
  - (8) Has been declared unfit for habitation by an agency or unit of government.
- (b) The unit has one or more critical defects, or a combination of intermediate defects in sufficient number or extent to require considerable repair or rebuilding. The defects may involve original construction, or they may result from continued neglect or repair or from serious damage to the structure.

**Homeless family.**

An applicant that is a "homeless family" is considered to be living in substandard housing. A "homeless family" includes any person or family that;

- (a) Lacks a fixed, regular, and adequate nighttime residence; and also
- (b) Has a primary nighttime residence that is :
  - (i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing);
  - (ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or
  - (iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

**C. Paying More Than 50% of Family Income As Rent.** For purposes of determining whether an applicant qualifies for the rent burden preference, **VHA** must verify that an applicant is paying more than 50 percent of family income for rent, using the definitions shown below:

- (1) "Family Income" means Monthly Income.
- (2) " Rent" means
  - a. The actual monthly amount due under a Lease or Occupancy Agreement between a family and the family's current landlord; plus
  - b. The monthly amount of residence-supplied utilities which can be either:
    - (i) The PHA's reasonable estimate of the cost of such utilities, or
    - (ii) The average monthly payments the family actually made for these utilities in the most recent 12 month period, or shorter period, if appropriate.

An applicant family may choose which method they desire to be used in order to calculate utilities.

Any amounts paid to or on behalf of a family under any energy assistance program must be subtracted from the otherwise applicable rental amount, to the intent that they are not included in the family's income.

If an applicant owns a mobile home, but rents the space upon which it is located, then, "Rent" must include the monthly payment made to amortize the purchases price of the home.

Members of a cooperative are "renters" for the purposes of qualifying for the preference. In this case, "Rent" would mean the charges under the Occupancy Agreement.

#### **D. Verifying Preferences**

Verification procedures for Preferences are as follows:

**Involuntarily Displacement:** Verification procedures for applicants Involuntarily Displaced are established by the following documentation:

1. Certification from a unit or agency of government that an applicant has been or will be displaced as a result of disaster.
2. Certification from a unit or agency of government that an applicant has been or will be displaced by government action.
3. Certification from an owner or owner's agent that an applicant had to, or will have to, vacate a unit by a certain date because of an owner's action.
4. Certification of displacement, because of domestic violence, from the local police department, social service agency, or court of competent jurisdiction, or a clergyman, physician, or public or private facility that provides shelter or counseling to the victims of domestic violence.

#### **Living in Substandard Housing:**

Verification procedures for families living in substandard housing are established by the following documentation: Certification from a unit of government or from the applicant's current landlord that the condition of the unit meets the definition of substandard.

Certification of being a "Homeless family" from a public/private facility providing shelter to the family, or from local police or a social service agency.

**Paying More than 50% of Family Income as Rent:**

Verification procedures for paying more than 50% of family income as rent are established by the following documentation:

1. Income must be verified in accordance with VHA's occupancy procedures used to verify income to determine eligibility and Total Tenant Payment.
2. Verification of rent amounts due under a Lease or Occupancy Agreement must be verified by requiring the family to furnish copies of rental receipts, canceled checks, money order receipts, or copy of current Lease, or by contacting the landlord directly.
3. Verification of amounts paid to amortize the purchase price of a manufactured home by requiring the family to furnish copies of payment receipt or a copy of current purchase agreement, or by contacting the lienholder directly.
4. Verification of actual amounts paid for utilities by requiring family to provide copies of appropriate bills or receipts, or obtain information directly from utility suppliers.

**NOTE:** An applicant paying more than 50% of income for rent because their housing assistance for that unit was terminated as a result of their refusal to comply with program policies regarding occupancy of under or over occupied units, is not qualified for this preference.

**6. ESTABLISHING AND MAINTAINING THE WAITING LIST**

The waiting list will be established by completion of a written application for admission by each applicant.

Eligible applications are maintained for the following order:

- A. Bedroom Size
- B. Preferences
- C. Date and Time

A central waiting list will be maintained in a manner which permits **VHA** to select the person at the top of the waiting list for the next available unit to indicate the following:

Head of Household

Household type (disabled, elderly family)

Unit size and type (handicapped, etc.)

Date and Time application was taken

Preference status, if any

Racial extraction of Head

Documentation must be maintained in each application file to indicate date and time for application, preference status, letter of eligibility, verification of annual income, assets and asset income and allowance information, family composition and type, social security numbers of all family members, information used in applicant screening, citizenship or eligible immigration status, letter of eligibility, information indicating when and why the applicant was selected for a unit, a record of the units offered and any rejections, including denial of a preference.

The waiting list will be updated periodically and at least annually, to maintain a current list of applicants. The applicants will be contacted to determine their continued interest in obtaining housing. If the applicants do not respond by the date indicated in the letter or the applicants may have moved and left no forwarding address, the application will be removed from the waiting list.

## **7. TENANT SELECTION POLICIES AND PROCEDURES**

In addition to policies, regulations, preferences and priorities established by the **VHA** for eligibility and admission to its developments, the **VHA** has adopted and implemented policies and procedures embodying standards and criteria for tenant selection. In selecting residents from among eligible applicant families for the composition and size appropriate to available units, the **VHA** will take into consideration the needs of individual families for low-rent housing and the statutory purpose in developing and operating socially and financially sound low income housing developments and provide a decent home and a suitable living environment and fosters economic and social diversity in the resident body as a whole. Selection will be in such a manner as:

- a. To avoid concentration of the most economically and socially deprived families in the one or all of the developments operated by VHA.
- b. To preclude admission of applicants whose habits and practices reasonably may be expected to have a detrimental effect on the residents or the environments.
- c. To maintain a resident body in each development composed of families with a broad range of incomes and rent paying ability which is generally representative of the range of incomes of the low income families in the VHA's area of operation as defined by State law.
- d. To give preference to applicants who are otherwise eligible for assistance and who at the time they are seeking housing assistance, are involuntarily displaced, living in substandard housing or paying more than 50 percent of family income for rent.

**NOTE:** No priority for admission will be given on the basis of income to families whose income is greater than the Very Low Income Limits.

The VHA shall not, on account of race, color, national origin, creed, religion, familial status, sex, handicap or disability, deny to any family the opportunity to apply for admission, nor deny admission to a particular group or category of eligible applicants such as families with children born out of wedlock, or unwed mothers, nor deny any eligible family the opportunity to lease a unit suitable to its needs in any development of the VHA.

## **8. TENANT SELECTION PLAN**

The applicant at the top of the community wide waiting list will be offered an appropriate unit at the location containing the largest number of vacancies. If the offer is rejected, the applicant will be offered a unit at a second location containing the next largest number of vacancies. If the second offer is rejected, the applicant will be offered a unit at any location where a vacancy exists. If the applicant rejects three (3) such offers, the application will be moved to the bottom of the waiting list. If the applicant presents satisfactory evidence that acceptance of the offered unit would result in undue hardship which is not related to race, color, national origin, religion, handicap, familial status, or language, then the applicant would not be considered to have been offered a unit, and the refusal would not count as a rejection.

Every application shall contain a record of every unit offered, identification of the development



and the unit, the date of each offer, and rejection or acceptance of the unit.

## 9. SUBSIDY STANDARDS

The following standards shall determine the number of bedrooms required to accommodate each family without overcrowding or overhousing. These standards may be waived only when necessary to achieve or maintain full occupancy and after every effort has been made to stimulate applications from families appropriate to the existing vacancies with the written understanding that such families will be transferred to units of the appropriate size as soon as such units become available.

Number of Bedrooms	Number of Persons	
	Minimum	Maximum
0	1	1
1	1	2
2	2	4
3	4	6
4	6	8
5	8	10
6	10	12

Assignments shall be made so that, persons of different generations, persons of the opposite sex who are four years of age or older (other than spouse and infants), and unrelated adults shall have separate bedrooms.

When determining unit size, the VHA will include all children anticipated to live in the unit including:

Foster children

Children expected to be born to pregnant women

Children whose custody is being obtained by an adult member of the applicant family

Children who are in the process of being adopted by the applicant

Children who are temporarily absent from the family because of placement in foster care

A live-in attendant may be assigned a separate bedroom

A separate bedroom will be assigned to a handicapped or disabled family member

#### **10. ELIGIBLE APPLICANTS**

Eligible applicants will be promptly notified by **VHA**, in writing, that they are eligible for low-income housing and of the approximate date they can be housed, insofar as that date can be reasonably determined.

#### **11. INELIGIBLE APPLICANTS**

Ineligible applicants will be promptly notified of the basis for the determination, and upon request by the family and within a reasonable time after determination is made, the **VHA** will provide an opportunity to the applicant for an informal hearing on such determination.

#### **12. VERIFICATION OF APPLICANT'S STATEMENT AND INCOME**

Applicants and residents shall be required to furnish proof of their statements when required by **VHA** to assure accuracy. The **VHA** must verify the information furnished by the applicant or resident in order to determine eligibility.

#### **13. LEASING**

A lease shall be executed in duplicate, **PRIOR TO ADMISSION**, by the family head, spouse, and all other adult members of the household accepted as a resident family, and by the Executive Director or his designated representative. The original Lease shall be retained by the **VHA** and an executed copy shall be furnished to the family.

Each Lease shall specify the unit to be occupied, the date of admission, the size of the unit to be occupied, all family members who will live in the unit, the rent charged, utility allowances, the security deposit, other charges under the Lease, and the terms of occupancy. The Lease shall be explained in detail to the family **PRIOR TO EXECUTION**. It shall be kept current at all times.

A new Lease shall be executed by both parties when a family transfers from one unit to another. During the tenure of the Lease Agreement, changes in rent shall be made by a written, dated and signed Notice of Rent Adjustment, which shall become part of the existing Lease.

#### **14. PHYSICAL INSPECTIONS**

Prior to admission, semiannually, and at the time the unit is vacated, the resident shall make a physical inspection of the unit with a duly authorized **VHA** Representative. The Housing Quality Standards Inspection Form shall be used to inspect the unit and shall be signed by the family head and the

designated **VHA** Representative, and executed in duplicate. **VHA** shall retain the original report and a copy furnished the family. This initial inspection report shall serve as the basis for determining what maintenance charges are to be passed on to the family.

**15. ANNUAL REEXAMINATION OF ELIGIBILITY** Once each year and more frequently is necessary, the **VHA** shall reexamine the income, family composition and other circumstances of all family in occupancy as of the effective date of reexamination established by the **VHA**. The **VHA** has established March 1 each year as its reexamination date.

The family agrees to furnish accurate and timely information to **VHA** in order to determine if the family is eligible for continued occupancy. The family will complete an Application for Continued Occupancy when notified to do so by **VHA**. Verifications and Consent Forms will be obtained, and determinations made in accordance with the approved **VHA** rent schedule and this Occupancy Policy. The family will be notified in writing in 90-120 days in advance of the scheduled reexamination effective date so that the examination can be completed timely, in order to give the family reasonable notice of any change in rent or unit size and of any misrepresentation or any Lease violations revealed by the reexamination and the corrective action to be taken.

The refusal to the resident to attend the scheduled annual reexamination or furnish the information required by **VHA** in a timely manner, is considered grounds for Lease termination. The resident agrees to comply with the **VHA** request for verifications by signing the release forms for third party sources, presenting documents for review, or providing other suitable forms of verification.

When **VHA** determines that amount of rent (Total Tenant Payment or Tenant Rent) payable by the resident (not including determination of **VHA**'s Schedule of Utility Allowances for families) or determines that the resident must transfer to another unit based on family composition, **VHA** will notify the resident in writing of the new amount and effective date. The Notice shall state that the resident may ask for an explanation of how the amount was computed by **VHA**, or the determination made for change in unit size, stating the specific grounds for the determination by **VHA**; and that if the resident does not agree with the determination, the resident shall have a right to request a hearing under **VHA**'s grievance procedure. If the resident asks for an explanation, the **VHA** shall respond within a reasonable time.

When the VHA makes any changes in the amount of the Total Tenant Payment or Tenant Payment, VHA shall give written notice to the resident. The Notice shall state the new amount of rent and the effective date, and will be sent to the family at least 30 days before the effective date stated in the Notice.

If the family composition no longer conforms to the VHA's subsidy standards, the resident agrees to transfer to an appropriate size unit upon proper notice by VHA that such unit is available. Failure to transfer to the correct unit size is grounds for termination of the Lease VHA.

If the family causes an undue delay in the reexamination process, VHA will implement any rent increases retroactive to the effective date of reexamination. Rent decreases due to a delay caused by the family, will become effective the first day of the month following completion of the reexamination process.

The resident will accept a Notice of Rent Adjustment as an amendment to his/her Lease. This Notice of Rent Adjustment will advise the family of the opportunity for them to request a hearing regarding the change.

#### **16. TEMPORARY RENTS**

If it is impossible to obtain verification to complete determinations prior to the date of admission or reexamination, a Temporary Rent shall be established base on information furnished on the application. The resident will be sent a written Notice of Temporary Rent, stating the amount of rent to be paid, pending verification of income and determination of the appropriate rent. The Notice must state that when the correct rent is established, the rent will be retroactive to the date of admission or reexamination. Any overpayments will be credited to the resident's account and underpayments will be assessed the resident. A signed and dated copy of this Notice shall be kept in the resident's file.

#### **17. SPECIAL REEXAMINATIONS**

If due to instability of family income and/or family composition, it is impossible to determine annual family income reasonably accurately, a temporary determination of income and rent is to be made and a Special Reexamination shall be scheduled for 30, 60, or 90 days, depending on the circumstances. The resident shall be notified in writing of the effective date of the Special Reexamination. If the family income can be estimated at the scheduled time, the reexamination shall be completed and appropriate actions

taken. If a reasonable anticipation of income still cannot be made, another Special Reexamination shall be scheduled for 30, 60, or 90 days until a reasonable estimate can be made. Rents determined at Special Reexamination shall be made effective the first of the month following the final determinations.

#### **18. INTERIM REDETERMINATIONS OF RENT**

During the period between Annual Reexamination, the resident will be on a modified interim reporting basis. This means the resident need only report changes in total family income or family composition that result in a lower rent except as follows:

- (1) Addition of family member(s) with income.
- (2) Loss or addition to family composition through birth, death, marriage, divorce, separation, or removal or other continuing circumstances, and inclusion of the income, if any, of such family member.
- (3) Income of current family member who becomes employed and/or employment income of family member who turns 18 years of age during the year.
- (4) To correct an error in connection with a previous rent determination.

Once the resident's rent is adjusted downward, the resident will be notified in writing that he/she must report any and all changes in come and/or family composition until the next reexamination. Changes in income listed above must be reported to VHA within 10 days from the date of change. Failure to report the changes are grounds for Lease termination.

**NOTE:** Any changes in family income or other circumstances that result in adjustment in Rent must be verified.

#### **19: INCREASES IN RENT:**

Increases in rent are to be made effective the first of the second month following that in which the change occurred, unless the rent increase results from a finding of intentional misrepresentation, then the increase rent shall be retroactive to the appropriate date.

#### **20: DECREASES IN RENT:**

Decreases in rent are to be made effective the first day of the month following the month in which

the change is reported. However, no decreases will be made until the decrease has been verified. At the discretion of the Executive Director, temporary adjustments may be made subject to verification of the decrease. Interim changes in rent may be made by the VHA if necessitated by changes in the approved schedule of Utility Allowances posted in the VHA Office; and to correct any errors made in income and rent computations.

If it is found that the resident has misrepresented and/or failed to report facts upon which his/her rent is based, so that the rent he/she is paying is less than he/she has been charged, an increase in rent shall be made retroactively to the date that the increase would have taken effect. Furthermore, the resident's misrepresentation and/or failure to report facts upon which his/her rent is based shall be grounds for termination.

In the event of any rent adjustment pursuant to the above, VHA will mail or deliver a Notice of Rent Adjustment in accordance with Section 12 hereof, and such Notice of Rent Adjustment shall automatically constitute an amendment of this Lease without further signature by either party.

## **21. TRANSFER POLICY**

If it is found that the unit size is no longer appropriate to the family's needs, VHA shall send the family written notice to transfer to the correct size unit in accordance with the Subsidy Standards adopted within this Policy. The family agrees to transfer to another unit of the appropriate size or design. In the case of an involuntary transfer, the resident shall be given proper notice to move to the correct size unit. In the case of a transfer to a different development, the VHA will permit the resident to postpone the transfer to the end of the school year if requested by the family. If the resident refuses to transfer, VHA may terminate the Lease.

Transfers shall be made to place families in the correct size units and shall take priority over new admissions. Insofar as is possible, transfers to meet subsidy standards shall be made within a development. If the development has no units large enough or small enough for a family, the family shall be transferred to an appropriate unit in another development. Transfers shall not be made to units of equal size between developments or within a development, except to alleviate hardships, as determined by the Executive Director or his officially designated representative.

Residents will be either reimbursed for the cost incurred due to involuntary transfers or the VHA will provide personnel and vehicles for the transfers to minimize the cost involved. Involuntary transfers are subject to the Grievance Procedure and no such transfers may be made until either the time to request a Grievance has expired or the procedure has been completed.

Transfers for the convenience of the resident may be permitted because of such reasons as the health of the resident or the proximity of the resident's job. The cost of such transfers will be borne by the resident.

If a resident makes a written request for special unit features because of a documented disability or handicap, the VHA will either modify the resident's unit or transfer the resident to another unit with the requested features.

If a resident without disabilities or handicaps is housed in a unit with special features and another family with disabilities should need the unit, the family without disabilities must transfer to another unit without such features, upon appropriate notice.

The VHA may move a resident into another unit if it is determined necessary to rehabilitate the resident's unit.

Only one unit will be offered to a family unless there is a hardship situation as determined by VHA. If the resident refuses the offered unit, the Lease may be terminated by the VHA by giving a 60 day notice to the resident.

Transfers to remove residents who are witnesses to crimes and may face reprisals (must be documented by a law enforcement agency), victims of hate crimes or extreme harassment, residents with verified medical problems of a serious nature, residents that require units with accessible features, residents occupying units that are targeted for modernization, or residents occupying units with defects hazardous to life, health, or safety, will take priority over new admissions.

Transfers shall be made without regards to race, color, creed, national origin, religion, handicap, sex, or familial status.

## **22. RENT SCHEDULE**

**RENTS CHARGED BY THE VHA ARE THE GREATER OF 10% OF GROSS MONTHLY INCOME OR 30% OF ADJUSTED MONTHLY INCOME. HOWEVER, NO RESIDENT WILL PAY LESS THAN THE MINIMUM RENT ADOPTED BY VHA OF \$50.00 PER MONTH, EFFECTIVE APRIL 1, 1996.** This means that families paying zero rent or a rent less than \$50.00 will be charged a Gross Rent of at least \$50.00.

## **23. SECURITY DEPOSIT**

The applicant agrees to make a security deposit is the amount of **ONE HUNDRED AND FIFTY DOLLARS (\$150.00) OR ONE MONTH'S GROSS RENT (TTP), WHICHEVER IS GREATER,** on or before the occupancy date. The security deposit charged is \$ . In extenuating circumstances, and at the discretion of the Executive Director, a deferred payment of the security deposit may be approved, in writing. Failure of the resident to pay the security deposit within the time provided by the VHA shall constitute grounds for termination of the Lease. The amount of the security deposit will remain the same unless the security deposit policy is changed by Board resolution for all residents.

## **24. MISREPRESENTATION BY THE RESIDENT**

If a resident is found to have made misrepresentations at any time which resulted in his being classified eligible, when in fact, he was ineligible, he may be required to vacate, even though he may since have become eligible. If such misrepresentation resulted in his paying a lower rent than was appropriate, he shall be required to pay the difference between the actual payments and the amount which should have been paid. In justifiable cases, the VHA may take such other action as it deems necessary.

If it is found that a resident is paying less than he should have been paying, and this is due to an error by the VHA, the rent shall be adjusted and the resident charged the correct rent. The resident shall not be charged any retroactive rent due to an error by the VHA.



## 25. TERMINATIONS AND EVICTIONS

The Lease may be terminated only for serious or repeated violations of material terms of the Lease, such as failure to make payments due under the Lease or to fulfill the resident's obligations, or for other good cause. The VHA shall give written notice of the proposed termination, stating the specific reasons for the termination and informing the resident of his/her right to make such reply as he/she may wish, and of the resident's right to examine VHA documents that are directly relevant to the termination or eviction.

Certain actions are excluded from the Grievance Procedure, specifically any activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents or VHA employees; or any illegal drug-related criminal activity and alcohol abuse on or off premises, not just on or near the premise.

When the VHA is required to give the resident the opportunity for a grievance hearing, the notice shall inform the resident of his/her right to request such a hearing and the procedure to be followed in obtaining such a hearing, as outlined in the VHA's grievance procedure.

If a hearing is held and the decision of the hearing officer is in favor of the VHA, a Notice to Vacate shall be issued in writing and specify that if the resident fails to quit the premises within the applicable statutory period, or on the termination date stated in the Notice of Termination, whichever is later, appropriate action will be brought against the resident.

A written record of every termination and/or eviction shall be maintained by the VHA and shall contain the following information:

1. Name of resident, number and identification of the occupied unit;
2. Date and copy of Notice to Terminate or Vacate and any other notices required by State or local law; These notices may be on the same form and will concurrently;
3. Specific reason(s) for the Notices (i. e., if a resident is being evicted for undesirable actions, the record shall detail the actions for which the eviction has been instituted and the section of the lease violated); and other facts pertinent to the issuing of the Notices described in detail.
4. Date and method of notifying resident of reasons and showing a summary of any conferences with resident, including dates, names of conference participants and conclusions;
5. Dated and signed records of minutes of any hearing held;
6. Date and description of final action taken;
7. Date of Notice to Vacate.

**SECTION III**  
**OCCUPANCY PROCEDURES**

**26. RECEIPT OF APPLICATIONS.** Each application constitutes the basic legal record which supports the VHA's determinations of eligibility status, rent and unit size for which the applicant and/or resident is qualified. The application for admission also constitutes the basis for establishing the applicant's priority status for selection. The following procedures shall be followed in processing all applications:

- A. All entries by applicants and VHA personnel are to be made in ink, ball-point pen or typed.
- B. Any changes are to be made by drawing a single line through the original entries and entering the correct data. The reason and authority for each change shall be noted in the record, which then shall be dated and initialed by the person making the change.
- C. The date and time of receipt of each application for admission shall be shown in the top right hand corner of the application.
- D. When the applicant/resident and interviewer have insured that every blank is complete (exclusive of those provided for VHA determinations), both shall sign and date the application in the appropriate spaces. No blanks shall be left open; those which are inapplicable to a particular applicant/resident shall be completed with NA (not applicable), "NO" or "NONE".
- E. If during the interview, it become obvious that the applicant definitely is ineligible, he will be so informed and the reason(s) fully explained. His application then shall be classified as "ineligible". The file shall be documented to show when and how the applicant was informed and how the applicant was informed and the reasons for his ineligibility.
- F. The active applications and all materials relating to them are to be kept current at all times and shall be arranged in the following order:
  - 1. Applications Pending Verification
    - a. Bedroom size needed
    - b. Alphabetical sequence

2. Eligible Applications
  - a. Bedroom size needed
  - b. Preferences
  - c. Date and Time

All active applications shall be purged annually. Letters will be sent to each applicant family inquiring of their continued interest and giving them a specific date to respond or the application will be retired from the active files. Undelivered letters with their envelopes shall be attached to the respective applications as evidence of the unsuccessful efforts to locate the applicants. Each retired application shall be documented with the date of retirement, the reason, and the initials of the person making the determination. It shall show dates of any telephone calls, personal contacts, etc., and the results.

- A. **Inactive and Ineligible Applications** should be filed in alphabetical order by years in which deactivated or determined ineligible.

## 27. ANNUAL INCOME DEFINITION

Annual income is the anticipated total income from all sources received by the family head and spouse (even if temporarily absent) and by each additional member of the family, including all net income derived from assets for the 12 month period following the effective date of the initial determination or reexamination of income, exclusive of certain types of income listed further in this section.

**Annual Income includes**, but is not limited to:

- (1) The full amount, before any payroll deductions of wages and salaries, overtime pay, commissions, fees, tips, bonuses and other compensation for personal services;
- (2) The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Services regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income, except to the extent the withdrawal is reimbursement of cash or assets in excess of \$5,000 annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook saving rate, as determined by HUD;

(4) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability, or death benefit and other similar types of periodic receipts. NOTE: (Annual income does not include deferred periodic payments of supplemental security income and social security benefits that are received in a lump sum payment;

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay. NOTE: (Income does not include lump-sum additions to family assets such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses;

(6) Welfare Assistance - If the welfare assistance payment includes an amount specifically designated for shelter and utilities that are subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance to be included as income shall consist of:

(a) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(b) The maximum amount that the welfare assistance agency should in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount from one application of the percentage;

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the unit.

(8) All regular pay, special pay and allowance of a member of the Armed Forces (whether or not living in the unit) who is head of the family, spouse, or other family member whose dependents are residing in the unit.

(9) Relocation Payments

## 28. NET FAMILY ASSETS

Net Family Assets is the Net Cash Value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investments, excluding interests in Indian trust land and excluding accounts in HUD Homeownership programs.

**Net Cash Value** is the dollar amount the family would receive if the asset was converted to cash.

The cash value of an asset is determined as follows:

FAIR MARKET		UNPAID		REASONABLE		
VALUE	(Minus)	ENCUMBRANCES	(Minus)	COST DUE TO	=	CASH
				CONVERTING		VALUE
				ASSETS TO CASH		

In determining Net Family Assets, the VHA shall include the value of any business or family assets disposed of by an applicant or resident for less than Fair Market Value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, whichever is applicable, in excess of the consideration received therefore.

Business assets are not considered in determining the value of net family assets; however, if business assets have been disposed of for less than Fair Market Value in the two years preceding the effective date of the reexamination or move-in, the difference between the amount realized and Fair Market Value is included in Net Family Assets.

### Costs for Disposing of Certain Assets That Must be Verified are:

Settlement costs for selling Real Property

Brokerage Fees to Dispose of Stocks and Bonds

Interest Penalties for Early Withdrawal of IRA's

## Keoghs and Certificates

### A. ASSETS INCLUSIONS:

Cash held in savings and checking accounts, safety deposit boxes, homes, etc. Generally, for savings accounts, use the current balance and for checking accounts the average balance over the last six months. A HA may choose to disregard a nominal amount in a family's checking account which is required to meet normal day-to-day needs.

Trusts. Include the value of any trust available to the household. (Do not include irrevocable trusts, which are ones that no family member can control.)

Equity in rental property of other capital investments, include the current market value less an unpaid balance on any loans secured by the assets less reasonable costs incurred in selling the asset.

Stocks bonds, Treasury bills, Certificates of deposit, Money Market funds.

Individual Retirement and Keogh accounts. These are included because participation in such retirement savings accounts is voluntary and the holder has access to the funds, even though a penalty may be assessed.

Retirement and pension funds.

(a) While the person is employed. Included only amounts the family can withdraw without terminating employment.

(b) At retirement or termination of employment. If benefits will be received in a lump sum, include the benefits in Net Family Assets. If benefits will be received through periodic payments, include in the benefits in Annual Income.

Lump-Sum Receipts. Include inheritances, capital gains, one-time lottery winnings, settlements on insurance and other claims. (Do not include lump sum receipts that must be counted as income.)

### B. ASSETS EXCLUSIONS

Necessary person property (clothing, furniture, cars, etc.)

Vehicles specially equipped for the handicapped

Irrevocable trust

Interest in Indian trust lands

Jewelry and art (unless held as investments)

**C. ANNUAL INCOME DOES NOT INCLUDE THE FOLLOWING:**

- (1) Income from employment of children (including foster children) under the age of 18 years;
- (2) Payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the resident family, who are unable to live alone);
- (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlements for personal or property losses;
- (4) Amounts received by the family, that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- (5) Income of a live-in-aide, defined as a person who resides with an elderly, disabled, or handicapped person(s), and who: (a) is determined by HA to be essential to the care and well being of the person; (b) is not obligated for support of the person(s), and; (c) would not be living in the unit except to provide necessary supportive services;
- (6) The full amount of student financial assistance paid directly to the student or to the educational institution.
- (7) The special Pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- (8)
  - (i) Amounts received under training programs funded by HUD;
  - (ii) Amounts received by a disabled person that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self Sufficiency (PASS);
  - (iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child car, etc.), and which are made solely to allow participation in a specific program;

- (iv) A resident service stipend. A resident service stipend is a modest amount (not to exceed \$200.00 per month) received by a public housing resident for performing a service for the HA, on a part-time basis, that enhances the quality of life in public housing. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident initiatives coordination. No resident may received more than one such stipend during the same period of time; or
  - (v) Compensation from State or local employment training programs and training of a family member as a resident managements staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for a limited period as determined in advance by the HA:
- (9) Temporary, non-recurring or sporadic income (including gifts);
  - (10) For all initial determinations and reexaminations of income carried out on or after April 23, 1993, reparation payments paid by a foreign government pursuant to claims filed under the laws of government by persons who were persecuted during the Nazi era;
  - (11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
  - (12) Adoption assistance payments in excess of \$480 per adopted child
  - (13) Earnings and benefits to any resident resulting from the participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, section 22 of the U.S. Housing Act of 1937 (42 U.S.C. 1437 et seq.), or any comparable Federal , State or local law during the exclusion period. For purposes of the paragraph, the following definitions apply.
    - (i) Comparable Federal, State or local law means a program providing employment training and supportive services that;
      - (A) Is authorized by a Federal, State or local law;
      - (B) Is funded by the Federal, State or local government;
      - (C) Is operated or administered by a public agency; and



- (D) Has a its objective to assist participants in acquiring employment skills.
- (ii) Exclusion period means the period during which the resident participates in a program described in this section plus 18 months from the date the resident begins the first job acquired by the resident after completion of such program that is not funded by public housing assistance under the U.S. Housing Act of 1937 (42 U.S.C.1437 et seq.). If the resident is terminated from employment without good cause, the exclusion period shall end.
- (iii) Earnings and Benefits means the incremental earnings and benefits resulting from a qualifying employment training program or subsequent job;
- (14) Deferred periodic payments of supplemental security income and social security benefits that are received in a lump sum payment;
- (15) Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit;
- (16) Amounts paid by a State agency to a family with a developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
- (17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the United State Housing Act of 1937. The following is a list of types of benefits that qualify for this exclusion. Updates will be published and distributed when necessary.

**D. FEDERAL EXCLUSIONS**

- (a) The value of allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C.2017(b));
- (b) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C.5004(g), 5058);

- (c) Payments received under the Alaska Natives Claims Settlement (43 U.S.C.1626(c));
- (d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian Tribes. (25 U.S.C.459 (e));
- (e) Payments or allowances made under the Department of Health and Human Services Low Income Housing Energy Assistance Program. (42 U.S.C.8624(f)
- (f) Income derived from the disposition of funds in whole or in part under the Job Training Partnership Act. (20 U.S.C.1552 (b));
- (g) Income derived from the disposition of funds of the Grand River Band of Ottawa Indians (Pub.L.94-540,90 Stat.2503-04);
- (h) The first \$2,000 per capita shares received from judgement funds awarded by the Indian Claims Commission or the Court of Claims (25U.S.C.1407-08), or from funds held in trust for an Indian Tribe by the Secretary of the Interior. (25 U.S.C.117(b), 1407);
- (i) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under the Federal Work-study program or under the Bureau of Indian Affairs student assistance programs. (Effective date of October 1,1992)(20 U.S.C.1087 (uu));
- (j) Payments received from programs funded under Title V of the Older Americans Act of 1965. (42 U.S.C.3056(f));
- (k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the IN RE AGENT ORANGE product liability litigation M.D.L. No. 381 (E.D.N.Y.);
- (l) Payments received under the Marine Indian Claims Settlement Act of 1980. (Pub.L.96-420,94 Stat. 1785);
- (m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990. (Effective date; November 4, 1992);(42 U.S.C.9858q);

- (n) Earned Income Tax Credit (EITC) refund payments received after January 1, 1991.  
(26 U.S.C./32j).

**E. PROGRAMS UNDER THE DOMESTIC VOLUNTEER SERVICE ACT INCLUDE:**

1. VISTA- Volunteers in Service to America
2. RSVP- Retired Senior Volunteer Program
3. SCORE - Service Corps. of Retired Executives
4. FGP - Foster Grandparents
5. SCP - Senior Companions Programs
6. ACES - Active Corps of Executives

**F. PROGRAMS UNDER TITLE IV OF THE HIGHER EDUCATION ACT OF 1965 INCLUDES:**

1. Basic Educational Opportunity Grants (Pell Grants)
2. Supplemental Opportunity Grants
3. State Student Incentive Grants
4. College Work Study
5. Byrd Scholarships

**G. PROGRAMS UNDER TITLE V OF THE OLDER AMERICANS ACT INCLUDE:**

1. Green Thumb
2. CSEP - Senior Community Services Community Employment Program
3. AARP - American Association of Retired Persons
4. NCOA - National Council on Aging
5. National Council of Senior Citizens (Sometimes called Senior Aides)
6. U.S. Forest Service
7. NCBA - National Caucus Center for Black Aged
8. Urban League
9. National Association for the Spanish Elderly

## **H. "VOCATIONAL WORK ADJUSTMENT TRAINING PROGRAM".**

This program is not State Funded but is a Private Non-Profit Agency. **THE INCOME MUST BE COUNTED.**

### **29. DEFINITION OF ADJUSTED INCOME**

ADJUSTED INCOME is Annual Income less the following deductions:

- (a) \$480 for each dependent
- (b) \$400 for an Elderly Family
- (c) Handicapped Assistance Expenses in excess of 3% of Annual Income (given to any family member other than head of household or spouse, if eligible)
- (d) Medical Expenses in excess of 3% of Annual Income (given to any Elderly Family)
- (e) Child Care Expenses

### **30. UTILITY ALLOWANCES**

A. Utilities are furnished by the VHA in accordance with the utility allowance schedules posted in the VHA office and all rent collection offices. The resident agrees to pay for excess consumption, if any, in accordance with the posted utility allowance schedules.

### **31. CLARIFICATION OF CERTAIN DEFINITIONS AND TERMS**

Adult Family Member - Head and spouse, regardless of age or student status; and all other family members who are 18 years of age or older.

Gross wages and salaries, overtime pay, commission and fees

Examples:

A construction worker's gross salary and overtime pay; A sales person's gross salary plus commission.

Tips and bonuses - A waiter's gross salary plus tips

A factory worker's gross salary plus Christmas bonus.

Interest, dividends and net income from real or personal assets - Dividends and stocks; interest on passbook savings accounts; Interest on Certificates of Deposits; Net income, after expenses, for rental of property.

In determining net income from the operation of a business or profession, the VHA may deduct

an allowance for depreciation on property used in a business or profession. The depreciation allowance must be based on the straight line method of depreciation used for tax purposes under the Internal Revenue Service requirements.

Withdrawals of cash or assets from the operation of a business or profession are included in income unless they are reimbursement of cash or assets invested in the operation by the family.

Similarly, any withdrawals from investments in real and personal property are also included in annual income unless they are reimbursement of cash or assets invested by the family.

Business assets are not considered in determining the value of net family assets; however, if business assets have been disposed of for less than fair market value in the two years preceding the effective date of the reexamination or move-in, the difference between the amount realized and the fair market value is included in net family assets. In this regard, business assets are treated the same as any other family assets.

Where the family has Net Family Assets in excess of \$5,000.

Annual income includes the greater of actual income derived from the assets or a percentage of the value of assets based on the current passbook rate as determined by HUD.

Examples: Real Estate, Land, Cash on Hand

The full amount of periodic payments received from Social Security, annuities, insurance, retirement funds, pensions, disability or death benefits, and similar types of periodic receipts.

Examples: All Social Security payments to any family member; a state employee's pension or Retirement; A widow's insurance benefit.

Payment in Lieu of Earnings - Unemployment benefits;

Workman's compensation.

Welfare Assistance (AFDC) Aid to Families with Dependent Children;

General Welfare Assistance.

Periodic and determinable allowances - Alimony; Child support payments; The regular and consistent amount a son gives his mother each month.

All regular pay and allowances of a member of the Armed Forces. The salary of a sailor presently at sea with the Navy; The salary of an Army private in basic training.

Assets disposed of within two (2) years of the admission or certification date for less than fair market value with some exceptions.

**Example:** Selling a house for \$1.00 when market value is \$25,000.

Casual, sporadic or irregular gifts - A cash gift given to an elderly father by his son on his birthday.

**(DO NOT COUNT AS INCOME)**

Amounts of educational scholarships paid directly to the student or to the education institution, and amounts paid by the Government to a veteran for use in meeting the cost of tuition, fees, books, and equipment, materials, supplies, transportation and miscellaneous personal expenses.

**Example:** The VHA must disregard the entire scholarship in determining the family's income. Income from employment of children (excluding foster children) under the age of 18.

**Example:** A child, 17, is working at a local fast food chain. The income earned is not counted even if the child is not longer in school. However, when the child turns 18 years of age, the income is counted.

Payments received for the care of foster children are not counted.

## 32. **REQUIRED VERIFICATIONS AND DOCUMENTATION OF APPLICATION DATA**

It is imperative to verify all claims made by each applicant and/or resident so that proper determination can be made of eligibility, rent and unit size needed. Complete and accurate documentation of all data must be maintained at all times. This includes, but is not limited to:

- A. Authoritative written information from all sources concerning income, exclusions, and deductions. Income shall be verified by the source from which it is derived; expenses shall be verified by the recipients of such payments.
- B. Reproductions or carbon copies of documents which substantiate the applicant's or resident's claims or a brief summary of the pertinent contents. The summaries shall be signed and dated by the staff member who examined them.
- C. Notarized financial statements showing all income, itemized expenses (do not allow costs of business expansion and amortization of capital indebtedness) and net income of every self-employed person.
- D. Written records of all data obtained by telephone, personal interview or other means, showing source of information, date and method received, and signature of person by whom received.

- E. Birth certificates, driver's license to support claim of age.
- F. Social Security disability award letters, pensions and Social Security certification of grant for total and permanent disability or doctor's certification that all conditions of disability or handicap, as prescribed by the Social Security definitions, are present to support any claim of disability or handicap.
- G. Official notices to support any preference claim for involuntary displacement by the government or private action.
- H. Documentary proof to support any preference claim for living in a substandard unit, such as an official inspection report or certification by an agency.
- I. Documentary proof to support applicant's claim of paying more than 50% of income for rent, such as copies of the most recent rental agreement, receipts, canceled checks, money order receipts, copies of utility bills or receipts, or direct contact with the landlord and/or utility companies.
- J. Bank statements, bank books, stock certificates, and copies of tax returns on real estate, registers of bonds, or any other required documentation of assets of value, to support any claims to assets.
- K. Copies of official discharge papers from Veterans or Servicemen to support their preference claim.
- L. Written records of all determinations of applications for admission and the methods used in making such determinations. The records with respect to applications for admission shall indicate for each application the date and time of receipt; the determination by the VHA as to eligibility or the ineligibility of the applicant; when eligible, the unit size for which eligible; the preference rating, if any; and the date, identification, location and circumstances of each vacancy offered and accepted or rejected.
- M. Sources of information to verify the resident selection criteria may include home visits, contacts with landlords, employers, social workers, parole officers, court records, drug centers, police department, physicians, and clients.

In the event unfavorable information is obtained relative to the VHA's selection criteria, consideration shall be given to the time, nature and extent the applicant's or resident's conduct and to factors which might indicate a reasonable probability of favorable future conduct or financial prospects, such as:

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

### **33. SUMMARY OF VERIFIED DATA**

Verification information is to be checked as it is received. If it is incomplete, immediate steps shall be taken to obtain correct and complete information. Every resource available to the VHA shall be used to acquire all of the needed information.

A summary of the verified information shall be prepared immediately to include a determination of eligibility, size of the unit needed, preference status, and rent to be paid.

### **34. RECHECKING VERIFIED FINDINGS PRIOR TO ADMISSION**

If the verified data used in determining an applicant's eligibility are more than ONE MONTH OLD at the time an applicant is selected for admission and the applicant states that no changes have occurred in his or her status, the data will be considered as reflecting the applicant's status at the time of admission. If data on file is between ONE AND THREE MONTHS OLD, inquiries are to be made of the applicant, his replies recorded, and any reported changes which may effect his eligibility are to be verified prior to leasing. If data on file is THREE OR MORE MONTHS OLD, all factors are to be reverified and findings recorded.



### **35. COMPLIANCE WITH EQUAL OPPORTUNITY REQUIREMENTS**

The following materials shall be maintained in the VHA office waiting room, and wherever applications are taken, on a large bulletin board and in such a manner as to be readily available to all residents and visitors:

1. Admission and Continued Occupancy Policies
2. Tenant Selection and Assignment Plan
3. Open Occupancy Notice
4. Income Limits
5. Utility Allowances
6. Current Maintenance Charge List
7. Lease
8. Grievance Procedure
9. Fair Housing Poster
10. Equal Opportunity in Employment Poster
11. Statutory Minimum and Maximum Rent Schedules
12. Directory of Projects including names, perimeter streets, number of units by bedroom size, number of units designed for the elderly, addresses of management offices and office hours.
13. Tenant Oriented Notices
14. Complaint Procedure and addresses where complaints can be sent.

## APPENDIX A

### RESTRICTIONS ON ASSISTANCE TO NONCITIZENS

**Family eligible for assistance.** A family shall not be eligible for assistance unless every member of the family residing in the unit is determined to have eligible status, as described under "Eligibility for Admission".:

A mixed family may be eligible for one of three types of assistance (listed further in this policy), despite the ineligibility of one or more family members. A family without any eligible members and receiving assistance on June 19, 1995, may be eligible for temporary deferral of termination of assistance.

**Requirements concerning documents.** VHA, where feasible, must arrange for any notice or document (decision, consent form, declaration, etc.) that require VHA to provide to an individual, or require that VHA obtain the signature of the individual, to be in a language that is understood by the individual if the individual is not proficient in English. VHA must also provide reasonable accommodations for persons with disabilities such as qualified sign language interpreters, reader, accessible locations, or attendants, and if the person is visually impaired, the notices must be in an accessible format.

**Submission of evidence of citizenship or eligible immigration status.**

(a) Eligibility for assistance or continued assistance is contingent upon a family's submission to VHA of the documents described in paragraph (b) below for each family member. If one or more family members do not have citizenship or eligible immigration status, the family members may exercise the election not to contend to have eligible immigration status as provided in paragraph (e) of this section, and the provisions listed under "**Preservation of mixed families and other families**" shall apply.

(b) **Evidence of citizenship or eligible immigration status.** Each family member, regardless of age, must submit the following evidence to VHA.

- (1) For citizens, the evidence consists of a signed declaration of U.S. citizenship;
- (2) For noncitizens who are 62 years of age or older or who will be 62 years of age or older and receiving assistance under a low-income housing program on June 19, 1995, the evidence consists of:

- (i) A signed declaration of eligible immigration status and
  - (ii) Proof of age document
- (3) For all other noncitizens, the evidence consists of :

- (i) A signed declaration of eligible immigration status;
- (ii) The INS documents listed further in this policy.
- (iii) A signed verification consent form.

(c) **Declaration.** For each family member who contend that he or she is a U.S. citizen or a noncitizen with eligible immigration status, the family must submit to **VHA** a written declaration, signed under penalty of perjury, by which the family member declares whether he or she is a U.S. citizen or a non citizen with eligible immigration status.

- (1) For each adult, the declaration must be signed by the adult.
- (2) For each child, the declaration must be signed by an adult residing in the assisted unit who is responsible for the child.

(d) **Verification consent form.**

(1) **Who signs.** Each noncitizen who declares eligible immigration status, must sign a verification consent form as follows:

- (i) For each adult, the form must be signed by the adult.
- (ii) For each child, the form must be signed by an adult member of the family residing in the unit who is responsible for the child.

(2) **Notice of release of evidence by VHA.** The verification consent form shall provide the evidence of eligible immigration status may be released by **VHA** with responsibility for the evidence by the entity receiving it, to:

- (i) **HUD**
- (ii) The INS for purposes of verification of the immigration status of the individual.

(3) **Notice of release of evidence by HUD.** The verification consent form also shall notify the individual of the possible release of evidence of eligible immigration status by HUD. Evidence of eligible immigration status shall only be released to the INS for purposes of establishing eligibility for financial assistance and not for any other purpose. HUD is not responsible for the further use or transmission of the evidence or other information by the INS.

(e) **Individuals who do not contend to have eligible immigration status.** If one or more members of a family elect not to contend that they have eligible immigration status and the other members of the family establish their citizenship or eligible immigration status, the family may be considered for assistance under "**Preservation of mixed families and other families**" or "**Proration of assistance**" despite the fact that no declaration or documentation of eligible status is submitted by one or more members of the family. The family, however, must identify to VHA the family member(s) who will elect not to contend that he or she has eligible immigration status.

(f) **Notification of requirements.**

(1) **Timing of notice.** Notification of the requirement to submit evidence of citizenship or eligible immigration status, as required by this section, or to elect not to contend that one has eligible immigration status as provided by paragraph (e) of this section, shall be given by VHA as follows:

(i) **Applicant's notice.** The notification described above shall be given to each applicant at the time of application for financial assistance.

(ii) **Notice to families already receiving assistance.** For a family in occupancy on June 19, 1995, the notification in paragraph (f)(1) above shall be given to each family at the time of, and together with VHA's notice at the first regular reexamination after that date but not later than one year following June 19, 1995.

(2) **Form and content of notice.**

The notice shall:

(i) State that financial assistance is contingent upon the submission and verification, as appropriate, of the evidence of citizenship or eligible immigration status, as

required by this section;

- (ii) Describe the type of evidence that must be submitted; and
- (iii) State that assistance will be prorated, denied or terminated, as appropriate, upon a final determination of ineligibility after all appeals have been exhausted or, if appeals are not pursued, at a time to be specified in accordance with HUD requirements. Families already receiving assistance also shall be informed of how to obtain assistance under the preservation of families provisions.

(g) **When evidence of eligible status is required to be submitted.** VHA shall require evidence of eligible status to be submitted at the time specified in this paragraph, subject to any extension granted in accordance with paragraph (h).

- (1) **Applicants.** For applicants, VHA must ensure that evidence of eligible status is submitted not later than the date VHA anticipates or has knowledge that verification of other aspects of eligibility for assistance will occur.
- (2) **Families already receiving assistance.** For a family already receiving the benefit of assistance in an assisted program on June 19, 1995, the required evidence shall be submitted at the first regular reexamination after June 19, 1995, in accordance with program requirements.
- (3) **New occupants of assisted units.** For any new family members, the required evidence shall be submitted at the first interim or regular reexamination following the person's occupancy.
- (4) **Changing participation in a HUD program.** Whenever a family applies for admission to a low income housing program, evidence of eligible status is required to be submitted in accordance with the requirements of this part unless the family already has submitted the evidence to VHA for a covered program.
- (5) **One-time evidence requirement for continuous occupancy.** For each family member, the family is required to submit evidence of eligible status only one time during continuously assisted occupancy under any covered program.

**(h) Extensions of time to submit evidence of eligible status.**

- (1) When extension must be granted.** VHA shall extend the time provided in paragraph (g) of this section, to submit evidence of eligible immigration if the family member:
  - (i) Submits the declaration required herein this policy certifying that any person for whom required evidence has not been submitted is a noncitizen with eligible immigration status; and
  - (ii) Certifies that the evidence needed to support a claim of eligible immigration status is temporarily unavailable, additional time is needed, to obtain and submit the evidence, and prompt and diligent efforts will be undertaken to obtain the evidence.
- (2) Prohibition on indefinite extension period.** Any extension of time, if granted, shall be for a specific period of time. The additional time provided should be sufficient to allow the family the time to obtain the evidence needed. VHA's determination of the length of the extension needed, shall be based on the circumstances of the individual case.
- (3) Grant or denial of extension to be in writing.** VHA's decision to grant or deny an extension as provided in paragraph (h)(1) of this section shall be issued to the family by written notice. If the extension is granted, the notice shall specify the extension period granted. If the extension is denied, the notice shall explain the reasons for denial of the extension.
  - (i) **Failure to submit evidence to establish eligible immigration status.** If the family fails to submit required evidence of eligible immigration status with the time period specified in the notice, or any extensions granted in accordance with paragraph (h) of this section, or if the evidence is timely submitted but fails to establish eligible immigration status, VHA shall proceed to deny, prorate or terminate assistance, or provide continued assistance or temporary deferral of termination of assistance, as appropriate.

**Documents of eligible immigration status.**

- (a) VHA shall request and review original documents of eligible immigration status. VHA

shall retain photocopies of the documents for its own records and return the original documents to the family.

(b) **Acceptable evidence of eligible immigration status.** The original of one of the following documents is acceptable evidence of eligible immigration status, subject to verification.

(1) Form, I-551, Alien Registration Receipt Card (for permanent resident aliens);

(2) Form, I-94, Arrival-Departure Record, with one of the following annotations:

(i) "Admitted as Refugee Pursuant to section 207"

(ii) "Section 208" or "Asylum"

(iii) "Section 243(h)" or "Deportation stayed by Attorney General";

(iv) "Paroled Pursuant to Sec.212(d)(5) of the INA"

(3) If form I-94, Arrival-departure Record, is not annotated, then accompanied by one of the following documents:

(i) A final court decision granting asylum (but only if no appeal is taken);

(ii) A letter from an INS asylum officer granting asylum (if application is filed on or after October 1, 1990) or from an INS district director granting asylum (if application is filed before October 1, 1990);

(iii) A court decision granting withholding of deportation; or

(iv) A letter from an INS asylum officer granting withholding of deportation (if application is filed on or after October 1, 1990).

(4) Gpt, I-688, Temporary resident Card, which must be annotated "Section 245A" or "Section 210";

(5) Form I-688B, Employment Authorization Card, which must be annotated "Provision of Law 274a.12(11)" or "Provision of Law 274a.12";

(6) A receipt issued by the INS indication that an application for issuance of a replacement document in one of the above-listed categories has been made and the applicant's entitlement to the document has been verified; or

(c) **Other acceptable evidence.** If other documents are determined by the INS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the Federal Register.

## **Verification of eligible immigration status.**

(a) **When verification is to occur.** Verification of eligible immigration status shall be conducted by VHA simultaneously with verification of other aspects of eligibility for assistance under and assisted housing program. VHA shall verify eligible immigration status in accordance with the INS procedures described in this section.

### **(b) Primary Verification.**

(1) **Automated verification system.** Primary verification of the Immigration status of the person is conducted by VHA through the INS automated system (INS systematic for Alien Verification for Entitlements (SAVE)). The INS SAVE system provides access to names, files numbers and admission numbers of noncitizens.

(2) **Failure of primary verification to confirm eligible immigration status.** If the INS SAVE system does not verify eligible immigration status, secondary verification must be performed.

### **(c) Secondary verification**

(1) **Manual search of INS records.** Secondary verification is a manual search by the INS of its records to determine an individual's immigration status. VHA must request secondary verification within 10 days of receiving the results of the primary verification, if the primary verification systems does not confirm eligible immigration status, or if the primary verification system verifies immigration status that is ineligible for assistance under HUD assisted housing.

(2) **Secondary verification initiated by VHA.** Secondary verification initiated by VHA forwarding photocopies of the original INS documents listed under "Documents of eligible immigration status" (front and back), attached to the INS document verification request form G-8455 (Document Verification Request), or such other form specified by the INS, to a designated INS office for review. (Form G-8455 is available from the local INS office.)

(3) **Failure of secondary verification to confirm eligible immigration status,** VHA shall issue to the family the notice described below which includes notification of appeal to the INS of the INS findings on immigration status. (See items (d) and (d)(4) below under "Delay, denial, or termination of assistance."



(d) **Exemption from liability for INS verification.** VHA shall not be liable for any action, delay, or failure of the INS in conducting the automated or manual verification.

**Delay, denial, or termination of assistance**

(a) Assistance to a family may not be delayed, denied, or terminated because of the immigration status of a family member except as provided in this section.

(b) **Restrictions on delay, denial, or termination of assistance.**

(1) Assistance to an applicant shall not be delayed or denied, and assistance to a resident shall not be delayed, denied, or terminated, on the basis of ineligible immigration status of a family member if:

- (i) The primary and secondary verification of any immigration documents that were timely submitted has not been completed;
- (ii) The family member whom required evidence has not been submitted has moved from the resident's unit.
- (iii) The family member who is determined not to be in an eligible immigration status following INS verification has moved from the resident's unit;
- (iv) The INS appeals process under (e) of this section has not been concluded;
- (v) For resident, VHA hearing process under Item (f) of this section has not been concluded;
- (vi) Assistance is prorated in accordance with the "Proration of assistance" section herein;
- (vii) Deferral of termination of assistance is granted in accordance with the "Preservation of mixed families and other families" section herein.

(2) When delay of assistance to an applicant is permissible. Assistance to an applicant may be delayed after the conclusion of the INS appeal process, but not denied until the conclusion of VHA informal hearing process, in an informal hearing is

requested by the family.

(c) **Events causing denial or termination of assistance.** Assistance to an applicant shall be denied, and a resident's assistance shall be terminated in accordance with the procedures of this section, upon the occurrence of any of the following events.

(1) Evidence of citizenship (i.e., the declaration) and eligible immigration status is not submitted by the date specified in section (g) of "Submission of evidence of citizenship or eligible immigration status," or by the expirations of any extension granted in accordance with section (h) of "Submission of evidence of citizenship of eligible immigration status"; or

(2) Evidence of citizenship and eligible immigration status is timely submitted, but INS primary and second verification does not verify eligible immigration status of a family member; and

(i) The family does not pursue INS appeal or VHA informal hearing rights as provided in this section; or

(ii) INS appeal and informal hearing rights are pursued, but the final appeal or hearing decisions are decided against the family member.

(d) **Notice of denial or termination of assistance.** The notice of denial or termination of assistance shall advise the family:

(1) That financial assistance will be denied or terminated, and provided a brief explanation of the reasons for the proposed denial or termination of assistance;

(2) That they may be eligible for proration of assistance as provided in section "Proration of assistance";

(3) In the case of a resident, the criteria and procedures for obtaining relief are under the preservation of families provision in section "Preservation of mixed families and other families".

(4) The family has the right to request an appeal to the INS of the results of the secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal in accordance with the procedures of Paragraph (e) of this section;

- (5) The family has a right to request an informal hearing with **VHA** either upon completion of the INS appeal or in lieu of the INS appeal as provided in paragraph (f) of this section;
- (6) For applicants, the notice shall advise that assistance may not be delayed until the conclusion of the INS appeal, but assistance may be delayed during the pendency of **VHA** informal hearing process.

(e) **Appeal to the INS**

- (1) **Submission of request for appeal.** Upon receipt of notification by **VHA** that INS secondary verification failed to confirm eligible immigration status, **VHA** shall notify the family of the results of the INS verification, and family shall have 30 days from the date of **VHA**'s notification to request an appeal of the INS results. The request for appeal shall be made by the family communicating that request in writing directly to the INS. The family must provide **VHA** with a copy of the written request or must provide **VHA** with a copy of the written request for appeal and proof of mailing. For good cause shown, **VHA** shall grant the family an extension of time within which to request an appeal.
- (2) **Documentation to be submitted as part of appeal to INS.** The family shall forward to the designated INS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the INS document verification request form G-845S (used to process the secondary verification request) or such other form specified by the INS, and cover letter indicating that the family is requesting an appeal of the INS immigration status verification results.

(3) **Decision by INS**

(i) **When decision will be issued.** The INS will issue to the family, with a copy to **VHA**, a decision within 30 days of its receipt of documentation concerning the family's appeal of the verification of immigration status. If, for any reason, the INS is unable to issue a decision within the 30 day time period, the INS will inform the family and **VHA** of the reasons for the delay.

(ii) **Notification of INS decision and of informal hearing procedures.** When VHA receives a copy of the INS decision, VHA shall notify the family of its rights to request an informal hearing on VHA's ineligibility determination in accordance with the procedures of paragraph (f) of this section.

(f) Informal hearing.

(1) When request for hearing is to be made. After notification of the INS decision on appeal, or in lieu of request of appeal to the INS, the family may request that VHA provide a hearing. This request must be made either within 14 days of the date VHA mails or delivers the notice under paragraph (d) of this section, or within 14 days of the mailing of the INS appeal decision issued in accordance with paragraph (e) of this section (established specified period) upon good cause shown.

(2) Extension of time to request hearing. VHA shall extend the period of time for requesting a hearing (for a specified period) upon good cause shown.

(3) Informal hearing procedures

(i) For residents, the procedures for the hearing before VHA are set forth in VHA's adopted grievance procedure.

(ii) For applicants, the procedures for the informal hearing before VHA are as follows:

(A) Hearing before an impartial individual. The applicant shall be provided a hearing before any person(s) designated by VHA (including an officer or employee of VHA), other than a person who made or approved the decision under review, and other than a person who is subordinate of the person who made or approved the decision;

(B) Examination of evidence. VHA shall be provided the opportunity to examine and copy at the applicant's expense, at a reasonable time in advance of the hearing, any documents in the possession of VHA pertaining to the applicant's eligibility status, or in the possession of the INS (as permitted by INS requirements), including any records and regulations that may be relevant to the hearing;

(C) Presentation of evidence and arguments in support of eligible status. The applicant shall be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings;

(D) **Controverting evidence of VHA.** The applicant shall be provided the opportunity to controvert evidence relied upon by **VHA** and to confront and cross-examine all witnesses on whose testimony or information **VHA** relies;

(E) **Representation.** The applicant shall be entitled to be represented by an attorney, or other designee, at the applicant's expense, and to have such person make statements on the applicant's behalf;

(F) **Interpretive service.** The applicant shall be entitled to arrange for an interpreter to attend the hearing, at the expense of the applicant or **VHA**, as may be agreed upon by both parties.

(G) **Hearing to be recorded.** The applicant shall be entitled to have the hearing recorded by audio tape (a transcript of the hearing may, but is not required to be provided by **VHA**); and

(H) **Hearing decision.** **VHA** shall provide the applicant with a written final decision, based solely on the facts presented at the hearing within 14 days of the date of their informal hearing.

(g) **Judicial relief.** A decision against a family member, issued in accordance with paragraphs (e) or (f) of this section, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

(h) **Retention of documents.** **VHA** shall retain for a minimum of 5 years the following documents that may have been submitted to **VHA** by the family, or provided to **VHA** as part of the INS appeal or **VHA** informal hearing process:

- (1) The application for financial assistance;
- (2) The form completed by the family for income reexamination;
- (3) Photocopies of any original documents (front and back), including original INS document;
- (4) The signed verification consent forms;
- (5) The INS verification results;
- (6) The request for INS appeal;
- (7) The final INS determination;
- (8) The request for **VHA** informal hearing; and
- (9) The final **VHA** hearing decision.

## **Preservation of mixed families and other families**

### **(a) Assistance available for mixed families**

(1) Assistance available for resident mixed families. For a mixed family assisted under HUD assisted housing on June 19, 1995, and following completion of the appeal and informal hearing procedures provided in the "Delay, denial, or termination of assistance" section, if utilized by the family, one of the following three types of assistance may be available to the family:

- (i) Continued assistance (see paragraph (b) of this section);
- (ii) Temporary deferral of termination of assistance (see paragraph (c) of this section); or
- (iii) Prorated assistance; See ("Proration of assistance" section); or

(2) **Assistance available for applicant mixed families.** Prorated assistance is also available for mixed families applying for assistance as provided in "Prorations of assistance" section.

(3) **Assistance available to other families in occupancy.** For families receiving assistance under HUD assisted housing program on June 19, 1995 and who have no members with eligible immigration status, VHA may grant the family temporary deferral to termination of assistance.

(b) **Continued assistance.** A mixed family may receive continued housing assistance if all of the following conditions are met:

- (1) The family was receiving assistance under a HUD assisted housing program on June 1995;
- (2) The family's head of household or spouse has eligible immigration status; and
- (3) The family does not include any person (who does not have eligible immigration status)

other than the head of household, any spouse of the head of household, any parents of the head of household, any parents of the spouse, or any children of the head of household or spouse.

(c) **Temporary deferral of termination of assistance.**

(1) Eligibility for this type of assistance. If a mixed family qualifies for prorated assistance (and does not qualify for continued assistance), but decides not to accept prorated assistance, or if a family has no members with eligible immigration status, the family may be eligible for temporary deferral of termination of assistance if necessary to permit the family additional time for the orderly transition of those family members with ineligible status, and any other family member involved, to other affordable housing is used to the context of transition of ineligible family from rent level that reflects HUD assistance to rent

level that is unassisted; the term refers to housing that is not substandard, that is of appropriate size for the family and that the family pays for rent, including utilities, plus 25 percent.

(2) **Time limit on deferral period.** If temporary deferral of termination of assistance is granted, the deferral period shall be for an initial period not to exceed six months. The initial period may be renewed for additional periods of six months, but the aggregate deferral period shall not exceed a period of three years.

(3) **Notification requirements for beginning of each deferral period.** At the beginning of each deferral period, VHA must inform the family of its ineligibility for financial assistance and offer the family information concerning, and referrals to assist in finding, other affordable housing.

(4) **Determination of availability of affordable housing at end of each deferral period.** Before the end of each deferral period, VHA must:

(i) Make a determination of the availability of affordable housing of appropriate size based on evidence of conditions which when taken together will demonstrate an inadequate supply of affordable housing for the area in which the project is located, the consolidated plan (if applicable), VHA's own knowledge of the availability of affordable housing, and evidence of the resident family's efforts to locate such housing; and

(ii) Notify the resident family in writing, at least 60 days in advance of the expiration of the deferral period, that termination will be deferred again (provided that the granting of another deferral will not result in aggregate deferral periods that exceed three years) and a determination was made that other affordable housing is not available; or

(iii) Notify the resident family in writing, at least 60 days in advance of the expiration of the deferrals period, that termination of financial assistance will not be deferred because either granting

(d) **Option to select proration of assistance at end of deferral period.** A family who is eligible for, and receives temporary deferral of termination of assistance, may request, and VHA shall provide, proration of assistance at the end of the deferral period if the family has made a good faith effort during the deferral period to locate other affordable housing.

(e) **Notification of decision on family preservation assistance.** VHA shall notify the family of its decision concerning the family's qualification for assistance under this section. If the family is ineligible for assistance under this section, the notification shall state the reasons, which must be based on relevant factors. For resident families, the notice also shall inform the family of any applicable appeal rights.

**Proration of assistance.**

(a) **Applicability.** This section applies to a mixed family other than a family receiving continued assistance under the "Preservation of mixed families and other families" section, paragraph (b), or other than a family who is eligible for and requests and receives temporary deferral of termination of assistance under paragraph (c) of "Preservation of mixed families and other families" section. An eligible mixed family who requests prorated assistance, must be provided prorated assistance.

(b) **Method of prorating assistance.** VHA shall prorate the family's assistance by:

(1) **Step 1.** Determining total tenant payment in accordance with HUD regulations (greater of 30% of adjusted income or 10% of gross income). Annual income includes income of all family members, including any family member who has not established eligible immigration status.

(2) **Step 2.** Subtracting the total tenant payment from a HUD supplied "public housing maximum rent" applicable to the unit or the housing authority. (Public housing maximum rent shall be determined by HUD using the 95th percentile rent for the housing authority.) The result is the maximum subsidy for which the family could qualify if all members were eligible ("family maximum subsidy").

(3) **Step 3.** Divide the family maximum subsidy by the number of persons in the family (all persons) to determine the maximum subsidy per each family member who has citizenship or eligible immigration status ("Eligible family member"). The subsidy per eligible family member is the "member maximum subsidy."

(4) **Step 4.** Multiplying the member maximum subsidy by the number of "eligible" family members.

(5) **Step 5.** The product of steps 1-4, as set forth in paragraph (b)(2) of this section is the amount of subsidy for which the family is eligible ("eligible subsidy"). The family's rent is the "public housing maximum rent" minus the amount of the eligible subsidy.



### **Prohibition of assistance to noncitizen students**

(a) The provision permitting continued assistance, prorated assistance or temporary deferral of termination of assistance for certain families, do not apply to any person who is determined to be a noncitizen student, as defined in paragraph (b) of this section, or the family of the noncitizen student, as described in paragraph (c) of this section.

(b) **Noncitizen Student.** For purposes of this part, a noncitizen student is defined as a noncitizen who:

(1) Has a resident in a foreign country that the person has no intention of abandoning;

(2) Is a bona fide student qualified to pursue a full course of study; and

(3) Is admitted to the United States temporarily and solely for purposes of pursuing such a course of study; and

(4) Is admitted to the United States temporarily and solely for purposes of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by such person and approved by the Attorney General after consultation with the Department of Education of the United States, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each non immigrant student (and if any such institution of learning or place of study fails to make such reports promptly the approval shall be withdrawn).

(c) **Family of noncitizen student.** The prohibition on providing assistance to a noncitizen student as described in paragraph (a) of this section also extends to the noncitizen spouse of the noncitizen student and minor children of any noncitizen student if the spouse or children are accompanying the student or following to join such student. The prohibition on providing assistance to a noncitizen student does not extend to the citizen spouse of the noncitizen student and the children of the citizen spouse and noncitizen student.

### **Protection from liability for PHA's State, local and tribal government agencies and officials.**

(a) **Protection from liability for PHA's.** HUD will not take any compliance, disallowance, penalty, or other regulatory action against VHA with respect to any error in its determination of eligibility for financial assistance based on citizenship or immigration status:

- (1) If **VHA** established eligibility based upon verification of eligible immigration status through the verification system described in "Verification of eligible immigration status" section.
  - (2) Because **VHA** was required to provide an opportunity for the applicant or family to submit evidence in accordance with "**Submission of evidence of citizenship or eligible immigration status**" section.
  - (3) Because **VHA** was required to wait for completion of the INS appeal process provided in accordance with "**Verification of eligible immigration status**" section.
  - (4) Because **VHA** was required to wait for completion of the INS appeal process provided in accordance with **Delay, denial, or termination of assistance section, paragraph (e)**; or
  - (5) Because **VHA** was required to provide an informal hearing in accordance with **VHA's** grievance procedure or in accordance with **Delay, denial, or termination of assistance section, paragraph (f)**.
- (b) **Protection from liability for State, local and tribal government agencies and officials.** State, local and tribal government agencies and officials shall not be liable for the design or implementation of the verification system described herein and the informal hearing provided herein and **VHA's** grievance procedure, as long as the implementation by the State, local or tribal government agency or official is in accordance with prescribed **HUD** rules and requirements.