



**Housing Authority
of the City of El Paso**

ADMISSION AND CONTINUED OCCUPANCY POLICY

Effective March 25, 2015



**HOUSING AUTHORITY OF THE
CITY OF EL PASO, TEXAS**

**PUBLIC HOUSING
ADMISSION AND CONTINUED OCCUPANCY POLICY**

Adopted by Board of Commissioners

Resolution No.: 2005

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ADMISSION AND CONTINUED OCCUPANCY POLICY

Implementation Schedule

Staff Training Date, if needed: _____

Distribution to Functional Areas

This Policy has been distributed to the following staff:

- Chief Executive Officer**
- Chief Operating Officer**
- Chief Financial Officer**
- Public Housing Director**
- Public Housing Regional Supervisors**
- Public Housing Eligibility/Admissions**
- Public Housing Asset Managers and Assistant Asset Managers**
- Public Housing Fraud Division**
- Public Housing Compliance Division**
- Community Services Division**
- Public Housing Maintenance**
- Public Housing Finance Division**
- Development Division**
- Procurement**
- Legal Counsel**
- Equal Opportunity Compliance Officer**
- Other: Specify:** _____

Date Policy Prepared:

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INTRODUCTION AND STATEMENT OF LOCAL OBJECTIVES

The overall objective of the Housing Authority of the City of El Paso (hereinafter referred to as PHA or HACEP) is to provide housing for low-income families that is decent, safe, sanitary, and in good repair, on a continuing basis. HACEP's residents play an important role in HACEP's ability to accomplish this mission. Selection and approval of housing residents and their continued occupancy of units affects rental income, maintenance of dwelling units, safety and security of residents and PHA employees, and the impressions or perceptions that HACEP makes on the general public.

Consequently, it is essential that a PHA have written policies and procedures that provide for adequate screening of applicants and for continued occupancy of dwelling units by residents. This policy is also in compliance with the Rental Housing Improved Integrity Program (RHIP) as set forth by the Department of Housing and Urban Development (HUD) and is written to prepare HACEP for the Rental Integrity Monitoring (RIM) visit.

This document contains HACEP's policies pertaining to the admission and continued occupancy of its residents. It is organized basically in the order of concerns that responsible PHA staff members encounter in selecting and reexamining residents. These policies include requirements in the Housing Act of 1937, as amended, Title VI of the Civil Rights Act of 1964 and other civil rights requirements, HUD regulations, the Annual Contributions Contract (ACC), and state and local laws.

PHA staff members in the housing management area are primarily responsible for implementing the policies contained in the following sections of this document.

HACEP also provides housing in Mixed-Finance communities such as Alamito Terrace and Alamito Gardens and others. These properties and the occupancy rules for these properties are subject to restrictions as required by IRS Section 42, TDHCA (including the tax credit application), the Land Use Restriction Agreement, the Extended Use Agreement, and the project documents including but not limited to the Regulatory & Operating (R & O) Agreement, as well as all applicable HUD rules.

Local Objectives

In addition to the general statement above, the Admission and Continued Occupancy Policy (hereinafter referred to as the ACOP) is designed to achieve the following objectives:

- To provide improved living conditions for very low and low-income families while maintaining their rent payments at an affordable level;
- To operate a socially and fiscally sound public housing agency that provides drug-free, decent, safe and sanitary housing with a suitable living environment for residents and their families;
- To avoid concentrations of economically and socially deprived families in any one or all of HACEP's public housing developments;
- To lawfully deny the admission of applicants, or the continued occupancy of residents whose habits and practices reasonably may be expected to adversely affect the health, safety, comfort or welfare of other residents, or, the physical environment of the neighborhood, or, create a danger to PHA employees.

SECTION 1. NONDISCRIMINATION AND PRIVACY REQUIREMENTS

In making decisions concerning admission and occupancy of dwelling units, HACEP must comply with requirements against discrimination contained in civil rights legislation enacted in the 1960's and subsequent legislation concerning persons with disabilities, familial status and age. The following outlines HACEP's general policy concerning the requirements and specific actions to be taken in the admission and occupancy process.

A. General Policy

1. The Housing Authority of the City of El Paso, Texas, will not discriminate against any person or family because of race, color, age, sex, religion, disability, national origin, familial status, or marital status in any phase of the occupancy process. The occupancy process includes, but is not limited to, application processing, leasing, transfers, delivery of management and maintenance services, access to common facilities, treatment of residents, and termination of tenancy.
2. HACEP shall not deny admission to an applicant or participant who is or has been a victim of domestic violence, or stalking, if the applicant otherwise qualifies for admission or assistance.
3. There will be no intimidation or retaliatory actions by HACEP or its staff against any applicant or resident because of participation in civil rights activities, or for having asserted any civil rights under statute, regulations, or requirements pursuant thereto.
4. The race, color, or national origin of the residents of the dwelling units or of the staff will not be a factor in the assignment of managers and other staff responsible for the administration of the public housing program.
5. While key PHA documents may be offered in alternate formats (e.g. Braille) and other languages, the English language version of the document is the official legal controlling document. The translated document is not an official document.
6. HACEP will abide by the nondiscrimination requirements of 24 CFR 960. 103:
 - a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 200d), which prohibits discrimination based on race, color, or national origin in programs receiving Federal financial assistance. (24 CFR Part 1)
 - b. The Fair Housing Amendments Act of 1988 (42 U.S.C. 3601-3619), also prohibits discrimination in housing practices based on disability in residential real estate-related transactions. (24 CFR Parts 100, 108, 109, & 110)
 - c. Executive Order 11063 on Equal Opportunity Housing. (24 CFR Part 107)
 - d. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination based on disability in programs receiving Federal financial assistance. (24 CFR Part 8)
 - e. The Age Discrimination Act of 1975 (42 U.S.C. 6101-6107), which prohibits discrimination based on age in programs receiving Federal financial assistance. (24 CFR Part 146)
 - f. Title II of the Americans with Disabilities Act. (42 U.S.C. 12101-12213)
 - g. Violence Against Women Reauthorization Act of 2005 (VAWA)
 - h. Executive Order 13166 requiring agencies and grantees to take affirmative steps to communicate with people who need services or information in a language other than English. (Improving Access to Services for Persons with Limited English Proficiency (LEP))
 - i. Obligation to Affirmatively Further Fair Housing. (24 CFR §960.103 (b) and 24 CFR §903.7(o))

- j. 24 CFR 5.105(a)(2) Equal Access to Housing in HUD programs Regardless of Sexual Orientation or Gender Identity.

B. Specific Actions

1. HACEP will not, on the grounds of race, color, sex, religion, age, disability, national origin, familial status, sexual orientation, gender identity or marital status:
 - a. Deny a person or family admission to housing; nor deny to any qualified applicant the opportunity to participate in the public housing program
 - b. Provide housing which is different than that provided others, except for elderly and/or disabled where accessibility features may be required;
 - c. Subject a person to segregation or disparate treatment;
 - d. Restrict a person's access to any benefit enjoyed by others in connection with housing programs;
 - e. Treat a person differently in determining eligibility or other requirements for admission;
 - f. Deny any person access to the same level of services provided to others;
 - g. Deny a person the opportunity to participate in a planning or advisory group that is an integral part of the housing programs;
 - h. Steer an applicant or tenant toward or away from a particular area based on any of these factors;
 - i. Discriminate against someone because they are related to or associated with a member of a protected class;
 - j. Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class;
 - k. Deny a person with a disability the right to a reasonable accommodation.
2. It will not intimidate, threaten or take any retaliatory action against any applicant or resident because of a person's participation in civil rights activities or assertions of civil rights.
3. It will not deny physically disabled persons an opportunity to apply for housing due to inaccessible application offices. Accessibility to the main office is available.
4. It will not assign employees in a way that would result in discrimination against applicants or residents.
5. It will ensure that all employees of HACEP, especially those who are involved in the admissions process, are familiar with discrimination and nondiscrimination requirements.
6. It will prominently display a fair housing poster at:
 - a. Each office where applications are accepted; and
 - b. Each management office, except single-family dwellings.
7. It will maintain information on the race, ethnicity (Hispanic or non-Hispanic), sex and age of the head of the household of all applicants and residents.
8. It will not discriminate in the rental of, or otherwise make unavailable or deny, a dwelling to any renter because of a disability of:
 - a. That renter;
 - b. A person residing in or intending to reside in that dwelling after it is rented, or made available; or
 - c. Any person associated with that person.

9. It will not make an inquiry to determine whether an applicant for a dwelling, a person intending to reside in that dwelling after it is rented or made available, or any person associated with that person, has a disability, or make an inquiry as to the nature or severity of a disability of such a person.

Furthermore, HACEP will not inquire whether an applicant or resident is “capable of living independently”. However, this paragraph does not prohibit HACEP from making the following inquiries, **provided that these inquiries are made of all applicants, whether or not they have disabilities.**

- a. Inquiry into an applicant's ability to meet the requirements of tenancy;
 - b. Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or persons with a particular type of disability;
 - c. Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with particular type of disability should such priority be part of HACEP's policies;
 - d. Inquiry to determine whether an applicant for a dwelling is a current user of a controlled substance or Inquiry to determine whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance, or of any violent crime.
10. HACEP will not provide housing to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals, or whose tenancy would result in substantial physical damage to the property of others. Section 7 Applicant Screening and Denial of Admission, of this policy, will describe in detail how such individuals will be identified prior to occupancy.
11. HACEP reviews its policies and procedures, at least annually, to assure compliance with all civil rights requirements.

C. Policies Relating to Persons with Disabilities

HACEP will not refuse to make reasonable accommodations in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program, facility, or dwelling under the program. HACEP must ensure that persons with disabilities have full access to HACEP's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the public housing program [24 CFR 8].

HACEP must provide a notice to each tenant that they may, at any time during the tenancy, request a reasonable accommodation of a disability of a household member so that the tenant can meet lease requirements or other requirements of tenancy [24 CFR 966.7(b)].

HACEP will ask all applicants and resident families if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by HACEP, by including the following language:

“The Housing Authority of the City of El Paso does not discriminate against persons with disabilities. If you or anyone in your family is a person with a disability and you require a specific accommodation in order to fully utilize our programs and services, please contact the Equal Opportunity Compliance Officer at 915-849-3742.”

The Equal Opportunity Compliance Officer's phone number will be indicated as the contact for requests for accommodation for persons with disabilities.

Definition of a Reasonable Accommodation

A “reasonable accommodation” is a change, modification, alteration or adaptation in policy, procedure, practice, program, or facility that is necessary for an individual with a disability to have an opportunity to participate in, and benefit from, a program or activity, including public and common use spaces. Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for HACEP, or result in a “fundamental alteration” in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider’s operations.

Types of Reasonable Accommodations

When it is reasonable (see definition above), HACEP shall accommodate the needs of a person with disabilities. Examples include but are not limited to:

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Permitting a higher utility allowance for the unit if a person with disabilities requires the use of specialized equipment related to the disability
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability
- Installing a ramp into a dwelling or building
- Installing grab bars in a bathroom
- Installing visual fire alarms for hearing impaired persons
- Allowing a HACEP-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities, and would not be otherwise living in the unit.
- Providing a designated handicapped-accessible parking space
- Allowing an assistance animal
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with HACEP staff
- Displaying posters and other housing information in locations throughout HACEP's office in such a manner as to be easily readable from a wheelchair
- All requests for reasonable accommodation which would alter, modify or change established policy, procedures, practice, program or facility will be subject to final approval by the Chief Executive Officer or his/her designee.

Service Policy/Reasonable Accommodations

1. HACEP's policies and practices are designed to provide assurances that all persons with disabilities will be provided reasonable accommodations so that they may fully access and utilize the housing programs and related services. For more detailed guidance on HACEP's Reasonable Accommodations process, please refer to HACEP's *Disability Accommodations & Modifications Policies and Procedures* (Appendix J).

HACEP will identify and eliminate situations and/or procedures that create barriers to equal housing opportunity for all. In accordance with Section 504, and the Fair Housing Amendments Act of 1988, HACEP will make structural modifications to its housing and non-housing facilities and make reasonable accommodations or combinations of structural modifications and reasonable accommodations, to permit persons with disabilities to take full advantage of its housing program provided that the modifications can be accomplished without undue financial and/or administrative burden. If providing a requested modification results in a fundamental alteration in the nature of the program or an undue financial/administrative burden, HACEP need not provide that accommodation. However, HACEP is required to provide any other accommodation that would not result in undue financial and/or administrative burden or fundamental alteration of the program. If HACEP provides transportation to functions or activities, or if transportation is necessary for a disabled person to participate in such functions or activities, HACEP must ensure that accessible transportation is provided to accommodate the disabled person and attendant.

2. Requests for reasonable accommodations from persons with disabilities will be presented to the occupancy staff person assigned to the applicant/resident or directly to the EOC Officer who will process the request and seek verification of the need for the accommodation. If the need for reasonable accommodation is not readily apparent, the accommodation will be granted upon receipt of third-party verification.. Should the request be denied, an applicant may request an informal meeting to appeal the decision and a resident may request a hearing under HACEP's Grievance Procedures.
3. Reasonable accommodations will be made for persons with a disability who require an advocate, accessible offices, or alternative locations for making application, including their home or a service agency. A representative may provide information on behalf of a person with a disability.
4. All PHA mailings will be made available in an accessible format upon request as a reasonable accommodation.
5. The EOC Officer will review all requests for reasonable accommodation or modifications.
6. HACEP will make a reasonable effort to provide accessibility to an individual with a long-term but temporary disability that limits their mobility or other major life activities. In such cases, their lease will specify that they will be required to relocate to another unit when the need for the accessibility features is no longer required. The temporary nature of the disability and the approximate length of time of disability will be verified through a qualified health or services professional.
7. HACEP will not permit these policies to be subverted to do personal or political favors. HACEP will not offer units in an order different from that prescribed by this policy, since doing so violates the policy, Federal law, and the civil rights of the other families on the waiting list.

Assistance Animals

Assistance animals are those that assist persons with disabilities in the activities of independent living. Under equal housing opportunity laws, an assistance animal is one that assists or benefits a person with a disability by affording such person the equal opportunity to use and enjoy his or her dwelling. This includes not only assistance, but also emotional support animals. The assistance animal does not have to be licensed or certified by a state or local government or a training program and since it is not considered a pet, size and pet deposit provisions are waived.

HACEP applicants/tenants with disabilities have the right to have an assistance animal as a reasonable accommodation. To best manage these reasonable accommodation requests, HACEP has developed an *Assistance Animal Policy* (Appendix K) which details the assistance animal reasonable accommodation processes and policy.

D. Providing Information to Families

HACEP will take steps to ensure that families are fully aware of all applicable civil rights laws. As part of the public housing orientation process, HACEP will provide information to public housing applicant families about civil rights requirements.

E. Discrimination Complaints

If an applicant or tenant family believes that any family member has been discriminated against by HACEP, the family should contact the EOC Officer, as HUD requires PHAs to make every reasonable attempt to determine whether the applicant's or tenant family's assertions have merit and take any warranted corrective action.

Applicants or tenant families who believe that they have been subject to unlawful discrimination may notify HACEP either orally or in writing, as HACEP will attempt to remedy discrimination complaints made against HACEP.

HACEP will provide a copy of a discrimination complaint form to the complainant along with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

F. Translation of Documents

In determining whether it is feasible to translate documents into other languages or Braille for the blind, HACEP will consider the following factors:

1. The number of applicants and residents who do not speak English and speak another language, or need Braille for adequate understanding.
2. The cost per client of translating the documents into another language or into Braille.
3. The availability of translation and/or interpreter services in HACEP's jurisdiction.
4. At a minimum, HACEP will prepare the following information in a clearly written and accessible format:
 - Marketing and informational material;
 - Application process information;
 - The application;
 - All form letters and notices to the applicant/resident;
 - The *Disability Accommodations & Modifications Policies and Procedures*;
 - New resident orientation materials;

- The lease and any applicable house rules;
- Guidance/instructions on care of the housing unit;
- Information on opening, closing and updating the waiting list;
- All information related to applicant/resident rights (informal/formal hearings, grievance procedures, etc.).

Documents intended for use by applicants and residents will be made available in a format accessible to those with vision or hearing impairments (See Appendix M). Equally important, the documents will be simply and clearly written to enable applicants with learning or cognitive disabilities to understand as much as possible. It is also understood that many of the public housing related concepts may need to be explained more than once to applicants/residents. Sign language interpreters may be provided for hearing-impaired applicants/residents if requested as a reasonable accommodation. For applicants/residents unable to read, intake/occupancy staff will read and explain orally anything they would normally hand to an applicant/resident to be read or filled out. Staff will assist in completing forms and other required documents for persons unable to write.

G. Privacy Policy

It is also HACEP's policy to guard the privacy of individual applicants and residents in accordance with the Privacy Act of 1974, and to ensure the protection of those individuals' records maintained by HACEP. HACEP does not allow the disclosure of any personal information (including, but not limited to information on disability, drug or alcohol abuse/treatment or criminal background) contained in any of their records to any person or agency without express written consent of the affected individual, or as required by law or regulation. However, this privacy policy in no way limits HACEP's right or ability to collect such information as needed to determine applicant/resident eligibility, compute rent, determine the applicant's suitability for tenancy, evaluate the resident's suitability for continued occupancy or evaluate a reasonable accommodation request.

As required by the Violence Against Women Act (VAWA), HACEP shall notify applicants and tenants assisted under Section 8 of the U. S. Housing Act of 1937 of their rights under the VAWA, including their right to confidentiality and the limits thereof, and to owners and managers of their rights and obligations under the VAWA.

HACEP shall retain in confidence all information pursuant to VAWA including the fact that an individual is a victim of domestic violence, dating violence, or stalking.

The information shall neither be entered into any shared database nor be provided to any related entity, except:

- To the extent that disclosure is requested or consented to in writing by the individual; or
- Required for use in an eviction proceeding of an abuser, stalker or perpetrator of domestic violence; or
- Is otherwise required by applicable law.

H. Code of Conduct

In accordance with the Annual Contributions Contract (ACC), Section 19, Conflict of Interest, HACEP has established a written code of conduct for conducting business in accordance with core values and ethical standards. (See also PHA's General Standards of Conduct, Section 9.1 and Code of Ethics Policy, Section 9.2)

1. Neither HACEP, nor any of its contractors or subcontractors, may enter into any contract or arrangement in connection with resident-based programs in which the following class of persons has any interest, direct or indirect, during tenure or for one (1) year thereafter.

- a. Any present or former member or officer of HACEP, or any member of the officer's immediate family; exempted is any present or former resident commissioner who does not serve on the governing body of a resident corporation, and who otherwise does not occupy a policy-making position with the resident corporation;
 - b. Any employee of HACEP, any contractor or subcontractor, any agent of HACEP, who formulates policy or who influences decisions with respect to the PHA's programs;
 - c. Any public official, member of a local governing body, or state or local legislator, or any members of such individuals' immediate family, who exercises, functions, or has responsibilities with respect to HACEP's programs;
 - d. Any member of the Congress of the United States; and
 - e. Any member of the classes described in Paragraph 1 of this section must disclose their interest or prospective interest to HACEP and HUD.
2. HACEP's Code of Ethics Policy prohibits solicitation or acceptance of gifts or gratuities, in excess of nominal value, by any officer or employee of HACEP, any contractor or subcontractor, or agent of HACEP.

HACEP shall adhere to this Code of Conduct and shall sanction and/or terminate any officer, employee, or agent for violations consistent with applicable state or local law.

The conflict of interest prohibition under this section may be waived by the HUD field office for good cause.

SECTION 2. OUTREACH PROGRAM

A. Overview

1. The purpose of HACEP's outreach program is to inform eligible families of the availability of the public housing program and to attract a sufficient number and variety of applicants to fill all vacancies as they arise.
2. HACEP conducts affirmative marketing when needed to specified types and groups of families to assure that all eligible participants have an equal opportunity to utilize the program.
3. It will also conduct other outreach efforts from time to time if it finds that certain categories of families are not making applications in sufficient numbers to keep all dwelling units occupied.

B. Public Notice to Families

Each time HACEP receives or acquires an allocation of new units or its waiting list has been depleted, it will make known to the public, through publication in a newspaper of general circulation, minority media, and other suitable means, the availability and nature of its housing assistance for low-income families, unless it has earlier suspended application-taking and the size of the new allocation of dwelling units does not warrant resumption of such procedures. The public notice will:

- Advise families where they may apply for the program;
- Give a brief description of the program;
- State that applicants must submit a written application if they wish to apply; and
- Itemize HACEP Income Limits for eligibility, including the low-income limits up to eighty percent (80%) of the local Area Median Income (AMI), if applicable (See Appendix D).

C. Special Outreach

As needed, HACEP will take affirmative action in marketing the public housing program, to assure that opportunities for program participation are adequately publicized to the following:

1. Families identified by HACEP as being among those least likely to apply. These families may include the elderly, homeless and disabled because of their inability to travel to HACEP's application office.
2. Families identified in the jurisdiction's Consolidated Plan as being expected to reside in HACEP's jurisdiction because of present or planned employment.

D. Equal Opportunity

All outreach efforts must be accomplished in accordance with the nondiscrimination requirements of Federal and state laws, and HUD guidelines for fair housing that require the use of the equal opportunity logo, statement, and slogan.

E. Planning for Outreach

Within the constraints of its financial resources and the number of applicants needed, HACEP may utilize some or all of the following methods to attract eligible families:

- Identify local resources for performing outreach functions, such as HACEP staff,

community groups and agencies, elements of city and county governments, colleges and universities;

- Post notices in places of employment, unemployment offices, welfare offices, post offices, grocery stores, community halls, city and county offices, utility companies, day-care centers, Salvation Army offices, laundromats, and senior citizen centers;
- Place news stories in daily and weekly newspapers and other local publications;
- Request public service announcements by local radio and television stations in English and any other language common to the area;
- Make oral presentations before organizations, groups and agencies that serve the elderly, disabled, homeless, and victims of domestic violence;
- Place notices in church bulletins and newsletters; and
- Encourage applicants and residents to inform their friends and relatives about the Public Housing Program.

F. Outreach Message

1. The outreach message will inform families of where, when, and how families may apply for the program, and will also include information about HACEP's application procedures.
2. HACEP will also emphasize characteristics of the Public Housing Program which appeal to low-income families, such as the fact that the rent is based on income and may include the cost of utilities (except telephone, A/C and cable); and dwelling units may be more attractive in appearance than the single-family homes or rental units where applicants currently live. Applicants should also be advised that families, as well as elderly or disabled residents may own a pet (service animals for the disabled are allowed in any unit and are exempt from HACEP's pet ownership rules on size, type and weight), subject to the approved HACEP Pet Ownership Policy (Appendix L).

G. Outreach Techniques

Family characteristics, ethnic backgrounds, income levels, ages, health and employment opportunities are all among the various factors which influence family decisions on whether to apply for public housing. As needed, special efforts will be made to attract the following types of families when the number of residents in these categories is low in relation to all of the resident population.

1. Non-elderly, "working poor" families receiving no welfare or other public assistance income, and whose members are only marginally employed.
 - a. Such families are usually less knowledgeable about government assistance programs, and although eligible, may be reluctant to apply, since they perceive such assistance as "charity" or "welfare".
 - b. To attract "working poor" families, HACEP will emphasize the confidentiality of the application and income/assets information; the objective of providing safe, decent, sanitary housing in good repair; and that having affordable housing may help a family get back on its feet and improve its financial prospects.
2. Elderly families whose heads, spouses, or sole members are 62 years of age or older.
 - a. Some senior citizens, like the "working poor" families, may be reluctant to apply for public housing because of pride in home ownership, past record of having "made it on their own" before, and associating the program with "charity" or "welfare." Limited mobility, a desire to retain their possessions and remain in familiar surroundings, and incorrect information about having to sacrifice assets may all influence an elderly person's decision on whether or not to apply for public housing.

- b. To attract elderly families, HACEP will use some of the same techniques it uses for “working poor” families, including the following:
 - (1) Contacting the elderly person or family personally;
 - (2) Providing information to groups and organizations representing the elderly;
 - (3) Taking applications at the elderly person's home if transportation is unavailable or mobility is a problem; and,
 - (4) Enlisting the support and assistance of groups, organizations and agencies representing the elderly.

3. Homeless Families

HACEP will contact social service agencies, churches, food centers, temporary shelters, and other groups or locations serving homeless families.

4. Physically and mentally disabled individuals and families, including persons who may be unable to complete an application without assistance.

- a. The definition of elderly families includes a family whose head or spouse (or sole member) is an elderly or disabled person. The elderly family may include two (2) or more elderly or disabled persons living together, or one or more of these persons living with one or more live-in aides.
- b. In hardship cases, HACEP may take applications at the home of applicants, or by mail, if requested to do so by applicants or their guardians.
- c. HACEP may encourage interested service agencies to assist such persons in the application process, and may contact organizations that provide services to the disabled, to explain the public housing program and distribute information and guidance on the program.
- d. Dwelling units of any size may be used to accommodate elderly or disabled persons living alone, in pairs, or in small groups, in accordance with HACEP's Occupancy Standards and Residency Standards.

5. Families expected to reside in the locality because of planned employment. If additional families are needed to fill vacant units, HACEP will:

- a. Determine the approximate number of new families expected to reside in HACEP's jurisdiction;
- b. Distribute pamphlets, brochures, posters and other types of information to places where the new families will be employed, union offices, public transportation areas (if any), and in commercial establishments in surrounding areas;
- c. Contact utility offices and city and county offices about the possibility of including PHA brochures in monthly statements mailed to families.

6. Involuntarily Displaced Families

Families affected by new streets, roads or highways which make their current dwellings uninhabitable or families whose rental apartments or homes have been converted into other types of housing, such as condominiums, will be channeled in accordance with

the City Relocation Program in accordance with a Memorandum of Understanding with the City of El Paso.

- a. The purpose of the MOU is to establish the parties' respective duties and obligations related to the City's advisory assistance in conjunction with its code enforcement activities and its referral of income-eligible tenant households to HACEP under the displaced person/family preference for admission to available suitable public housing or other publicly-assisted housing.
- b. Responsibilities of Parties
 - 1) Whenever an authorized representative of the City declares by notice or order that a building is unfit for occupancy as a dwelling prior to or in conjunction with ordering the owner to vacate the building of each tenant household lawfully occupying the building or a portion thereof as a dwelling:
 - a) The City's Relocation Office will provide advisory assistance to the tenant household regarding available suitable housing, both private and publicly-assisted, and the procedures for obtaining publicly-assisted housing.
 - b) For income-eligible tenant households, that is, a household whose annual family income does not exceed 80% of the median family income for the area the Relocation Office shall refer income-eligible tenant households to HACEP as a displaced family. HACEP or other third-party social service agencies may initiate referrals, after notifying the Relocation Office, which will then contact the City's Development Services Department, Building Standards Division, to initiate an investigation of the suspected code violations concerning the building.
 - c) HACEP shall conduct initial and final interviews and determine eligibility of those tenants referred by the Relocation Office, in accordance with HACEP's Admission and Continued Occupancy Policy (ACOP).
 - d) HACEP's ACOP provides a preference for families displaced by action of Local, State or Federal condemnations or displaced by fire, flood or other natural disasters.
 - e) Displaced families referred by the City under this MOU and accepted by HACEP as eligible for possible housing shall receive a preference over others on HACEP's waiting list who are not eligible for a preference in accordance with HACEP's policies and procedures.
 - f) The City's Relocation Office will provide transportation to facilitate home visits for conducting of HACEP interviews as a reasonable accommodation to elderly or disabled families upon the tenant household's request.
 - g) Once HACEP determines the referred tenant household is eligible for admission as a displaced family, unit offers shall be made based on available, suitable public housing units.
 - 2) Representatives from both parties shall meet periodically to review program performance and as often as necessary to coordinate on-going activities.

- 3) Both parties shall maintain records with respect to:
 - a) Address displaced from, reason, unit size and outcome.
 - b) Count of referrals by month to include bedroom size breakdown.
- 4) In addition, both parties agree to make good faith efforts to communicate the status of pending referrals and referral outcomes by either written or telephonic communications on at least a monthly basis.
7. Special efforts will also be directed towards minorities, agricultural workers, and people who already receive some other form of government assistance.

H. Monitoring and Evaluating Outreach Efforts

HACEP will establish and maintain internal documentation and monitoring procedures that will enable it to analyze the effectiveness of its outreach program. For example, it may design an appropriate form and, as part of its application process, ask each applicant how they heard about the Public Housing Program, especially families among the groups identified as those least likely to apply. Such procedures will help HACEP determine the cost effectiveness of each method of outreach, as well as show where the outreach program needs to be improved, discontinued, or emphasized.

SECTION 3. APPLICATION FOR ADMISSION

*HACEP uses site-based waiting lists at all HACEP owned and operated housing properties. Each person or family seeking admission to any of its affordable housing programs must submit a written or electronic application. Pre-applications are accepted for properties which have open waiting lists.

- A. Unless HACEP's waiting list is closed, applications will be accepted from any person or family who wants to apply, even if an informal discussion indicates that the applicant may not be eligible.
- B. The application must be submitted electronically and is available on HACEP's website at www.hacep.org.
- C. Each application will be electronically assigned an applicant number and will be automatically placed on the waiting list(s) of the site(s) selected according to the date and time submitted.
- D. Only one application shall remain open per family for the same program. Applicants will be notified of duplicate applications.
- E. HACEP will notify all applicants for general occupancy developments constructed prior to 1978, especially those with children who are under six (6) years of age, of the dangers of lead-based paint poisoning, and whether blood lead level screening is available for those children. This notification will be done even though HACEP may have completed all lead-based paint abatement requirements for all development units. If blood level screening is available, the applicant will be advised to notify HACEP if any of the applicant's children under six (6) years of age who are tested have an elevated blood lead level.
- F. During periods of time when application taking is closed, HACEP will not maintain a list of individuals who wish to be notified when the wait list is reopened. However, the Authority will maintain a recorded message providing current information on when the wait list will or might be reopened.
- G. The application may be filled out by the applicant or a designated agent..
- H. HACEP may request documentation from the applicant be submitted in person, by mail or electronically.
- I. HACEP will respond to questions from the applicant, and will provide whatever PHA-related information the applicant may desire, including information about the public housing program, the dwelling lease, and the number of bedrooms in units at various developments or sites.
- J. HACEP will also inform applicants of any other housing assistance programs HACEP administers. If the applicant is interested, HACEP will advise the applicant how and where to apply for those programs. HACEP will also advise applicants about housing assistance programs in other localities, where available.
- K. HACEP will inform all applicants of the availability of any local preferences, and will give all applicants an opportunity to show they qualify for a preference.
- M. Signature and documentation requirements will be modified to allow for electronic submissions..

SECTION 4. RECORD OF APPLICATIONS AND WAITING LISTS

The following are policies for documenting actions taken by HACEP in processing applications for housing.

A. Record of Applications/Waiting Lists

Each applicant's name will be placed on the Waiting List(s) of the selected properties based on the date and time the application is submitted. HACEP will assure that at least 40% of annual new admissions are families with incomes at or below 30% of local area median income (extremely low-income families). This includes families, who at the time of application are unable to provide evidence that they have any income. Annual family income, if any, will be recorded on the waiting list.

The site based waiting list will indicate the applicant's name; date and time of application; race/ethnicity of the head of household; unit size required based on HACEP's occupancy standards; whether the applicant is eligible or ineligible; the applicant's preferences; the date and time the applicant was made an offer; the unit number(s) and location; the date the applicant was assigned a unit, or the date the applicant rejected the assignment; and any circumstances pertaining to assignment of a unit, such as removing the applicant's name because applicant failed to appear for a scheduled appointment or the applicant requested it be done. Entry on the Record of Applications is also made when HACEP makes a phone inquiry and/or sends a letter and determines that the applicant is no longer interested or the applicant no longer qualifies.

Consistent with the objectives of Title VI of the Civil Rights Act of 1964, other statutory requirements and HUD regulations and policies, *each site* will make offers from the Record of Applications based on the date and time of application, local preferences, and bedroom size needed. A drawing or other random choice (lottery) technique may be used in special circumstances as approved by the HACEP Board of Commissioners.

B. Organization of the Waiting Lists

1. The Record of Applications (Waiting List) will be organized in such a manner that HACEP can easily identify the date and time the application was submitted, the applicant's preferences for admission (based on the local preferences), the size and type of unit needed, and other decision-making factors.
2. In order to achieve HACEP's goal of income targeting and income mixing, waiting list skipping and other incentives such as waiver of pet or security deposits, assignment of units based on one person per bedroom, etc., may be adopted by the Board of Commissioners of HACEP. If so, that policy will be incorporated into this document by reference.

C. Updating the Waiting Lists

1. HACEP may update (purge) its waiting list at least every 12 months in order to remove the names of applicants who are no longer interested in being admitted, no longer qualify for admission or who cannot be located.
2. HACEP will document the reason for removing any applicant's name from the waiting list(s).
3. HACEP requires applicants to report, in *in the method prescribed by HACEP*, any changes in family composition or circumstances, and any significant changes in income or assets that would affect the family's eligibility, the type of development, the size and type of unit needed, or the family's preference category for admission. A verified change

in preference status may result in applicants being moved up or down on the waiting list.

When a household divides before it is issued assistance, the household member that retains the children, disabled or elderly members or includes victims of domestic violence will maintain their place on the waiting list. The non-custodial former head of household may submit a new application for assistance when waiting list is open.

4. Application Rejection and Removal from the Waiting List

HACEP will remove an applicant's name from the waiting list under one or more of the following conditions:

- a. The applicant requests that their name be removed; or
- b. The applicant has been advised in writing to inform HACEP of the applicant's continued interest by a particular time, and the applicant failed to do so; or
- c. HACEP has made reasonable efforts to contact the applicant to determine if there is continued interest, but HACEP has been unsuccessful in locating the applicant; or
- d. HACEP has made reasonable efforts to contact the applicant to schedule interviews necessary to complete the application process or to obtain information necessary to process the application, and the applicant has failed to respond; or
- e. The applicant fails to keep a scheduled interview or provide necessary information for application processing or waiting list maintenance. HACEP will notify the applicant that he/she has 10 business days to reschedule or provide requested information. If the applicant fails to respond, their application will be withdrawn. However, HACEP will consider mitigating circumstances such as health problems or lack of transportation in determining whether the application should be withdrawn.
- f. HACEP has notified the applicant of its intention to remove the applicant's name from the waiting list(s), because the applicant no longer qualifies for public housing;
- g. The applicant fails to pay an existing utility balance resulting in denial of service by the utility supplier;
- h. If after initial determination of eligibility, a member of the applicant family has:
 - (1) A conviction as a sex offender or becomes required by law to register for lifetime as a sex offender.
 - (2) Become involved in drug or violent criminal activity as determined by a preponderance of evidence.
 - (3) Perpetrated domestic violence including dating violence or stalking. Family members who were involved in such acts may be considered for admission only if the perpetrator is no longer in the household.
 - (4) Failed to disclose the criminal history of any member of the household.
 - (5) Misrepresented any material fact related to any criminal conduct by any member of the household.
 - (6) Owes debts to HACEP or another PHA.
- i. The applicant fails to satisfy Tenant Selection Criteria as outlined in this policy.

HACEP will notify the applicant of the rejection, in writing, and advise him/her of their right to an informal review.

5. HACEP will take the following actions when updating the waiting list:

- a. Mail a notice to each applicant on the waiting list advising them of the need to update their application and including an update form to be completed and returned to HACEP.
- b. Applicants will have 10 business days from receipt of the update notice to respond by

mail or in person.

- c. If applicants fail to respond to either the update letter or if the letter is returned postmarked by the post office as undeliverable, HACEP will withdraw their application.
- d. If the reason an applicant does not respond to HACEP's attempt to contact him/her is related to a disability, HACEP will, as a reasonable accommodation, reinstate the applicant in their former position on the waiting list.

D. Closing the Waiting Lists

1. HACEP will not close its waiting list unless HACEP is not accepting any additional applications. HACEP may close the waiting list if:
 - a. HACEP has enough applicants to fill expected vacancies over a period of one (1) year, and
 - b. New applicants with preferences would not qualify before other applicants with preferences already on the waiting list.

2. Other Applicants

If HACEP has too many applicants who do not claim any preferences, it may close a waiting list completely by type of development, or size and type of dwelling unit as appropriate.

3. HACEP will not close a waiting list:

- a. If closing the list would have a discriminatory effect that would be inconsistent with applicable civil rights laws; and
- b. Unless it publicly announces any decision to suspend or to restrict the taking of applications. It will not reopen the list until it publicly announces when it will resume the taking of applications.

4. Prior to closing a waiting list, HACEP will assure that it has sufficient applicants to fill expected vacancies for a minimum of one (1) year.

E. Applicant Files

HACEP will establish and maintain a file containing information on each applicant. The retention of applications and supporting documentation shall comply with HUD requirements and the policy adopted by HACEP, modified as follows:

Files containing information on each applicant will be retained for at least three (3) years after the audited Public Housing Assessment System (PHAS) submission for that year.

Material secured under a criminal background or drug treatment center checks will not be retained in the applicant file but will be segregated in a secure location under lock and key. Following a decision on acceptability of an applicant, the criminal background check and drug treatment program information will be removed and destroyed (shredded).

This procedure is subject to delay if the applicant requests an informal review with respect to denial of their application based on information received from either source. HACEP may retain the information until the statute of limitations passes for filing a civil lawsuit if HACEP believes there will be litigation.

Applications and material submitted by the family will be retained for a minimum of five (5) years if there is a U.S. Citizenship and Immigration Services (CIS) [formerly the Immigration and

Naturalization Service (INS)] appeal and/or an informal hearing with the PHA concerning the citizen/non-citizen documentation. Files will contain the following:

1. The original application for financial housing assistance;
 2. The form completed by the family for income examination (HUD-50058);
 3. Photocopies of any original documents (front and back), including original CIS documents.
Photocopies of Federal checks will not be made or retained in applicant/resident files;
 4. The signed verification consent form(s);
 5. The CIS verification results (both primary and, if applicable, secondary);
 6. The request for a CIS appeal;
 7. The final CIS determination;
 8. The request for a PHA informal hearing; and
 9. The final PHA informal hearing decision.
- F. Signature and documentation requirements may be modified to allow for electronic submission.

SECTION 5. BASIC ELIGIBILITY REQUIREMENTS

To be eligible for PHA dwelling units, applicants must meet certain basic requirements concerning familial status, income and background. These requirements are outlined below.

A. General Eligibility Requirements

HACEP will determine whether an applicant for participation in the low-rent housing program qualifies as a family, is income-eligible, has disclosed and verified Social Security Numbers, is a U.S. Citizen or National or meets eligible non-citizen immigration status, and has no history of drug/alcohol abuse and/or record of violent crime.

1. Definition of a Family

The applicant must qualify as a family. *Family* is defined in 24 CFR 5.403 and includes one or more eligible persons living with another person or persons, regardless of actual or perceived sexual orientation, gender identity or marital status. Family includes, but is not limited to:

- (1) A single person, who may be an elderly person, displaced person, disabled person, near elderly person, or any other single person; or
- (2) A group of persons residing together and such group includes, but is not limited to:
 - (i) A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
 - (ii) An elderly family;
 - (iii) A near-elderly family;
 - (iv) A displaced family;
 - (v) The remaining member of a tenant family.

Disabled family means a family whose head (including co-head), spouse, or sole member is a person with a disability. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

Elderly family means a family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 year of age living with one or more live-in aides.

Near-elderly family means a family whose head (including co-head) spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 year of age but below the age of 62, living with one or more live-in aides.

The term “*Disabled Person*” (or “person with a disability”) does not include disability based solely on the basis of current drug or alcohol dependence.

- The temporary absence of a child from the home due to placement in foster care for a period anticipated to be less than 12 months shall not be considered in determining the family composition and family size.

2. Special Eligibility Provisions Relating to Applicants Requiring a Live-In Aide

The live-in aide must submit information as requested and be reviewed by management for eligibility under the Tenant Selection Criteria of this policy, including the criminal background check. If HACEP determines an individual proposed as a live-in aide to be ineligible, the resident or applicant may propose an alternate live-in aide for screening or

may appeal HACEP's determination to a review officer.

Unit Size Consideration: The applicant or resident and the live-in aide may each be allocated a separate bedroom. However, because the availability of 2-bedroom units in mixed population developments may be limited, HACEP may allow the resident or applicant to choose from the following options with the understanding that transfer requests will not be honored after occupancy:

- a. To be considered for a 2-bedroom unit in a mixed population development;
- b. To be considered for a 1-bedroom unit in a mixed population development;
- c. To be considered for a 2-bedroom unit in a general occupancy development.

Applicants requesting placement in a 2-bedroom unit in a mixed population development will be placed on the 2-bedroom waiting list in the order of the applicant's application date.

A live-in aide who has been approved for occupancy by management is added to the lease by means of a live-in aide amendment. This amendment specifically states that a live-in aide does not have rights to occupy a PHA unit as the Remaining Member of a Tenant Family if the primary resident vacates the unit or is deceased.

The primary resident is responsible for all acts of all household members with respect to the requirements of the dwelling lease. Any violation of lease provisions by the live-in aide may be cause for eviction of the household.

3. Income Eligibility

a. Overall Income Eligibility for Admission

No family other than a low-income family as defined in regulations is eligible for admission to low-rent public housing units. At least 40% of new admissions annually must be extremely low-income families (families whose incomes fall at or below 30% of the local area median income). This includes families who, at the time of application and/or admission, have no countable income. See Section 7: Applicant Screening and Denial of Admission, for policies applicable to applicants reporting "zero" income.

b. Family Income

A family's annual income, at the time of admission, may not exceed the income limits established by HUD and published in the Federal Register applicable to HACEP's jurisdiction, for the current year. See Appendix D.

Generally, HACEP will complete verification of income eligibility approximately 60 to 90 days prior to the family being offered a unit. However, any change in income, family size or composition can occur during the period of time between that verification and the offer of housing. Since such changes can affect eligibility, the family must immediately report such changes so that the correct rent and unit size can be determined.

c. HACEP shall comply with HUD prescribed reporting requirements so that HUD may maintain reasonably current data. Records of admissions of low-income families will be maintained by HACEP to ensure that admission requirements and targets are met.

d. HACEP will not *evict or terminate the tenancies of families who are over income if:

- (1) The family has a valid contract for participation in a Family Self-sufficiency (FSS) program; or

- (2) The family currently receives the earned income disallowance provided by 42 U.S.C. 1437a(d) and 24 CFR 960.255.*

4. Background

The following background factors will limit admission of families who have as a household member any of the following:

- a. Persons convicted of manufacturing or producing methamphetamine on the premises of any assisted housing are permanently denied admission to public housing. **HACEP will not waive this criterion;**
- b. Any person determined to be using an illegal substance will be denied admission;
- c. Persons believed to be abusing alcohol in a way that will interfere with the safety or right to peaceful enjoyment of other residents will be denied admission;
- d. Any household with a family member subject to a lifetime registration under a state sex offender registration act will be denied admission. **HACEP will not waive this criterion;**
- e. Any person determined to be fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees. **HACEP will not waive this criterion;**
- f. Any person violating a condition of probation or parole imposed under Federal or State law. **HACEP will not waive this criterion.**
- g. Any person who has been convicted of domestic violence including dating violence or stalking. Family members who were involved in such acts may be considered for admission only if the perpetrator is no longer in the household.
- h. Persons who have failed to disclose the criminal history of any member of the household.

HACEP may waive the denial of admission if the drug or alcohol abuser can demonstrate successful completion of a rehabilitation program acceptable to the PHA, except that no exception will be made for persons convicted of methamphetamine production or manufacture, those subject to the sex offender lifetime registration requirement or those fleeing to avoid prosecution or in violation of parole or probation conditions.

5. Social Security Numbers

In accordance with 24 CFR 5.216, applicants and participants (including each member of the household) are required to disclose his/her assigned SSN, with the exception of the following individuals:

- a. Those individuals who do not contend to have eligible immigration status (individuals who may be unlawfully present in the United States). These individuals in most instances would not be eligible for a SSN.
 - 1. A family that consists of a single household member (including a pregnant individual) who does not have eligible immigration status is **not eligible** for housing assistance and cannot be housed.
 - 2. A family that consists of two or more household members and **at least one** household member that has eligible immigration status, is classified as a mixed family, and **is eligible** for prorated assistance in accordance with 24 CFR 5.20. HACEP may not deny assistance to mixed families due to nondisclosure of a SSN by an individual who does not contend to have eligible immigration status.
- b. Existing program participants as of January 31, 2010, who have previously disclosed their SSN and HUD has determined the SSN to be valid. PHAs

may confirm HUD's validation of the participant's SSN by viewing the household's **Summary Report** or the **Identity Verification Report** in the EIV system.

- c. Existing program participants as of January 31, 2010, who are 62 years of age or older, and had not previously disclosed a valid SSN. This exemption continues even if the individual moves to a new assisted unit.

HACEP will request the applicant and participant (including each member of the household), who are not exempt under the guidelines above, to provide documentation of each disclosed SSN. Acceptable evidence of the SSN consists of:

- a. An original SSN card issued by SSA;
- b. An original SSA-issued document, which contains the name and SSN of the individual, or
- c. An original document issued by a federal, state or local government agency, which contains the name and SSN of the individual, such as:
 - IRS Form 1099 or W-2 Form;
 - Benefit award letters from government agencies;
 - Medicaid cards;
 - Unemployment benefit letter;
 - Court records such as real estate, tax notices, marriage and divorce, judgment or bankruptcy records;
 - Verification of Social Security benefits with the Social Security Administration (SSA).

Individuals without an assigned SSN:

Citizens and lawfully present noncitizens who state that they have not been assigned a SSN by the SSA should make such declaration in writing and under penalties of perjury to HACEP. The declaration will be maintained in the tenant file.

Applicants who have not disclosed and/or provided verification of SSNs for all non-exempt household members have 90 days from the date they are first offered an available unit to disclose and/or verify the SSNs. During this 90-day period, the applicant may, at its discretion, retain its place on the waiting list. After 90 days, if the applicant is unable to disclose and/or verify the SSNs for all non-exempt household members, the applicant will be determined ineligible and removed from the waiting list. The SSN requirements do not apply to persons not claiming immigration status.

Failure to disclose all Social Security Numbers as required or certify that a family member does not have a number is cause for denial of admission or termination of assistance, subject to the family's right to an informal review or hearing.

Refer to Notice PIH 2010-3 (HA) for additional guidance regarding verification of SSNs, SS, and SSI.

Since HUD cannot divulge Federal tax return data from the Internal Revenue Service (IRS) except to the residents themselves, HUD will provide the PHA with a list of the residents to whom it has sent income discrepancy letters.

With respect to families no longer in occupancy, the PHA will pursue abuses regarding a resident's receipt of excess rental assistance by reporting the deficiency of payments to credit bureaus, if practical, and recover such amounts as PHA resources permit.

6. Authorization for the Release of Information/Privacy Act Notice

Each member of the applicant family who is eighteen (18) years of age or older, will sign an Authorization for the Release of Information/Privacy Act form (Form HUD-9886) annually authorizing HUD and the PHA to request information from specified sources necessary to verify the household's income. A household member who turns 18 years of age during the year will be required to sign a Form HUD-9886 at the family's next annual or interim recertification.

7. The applicant family must not maintain another residence in addition to the PHA unit.

B. U.S. Citizen, U.S. National or Eligible Non-citizen Immigration Status

All applicants for public housing who are admitted after June 19, 1995, must meet the following requirements:

1. For a U.S. Citizen or U.S. National: sign a declaration of U.S. Citizenship or status as U.S. National;
2. For non-citizens who are 62 years of age or older or who will be 62 years of age or older and receiving assistance under a Section 214 covered program on September 30, 1996 or applying for assistance on or after that date, the evidence consists of:
 - a. A signed declaration of eligible immigration status; and
 - b. Proof of age document.

The PHA will require verification of this certification for all declarations submitted after November 26, 1996.

3. For all other non-citizens:

- a. A signed declaration of eligible non-citizen immigration status;
- b. Provide original documents which verify status; and
- c. Sign a verification consent form.

4. All declarations submitted after November 26, 1996 will be verified.

Every adult family member must sign either a declaration of U.S. Citizenship or eligible immigration status. For each child, an adult who is responsible for the child and who is residing in the assisted dwelling unit, must sign a declaration. The family must identify in writing, any household members who do not claim to have eligible status.

C. Violence Against Women Act (VAWA)

1. Housing assistance to an applicant (male or female) who has been a victim of domestic violence, dating violence, or stalking may not be delayed or denied if the applicant otherwise qualifies for assistance or admission.
2. In order to request an accommodation as it relates to VAWA, an individual needs to certify that he/she is a victim of domestic violence, dating violence, or stalking and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse. The following items satisfy the requirements to request the accommodation.
 - a. HUD Form 50066 must be completed and submitted with the required documentation within 14 business days from the date requested by the PHA; and
 - b. domestic violence restraining orders, protective orders, or injunctions from any

- c. federal, state, tribal, or territorial court documenting an incident or incidents of domestic violence, dating violence, or stalking; or
- c. criminal court records documenting domestic violence, dating violence, or stalking; or
- d. police records, records of calls to the police, and records of police visits to the victim's address documenting an incident or incidents of domestic violence, dating violence, or stalking; or
- e. documentation signed and attested to by an employee, agent or volunteer of a victim service provider, an attorney or medical professional, from who the victim has sought assistance in addressing domestic violence, dating violence, or stalking, or the effects of abuse, in which the professional attests under penalty of perjury (28 U.S.C. §1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence or stalking has signed or attested to the documentation.

D. Delay of Assistance to Applicant

Housing assistance to an applicant family may not be delayed or denied based on delays by the PHA, HUD, or CIS. However, HACEP will delay or deny assistance to a family until at least one (1) family member has been determined eligible for assistance.

1. Delay to an applicant is permissible after the conclusion of the CIS appeal process but assistance is not denied until the conclusion of HACEP's informal hearing process if the family requests an informal hearing.
2. Other events causing denial of assistance are:
 - a. Evidence of citizenship (i.e., the declaration) or eligible immigration status is not submitted by the date specified in the written notice or by the expiration of any extension granted in accordance with a written notice of an extension period; or
 - b. Evidence of citizenship or eligible immigration status is timely submitted, but CIS primary and secondary verification does not verify eligible immigration status of a family member and:
 - (1) The family does not pursue CIS appeal or PHA informal hearing rights as provided in this section; or
 - (2) The CIS appeal and informal hearing rights are pursued, but the final appeal or hearing decisions are decided against the family member.
3. A notice of denial or termination of assistance shall inform the family:
 - a. That financial assistance will be denied or terminated with the reasons for the denial or termination; and
 - b. That they may be eligible for prorated assistance; and
 - c. That they have the right to request an appeal to the CIS 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 CIS appeal procedures to CIS; and
 - d. That the family has the right to request an informal hearing with the PHA within 14 days either upon completion of the CIS appeal or in lieu of the CIS appeal; and
 - e. That the PHA cannot overrule the CIS decision regarding eligible immigration status.

E. Appeal to the U.S. Citizenship and Immigration Services (CIS)

1. Submission of the request for appeal. Upon receipt of notification by the responsible entity that CIS secondary verification failed to confirm eligible immigration status, the responsible entity shall notify the individual or family of the results of the CIS verification. After notification of the CIS decision on appeal, or in lieu of an appeal request to the CIS, the individual or family may request that the responsible entity provide a hearing. This request must be made either within 30 days of receipt of the notice described in paragraph (d) of section 5.514, or within 30 days of receipt of the CIS appeal decision issued in accordance with section 5.514(e). The family shall make the request for an appeal by communicating that request in writing directly to the CIS. The family must provide the responsible entity with a copy of the written request for appeal and proof of mailing. For good cause shown, the responsible entity shall grant the family an extension of the time within which to request an appeal.
2. Documentation to be submitted as part of the appeal to CIS. The family shall forward to the designated CIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the CIS document verification request form G-845S (used to process the secondary verification request) or such other form specified by the CIS to record immigration status verification results. HACEP will provide the family a copy of the G-845S that documents the ineligible status of a family member.
3. Decision by CIS
 - a. When the decision will be issued. The CIS will issue to the family, with a copy to the responsible entity, a decision within 30 days of the receipt of documentation concerning the family's appeal of the verification of immigration status. If, for any reason, the CIS is unable to issue a decision within the 30-day time period, the CIS will inform the family and the responsible entity of the reasons for the delay.
 - b. Notification of the CIS decision and of informal hearing procedures. When the PHA receives a copy of the CIS decision, HACEP shall notify the family of its right to request an informal hearing on HACEP's ineligibility determination in accordance with the informal hearing procedures previously noted if the family has not been admitted. If the family has been admitted, pending all appeals, the grievance procedure will be used for the appeals process.
4. There will be no delay, denial or termination of assistance until completion of the CIS appeal process and/or the PHA appeal of a family member's ineligible status is completed.

F. Non-Eligible Immigration Status

Individuals who contend not to have eligible immigration status must identify themselves to the PHA that they elect not to provide documentation of eligible immigration status or sign a declaration of eligible non-citizen immigration status. However, family members must identify in writing to HACEP the family member(s) who will elect not to contend having eligible status. Family members who elect not to provide documentation concerning eligible non-citizen immigration status shall be required to comply with other program requirements or assistance may be denied to the entire applicant family.

If a family member has chosen not to contend to have eligible immigration status, the PHA may admit the family under prorated assistance. See Section 9 Determination of Income and Rent Calculation, Part I Prorated Assistance for "Mixed" Families to determine how the family's rent will be calculated.

SECTION 6. SELECTION POLICIES AND PREFERENCE SYSTEM

In selecting applicants for dwelling units, HACEP staff will be guided by the following requirements established for local preferences. It is also HACEP's policy that having a preference does not guarantee any applicant admission to the housing program. Those policies and requirements are presented below.

A. Policies and Requirements

These selection and preference policies are designed to:

1. Give preference to applicants who are otherwise eligible for assistance and who, at the time they are seeking assistance, are involuntarily displaced. (An applicant is "seeking assistance" during the entire period of time from application to the receipt of assistance.) These applicants will be channeled through the City Relocation Program under the Memorandum of Understanding with the City of El Paso, Texas as set forth in Section 2: Outreach Program.
2. Additionally these policies will:
 - a. Be based on local housing needs and priorities as determined by HACEP using generally accepted data sources, including its waiting list, public comment on HACEP's Annual Plan, and requirements of the Consolidated Plan;
 - b. Match characteristics of an applicant family with the type of unit available, for example, number of bedrooms;
 - c. Select a family with household members who are disabled and give preference by assigning a unit with the special accessibility features needed by those family members;
 - d. Provide preference to elderly and/or disabled families for units in a public housing mixed population (formerly designated elderly) developments;
 - e. Not automatically deny admission to a particular group or category of otherwise eligible applicants (e.g., unwed mothers or families with children born out of wedlock); nor apply any criteria or consider any information pertaining to attributes or behavior that may be imputed by some to a particular group or category. All criteria applied or information considered in administering this policy shall relate solely to the attributes/behavior of the individual members of the family being considered for assistance;
 - f. Assure that selection by HACEP among otherwise eligible applicants is objective and reasonable;
 - g. Provide that a family that is on the Section 8 waiting list will not lose its place on that waiting list by applying for admission to the public housing developments;
 - h. Be consistent with HACEP's responsibilities as a public body; and
 - i. Be in compliance with state, local and Federal laws and regulations, including the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964, the provisions of the Annual Contributions Contract between HUD and HACEP, and 24 CFR Part 5.210-5.238, "Disclosure and Verification of Social Security Numbers and Employer Identification Numbers by Applicants and Participants in Certain Housing Assistance Programs."
3. Such preference policies will:
 - a. Be duly adopted;
 - b. Be made known to the applicants on the waiting list through written notification. Applicants will be given an opportunity to show that they qualify for such preference(s). If it is not feasible to notify all applicants because of the length of the waiting list, HACEP may provide this notification to fewer than all applicants

- at any given time;
- c. Be publicized by posting copies in each office where applications are received, and by furnishing copies to applicants or residents upon request;
- d. Be specific and describe in detail the criteria, standards and preferences to be applied; and
- e. Provide for verification and documentation of information relevant to the acceptance or rejection of an applicant.

B. Ranking and Local Preferences

The Quality Housing and Work Responsibility Act (QHWRA) of 1998 permanently eliminated the Federal preference requirement; however, PHAs may adopt the Federal preference language and criteria as their local and/or ranking preferences. For the purpose of selecting PHA residents, "preference" and "ranking and local preferences" have the meanings specified in HACEP's Definitions section of these policies.

HACEP will select and house residents in accordance with the following preferences and priorities, in the order listed:

1. Limitations on Admission

- a. Types of developments and units available;
- b. Occupancy Standards (limitation on the minimum and maximum number of household members permitted to live in dwelling units of specified sizes).

2. The following Local Preferences will be used to determine the family's eligibility for rental assistance. A family must meet at least one of these Local Preferences at the time of interview in order to be considered for rental assistance.

The following preferences will have priority over other preferences in the order indicated:

- a. Active duty military and their families
- b. Involuntary displacement by action of local, state, federal government or by fire, flood, or other natural disaster, within the last six (6) months;
- c. After all residents eligible for transfer to a unit with disability access features have been placed in the appropriate unit, preference will be given to families with a person with a disability who requires a unit with specific disability access features to the extent that disability units are available.
- d. Homeless families emerging from transitional living centers that lack a fixed, regular, and adequate night-time residence;

The following four (4) preferences will have the same relative weight and importance:

- e. An applicant family whose head of household, spouse or co-head is employed or has a bona fide offer for employment
- f. Veterans and veterans' families- Honorable, General Discharge from the Armed Forces of the United States with an active training period of over six (6) months;
- g. Victims of domestic violence-Crimes of violence committed by another person against an adult or youth victim who is protected under the domestic or family violence laws;
- h. Currently enrolled at a university, college or participating in a job-training program or technical school. Graduate of a job-training or school program within the last year; which will prepare the head of household, spouse, or other adult member(s) to enter or return to the job market;

3. Date and Time of Application (in each of the above circumstances)

Applicants who meet all the eligibility requirements and who qualify for a preference will

be assisted first according to the date and time of application. After all applicants with verified preferences are assisted, HACEP will then contact applicant families who are next on the waiting list, according to date and time of application and bedroom size needed.

4. Random Selection (Lottery)

HACEP will use a computerized random selection (lottery) system to select tenants for initial occupancy of model communities, such as the Paisano Green Community. This system will be used to select current HACEP residents who will be offered the opportunity to move into model communities, including the Paisano Green Community. After initial occupancy, tenants will be selected as described in 3 above.

5. Denial of Local Preference(s) Claim

The family will be provided an opportunity to present documentation of their claim for a local preference. Families who cannot provide the appropriate documentation to the agency will be notified in writing that they do not qualify for a local preference.

The family will be informed they have 10 business days to request a reevaluation of the agency's determination. The family may either provide the appropriate documentation or have a conference with the Eligibility Occupancy Supervisor or other designated PHA representative.

If the Eligibility Occupancy Supervisor or other designated PHA representative has been a party to the decision to deny the local preference, the conference may be held with another person designated by the Chief Executive Officer. In either case, a letter informing the applicant of the final determination as to their local preference status will be mailed within 10 business days from the conference/hearing.

SECTION 7. APPLICANT SCREENING AND DENIAL OF ADMISSION

In screening applicants, HACEP will follow HACEP policies, procedures and preference criteria, and will verify all information submitted by the applicants. (See Section 8: Verifications for Eligibility). The following outlines the actions to be taken in this process:

A. Applicant Screening

1. The resident selection criteria established, and the information to be considered by the PHA, will be reasonably related to the individual attributes and behavior of an applicant, and will not be related to those which may be imputed to a particular group or category of persons of which an applicant may be a member.
2. The criteria established in relation to avoiding the concentration of families with serious social problems in PHA developments, and the information to be considered, will be reasonably related to whether the conduct of the applicant in present or prior housing has been such as would be likely to interfere with other residents by adversely affecting their health, safety or welfare, or affect adversely the physical environment or financial stability of the development if the applicant were admitted. Relevant information concerning the habits or practices to be considered may include, but is not limited to:
 - a. Past performance in meeting financial obligations, especially rent, and prior rental history with the PHA, if applicable;
 - b. Rental history from previous owners/landlords or another PHA;
 - c. A record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences which may adversely affect the health, safety, or welfare of other residents;
 - d. Information from personal references;
 - e. Information from previous owners/landlords concerning housekeeping that would create health or sanitation problems;
 - f. A history of criminal activity involving drug-related activity, a pattern of alcohol abuse, crimes of physical violence to persons or property, or other criminal acts which would adversely affect the health, safety or welfare of other residents;
 - g. A conviction for manufacturing or producing methamphetamine (speed) on PHA property. These individuals will be permanently barred from public housing; or
 - h. Eviction from public housing, Indian housing, Section 23, or any Section 8 program because of drug-related criminal activity. These individuals and their families are ineligible for admission to public housing for a three (3)-year period beginning on the date of such eviction.

The PHA may waive this requirement if:

- the person demonstrates successful completion of a rehabilitation program approved by the PHA, or;
 - the circumstances leading to the eviction no longer exist. For example, the individual involved in drugs is no longer in the household because the person is incarcerated.
3. Applicants must conform to the occupancy standards on family size, family composition and extenuating circumstances discussed in Section 13: Occupancy Standards and Residency Standards.
 4. HACEP will use HUD's Enterprise Income Verification (EIV) system as up-front or third-party verification of all information . If such up-front or third-party documentation is not available, the reason must be documented in the file.

5. The family will also submit, directly to HACEP, all documentation required for purposes of determining or auditing a family's eligibility to receive housing assistance, for calculating the family's adjusted income or Tenant Rent, for verifying related information, or for monitoring compliance with equal opportunity requirements.

6. Home Visits

HACEP may conduct a home visit in order to verify information submitted for the applicant, as a result of a request for special accommodation, or to consider whether the conditions they observe are the result of the resident's treatment of the unit or are caused by the unit's overall substandard condition. HACEP will provide at least two (2) days' written notice to all applicants or residents. Reasons for a home visit may include, but not be limited to, the following circumstances:

- a. Conflicting or negative rental history received from previous landlords;
- b. Conflicting or negative information received from personal references;
- c. Applicant provides no previous rental references;
- d. Applicant provides only related personal references; or
- e. Applicant has no credit history.

B. Consideration of Favorable Factors

In the event unfavorable information with respect to an applicant is received, HACEP will give consideration to the time, nature, and extent of the applicant's conduct, and to factors which might indicate a reasonable probability of favorable future conduct or financial prospects, including:

1. Evidence of successful completion of an appropriate rehabilitation program for drug or alcohol-related problems (requiring certification from a health professional or State certified program). The applicant or family may be required to provide evidence of otherwise being rehabilitated successfully (i.e., participation in AA, ALANON, or other drug/alcohol support group);
2. The seriousness of the offending action;
3. The effect on the community of denial or the failure of HACEP to take such action;
4. The extent of participation by the leaseholder in the offending action;
5. The effect of denial of admission on household members not involved in the offending action;
6. The demand for assisted housing by families who will adhere to lease responsibilities;
7. The extent to which the applicant has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
8. The effect of HACEP's action on the integrity of the program;
9. The willingness of the applicant to exclude the offending household member in order to be admitted to the housing program, where the identified member has participated in or been culpable for action or failure to act that warrants denial;
10. Evidence of the applicant family's participation in or willingness to participate in social services or other appropriate counseling programs, and the availability of such programs;

and

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

C. Denial of Admission

HACEP has established standards that prohibit admission of a household to HACEP's public housing program for unacceptable past performance in meeting financial obligations, certain drug and criminal activities. In developing these standards, HACEP may elect to deny admission for criminal activities in addition to those required by statute, may elect longer periods of time for denial than required by statute, and may consider rehabilitation, participation by household members and other extenuating circumstances when unfavorable information is received. All standards shall be applied uniformly.

1. Pursuant to 24 CFR Part 960.204 the PHA must deny admission to:
 - a. Persons evicted from federally-assisted housing for drug-related criminal activity for three (3) years from the date of eviction. See Definition of federally-assisted housing.

A PHA may admit the household if the PHA determines:

 - (1) The evicted household member who engaged in the drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the PHA; or
 - (2) The circumstances leading to the eviction no longer exist (for example, the responsible household member is deceased or is imprisoned).
 - b. Persons currently engaging in illegal use of a drug or where the PHA determines that it has reasonable cause to believe that a household member's illegal use or pattern of illegal use of a drug may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;
 - c. Persons who have ever been convicted for manufacture or production of methamphetamine on the premises of federally assisted housing; See Definitions to determine federally-assisted housing.
 - d. Persons subject to a lifetime registration requirement under a State sex offender registration program. This check must be carried out with respect to the State in which the housing is located and in States where members of the applicant household are known to have resided;
 - e. Persons that abuse or show a pattern of abuse of alcohol that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
2. HACEP will deny admission to persons who have been convicted of human trafficking.
3. Pursuant to the Violence Against Women Act, HACEP will deny admission to any member of the household who is a perpetrator of domestic violence, dating violence, or stalking.
4. In adopting local standards, supportive of or in addition to the mandated reasons for denial of admission, HACEP may:
 - a. Require an applicant to exclude a household member in order to be admitted to the housing program where that household member has participated in or been culpable for actions that would require denial under one of the mandatory reasons for denial.
 - b. Continue that prohibition for a longer period of time where a statute states that

- admission be denied for a required period of time. (for example, 3 years after being evicted from federally-assisted housing for drug-related criminal activity).
- c. Consider a record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences which may adversely affect the health, safety, or welfare of other residents.
 - d. Consider a history of criminal activity involving drug-related activity, a pattern of alcohol abuse, crimes of physical violence to persons or property, or other criminal acts which would adversely affect the health, safety or welfare of other residents.
 - e. Request information from a drug abuse treatment facility to determine whether the drug abuse treatment center has reason to believe that the household member is currently engaging in illegal drug use.
5. HACEP will deny admission for a period of up to ten (10) years to persons with a record of involvement in any criminal activity within five (5) years from the date of application.
 6. HACEP will deny admission to a family who currently owes rent or other amounts to HACEP or to another PHA in connection with a Federally assisted housing program under the U.S. Housing Act of 1937. Rental assistance may be denied for a period of up to ten (10) years from the date the family moved out of an assisted unit or was terminated from a HUD rental assistance program.

D. Falsified or Misrepresented Information

If HACEP determines that an applicant has falsified or misrepresented family income, composition, circumstances, conduct or behavior, HACEP will, on the basis of such falsification or misrepresentation, find the applicant ineligible for admission to a PHA dwelling unit. In justifiable cases, HACEP may take such other action as deemed advisable.

E. Mitigating Circumstances Screening

Applicants who claim mitigating circumstances:

1. If unfavorable information about an applicant is received, the applicant will be provided an opportunity to present mitigating circumstances. HACEP will consider the time, nature and extent of the applicant's conduct. These mitigating circumstances must be verifiable.
2. HACEP may consider applicants who claim mitigating circumstances related to criminal activity if:
 - The person demonstrates successful completion of a rehabilitation program approved by HACEP, or:
 - The circumstances leading to the eviction no longer exist. For example, the individual involved in drugs is no longer in the household because the person is incarcerated.
3. Mitigating circumstances are facts relating to the applicant's unsuitable rental history or behavior which, when verified, would indicate both: (a) the reason for the unsuitable behavior; and (b) that the reason for the unsuitable rental history or behavior no longer applies or is under control **and** the applicant's prospect for lease compliance is an acceptable one, justifying admission. Such mitigating circumstances would overcome or outweigh information already gathered in the screening process.
4. If the mitigating circumstances relate to a change in disability, medical condition or course of treatment, HACEP shall have the right to verify the information or to request further information which is reasonably needed to verify the mitigating circumstances.

5. Consideration of mitigating circumstances does not guarantee that the applicant will qualify for admission.

SECTION 8. VERIFICATION REQUIREMENTS

A. General Requirements

The verification requirements described in this section are applicable to initial screening for eligibility, initials, interim and annual re-certifications.

1. HACEP will use EIV as a 3rd party source to verify employment and income during all mandatory interim & annual reexaminations. EIV should minimize the need for traditional 3rd party verification forms (mailing/faxing forms to 3rd party sources).
2. Income data older than 12 months contained in the EIV system will not be used in verifying annual income. While there is no regulatory limit on the acceptable age of verifications in the public housing program, PHAs historically use only verified information that is less than 90 days old on the effective date of admission or recertification. Verified information obtained after application intake that is less than 90 days old need not be re-verified. Verifications may be extended for an additional 30 days with a telephone update. (A record of the update, including the name and title of the individual contacted, must be placed in the applicant's file.) Verified information not subject to change (such as a person's date and place of birth) need not be re-verified.
3. Information obtained that is subject to change and for which verifications are more than 90 days old, should be re-verified. HUD requires that verification forms to support PHA's admission decisions be placed in the applicant (and subsequently, the tenant) files. Information that is subject to change, such as income, assets, family composition, etc. should be verified close to certification or recertification. Preferences must be verified once, just before admission. It is up to HACEP to decide the acceptable term of the verification and whether re-verifications are needed.

B. Tiers of Verification Acceptable to HUD

Information will be verified in order through the tiers of verification listed below.

1. **Upfront Income Verification (UIV) (Level 6/5) - MANDATORY**

Verification of income, before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a larger number of individuals. HACEP will use the **Enterprise Income Verification (EIV)** data to validate tenant reported income and supplement tenant provided documents. Use of Non-HUD system (such as The Work Number and state government databases) may be used as upfront income verification to validate tenant reported income in addition to EIV.

EIV will be used to verify Social Security (SS) & Supplemental Security Income (SSI) benefits unless the tenant disputes the information.

HACEP will verify if the applicant previously received assistance through a federally assisted program to determine if the individual owes a debt to another PHA, or has been terminated or evicted from the Public Housing and Housing Choice Voucher programs.

Information obtained through EIV will be compared to documents provided by the family.

When there is a substantial difference (substantial difference is defined as a difference of more than \$200 per month per source of income), the PHA will resolve the discrepancy by contacting the source of the income directly. When there is not a substantial difference, the PHA will use the higher of income verified through EIV or documents provided by the family.

Where available, computer matching may also be done as needed utilizing the following sources:

- a. State Wage Information Collection Agencies (SWICA);
- b. The New Hire Directory;
- c. The Work Number (or similar sites) for employment verifications;
- d. State Attorney General online child support information (where applicable); or
- e. A credit report for all adults at initial certification and/or recertification.

2. Third-Party Written Verification (Level 4) - OPTIONAL

An original or authentic document generated by a third party source dated either within the 60-day period preceding the reexamination or PHA request date. Such documentation may be in the possession of the tenant (or applicant), and is commonly referred to as tenant-provided documents. It is the Department's position that such tenant-provided documents are written third party verification since these documents originated from a third party source. HACEP may, at its discretion, reject any tenant-provided documents and follow up directly with the source to obtain necessary verification of information.

Examples of acceptable tenant-provided documentation (generated by a third party source) include, but are not limited to: pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Current acceptable tenant-provided documents must be used for income and rent determinations.

HACEP is required to obtain at a minimum, six (6) current and consecutive pay stubs for determining annual income from wages. For new income sources or when two pay stubs are not available, HACEP should project income based on the information from a traditional written third party verification form or the best available information.

Note: Documents older than 60 days (from HACEP interview/determination or request date) is acceptable for confirming effective dates of income.

3. Written Third Party Verification Form (Level 3)

Also, known as traditional third party verification. A standardized form to collect information from a third party source. The form is completed by the third party by hand (in writing or typeset). PHAs send the form directly to the third party source by mail, fax, or email. It is the Department's position that the administrative burden and risk associated with use of the traditional third party verification form may be reduced by PHAs relying on acceptable documents that are generated by a third party, but in the possession of and provided by the tenant (or applicant). Many documents in the possession of the tenant are derived from third party sources (i.e. employers, federal, state and/or local agencies, banks, etc.)

HACEP will rely on documents that originate from a third party source's computerized system and/or database, as this process reduces the likelihood of incorrect or falsified information being provided on the third party verification request form. The use of

acceptable tenant-provided documents, which originate from a third party source, will improve the integrity of information used to determine a family's income and rent and ultimately reduce improper subsidy payments. This verification process will also streamline the income verification process.

4. Oral Third Party Verification (Level 2)

Independent verification of information by contacting the individual income/expense source(s), as identified through the UIV technique or identified by the family, via telephone or in-person visit. PHA staff should document in the tenant file, the date and time of the telephone call (or visit to the third party), the name of the person contacted and telephone number, along with the confirmed information. This verification method is commonly used in the event that the independent source does not respond to HACEP's faxed, mailed, or e- mailed request for information in ten (10) business days.

5. Non-Third Party Verification Technique Tenant Declaration (Level 1)

The tenant submits an affidavit or notarized statement of reported income and/or expenses to HACEP. This verification method should be used as a last resort when HACEP has not been successful in obtaining information via all other verification techniques. When HACEP relies on tenant declaration, HACEP will document in the tenant file why third party verification was not available.

Exceptions to Third Party Verification Requirements

HUD is aware that in some situations, third party verification is not available for a variety of reasons. Oftentimes, the PHA may have made numerous attempts to obtain the required verifications with no success, or it may not be cost effective to obtain third party verification of income, assets, or expenses, when the impact on total tenant payment is minimal. In these cases, the PHA is **required to document in the family file the reason(s) why third party verification was not available.**

The exception to third party verification can be found at 24 CFR §960.259(c)(1) which states, "The PHA must obtain and document in the family file third party verification of the following factors, **or must document in the file why third party verification was not available.**"

C. Information to be verified

The following information must be verified:

1. Preferences applicable to placement on and selection from the waiting list based on the selection preferences adopted by HACEP.
2. Zero and/or sporadic income status of household. Zero and/or sporadic income applicants and residents will be required to complete a family expense form at each certification or recertification. Every zero and/or sporadic income resident will be required to attend, in person, an interim recertification every 90 days.
3. Full time student status including high school students who are 18 years of age or older.
4. Current assets including assets disposed of for less than fair market value in the preceding two (2) years.
5. Childcare expenses when it allows an adult family member to be employed, look for work, or further his/her education.
6. Total medical expenses of all family members in households whose head, spouse, or co-

head is elderly or disabled.

7. Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus that allow any adult family member, including the person with the disability, to be employed.
8. Legal identity.
9. U.S. citizenship/eligible immigration status.
10. Social Security Numbers for all household members. See ACOP Section 5-Basic Eligibility Requirements and ACOP Section 19-Redeterminations.
11. Familial/Marital status when needed for head, spouse, or co-head definition.
12. Disability for determination of allowances, deductions, or requests for accommodation including need for a live-in aide.
13. Time spent seeking employment when childcare is claimed for the activity.
14. All sources of income.

D. Release of Information

As a condition of admission to, or continued occupancy of, any assisted unit, HACEP will require the family head and such other family members eighteen (18) years of age and older to execute a HUD-approved release and consent form authorizing any depository or private source of income, or any Federal, state or local agency, to furnish or to release to HACEP and to HUD such information as HACEP or HUD determines to be necessary. Criminal/sex offender status information will be obtained for all household members 10 years of age and older. Each adult household member will be required to sign a consent form for release of criminal/sex offender status information. For household members ages 10 to 17, consent forms will be signed by the parent or legal guardian. HACEP will furnish applicants and participants a Release of Information/Privacy Act Notice [HUD-9886 (7/94)] when collecting information to verify income. Refusal to cooperate with the HUD prescribed verification process as outlined in this policy and HUD regulations will result in denial of admission or termination of tenancy.

E. Authority to Obtain Criminal History Records

The PHA is authorized by 24 CFR Part 5, subpart J to obtain criminal conviction records from a law enforcement agency and to use those records to screen applicants for admission to covered housing programs and for lease enforcement or eviction of families residing in public housing.

24 CFR part 5, subpart J, §5.905 states that a PHA that administers a public housing program must carry out background checks necessary to determine whether a member of a household applying for admission to any federally-assisted housing program is subject to a lifetime sex offender registration requirement under a State sex offender registration program.

F. Permitted Use and Disclosure of Criminal Records

The use and disclosure of criminal records/sex offender registration records received by HACEP only applies to applicant screening and/or lease enforcement and eviction activities. HACEP may disclose criminal conviction records as follows:

1. To officers or employees of HACEP, or to authorized representatives of HACEP who have a job-related need to have access to the information. For example, if HACEP is

seeking to evict a public housing resident on the basis of criminal activity/sex offender status as shown in criminal conviction records, the records may be disclosed to PHA employees performing functions related to the eviction, PHA attorney processing an eviction action or to the PHA hearing officer conducting an administrative grievance hearing concerning the proposed eviction.

2. If HACEP obtains criminal records from a State or local agency showing that a household member has been convicted of a crime relevant to applicant screening or tenant lease enforcement or eviction, HACEP must:

- Notify the head of household of the proposed action based on the information obtained; and
- Provide the subject of the record and the applicant or resident (head of household) a copy of such information and an opportunity to dispute the accuracy and relevance of the information.

Note: This opportunity must be provided before a denial of admission, eviction or lease enforcement action on the basis of such information.

3. Any other negligent or knowing action that is inconsistent with the statute or regulations. Conviction for a misdemeanor and imposition of a penalty of not more than \$5,000 is the potential for:

- Any person, including an officer, employee, or authorized representative of a PHA who knowingly and willfully requests or obtains any information concerning an applicant for, or tenant of the PHA under false pretenses;
- Any person, including an officer, employee, or authorized representative of a PHA who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive the information.

4. A PHA may be liable under civil law to any applicant for, or resident of HACEP who is affected by either of the following:

- A negligent or knowing disclosure of criminal records information obtained under statutory authority about such person by an officer, employee, or authorized representative of a PHA if the disclosure is not authorized under the statute or regulations;
- An applicant for, or resident of HACEP may seek relief against HACEP for inappropriate disclosure by bringing a civil action for damages and such other relief as may be appropriate. The United States district court in which the applicant or tenant resides, in which the unauthorized action occurred, or in which the officer, employee, or representative of a PHA alleged to be responsible resides, has jurisdiction. Appropriate relief may include reasonable attorney's fees and other litigation costs.

G. Receipt of Information from Law Enforcement Agencies

When the law enforcement agency/state registration entity receives HACEP's request, the agency must promptly release to HACEP a certified copy of criminal conviction records concerning the household member they have in their possession or under their control. National Crime Information Center (NCIC) records must be provided in accordance with NCIC procedures.

The law enforcement agency may charge a reasonable fee for this service but any fee charged by that agency for this service may not be passed on to the applicant.

H. Records Management

HACEP has established and implemented a system of records management that ensures records received from a law enforcement agency are:

- Maintained confidentially;
- Not misused or improperly disseminated; and
- Destroyed once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to HACEP action without institution of a challenge or final disposition of any such litigation.

All information provided to an owner, manager, or PHA pursuant to VAWA (Violence Against Women Act), including the fact that an individual is a victim of domestic violence, dating violence, or stalking, shall be retained in confidence by an owner, manager, or PHA, and shall neither be entered into any shared database nor be provided to any related entity, except to the extent that disclosure is requested or consented to in writing by the individual; required for use in an eviction proceeding of an abuser, stalker or perpetrator of domestic violence; or is otherwise required by applicable law.

The records management requirements do not apply to sex offender registration information that is public information or is obtained by HACEP other than from a State or local agency responsible for the collection or maintenance of such information.

I. Verifications through Drug Treatment Centers

Verification of continued drug dependency will result in denial of admission to public housing. HACEP may verify drug-free status of applicants through drug-treatment centers as follows:

1. HACEP may require each applicant to submit one or more consent forms for all household members who are at least eighteen (18) years of age or older and for each head or spouse, regardless of age, that:
 - a. Requests a drug abuse treatment facility to inform the PHA only whether the facility has reasonable cause to believe that the household member is currently engaging in illegal drug use;
 - b. Complies with the form of written consent required by 24 CFR 960.205; and
 - c. Authorizes the PHA to receive the information and to utilize that information in determinations for admission to the PHA's Public Housing Program.
2. The consent form must expire automatically after HACEP has made a final decision to approve or deny admission of the individual.
3. HACEP may request a drug abuse treatment facility to inform HACEP whether the facility has reasonable cause to believe that the household member is currently engaging in illegal drug use.
4. HACEP's request must include a copy of the consent form signed by the proposed household member.
5. The drug treatment facility is not liable for damages based on the information required to be disclosed provided the disclosure is consistent with section 543 of the Public Service Act.
6. HACEP is not obligated to request information from drug treatment facilities and is not liable for damages for failure to request or receive the information.
7. The treatment facility may charge the PHA a reasonable fee for the information. The fee may not be passed along to the applicant or resident.

HACEP may conduct screening of applicants through drug treatment centers. HACEP will submit a request only with respect to each proposed household member:

- Whose criminal record indicates prior arrest or conviction for any criminal activity that may be the basis for denial of admission; or
- Whose prior tenancy records indicate the proposed member:
 - Engaged in the destruction of property;
 - Engaged in violent activity against another person; or
 - Interfered with the right of peaceful enjoyment of the premises of other residents.

9. HACEP's system of records management ensures that the information received from the treatment facility about a person is:

- a. Maintained confidentially in accordance with the Public Health Service Act;
- b. Not misused or improperly disseminated; and
- c. Destroyed:
 - Not later than five (5) business days after HACEP makes a final decision to admit the individual to the public housing program; or
 - If HACEP denies the admission of a person as a household member, in a timely manner after the date on which the statute of limitations for the commencement of a civil action based on that denial has expired without the filing of the civil action or until final disposition of such litigation.

J. Verification of Preferences

Verification of family/individual preferences is normally performed at the time of selection from the waiting list. At the time of application, the preference claimed by the family is used to place them on the waiting list. While the PHA may choose to verify the preference at that time, if there will be a significant wait before the family can be reached for assistance, the family's status may change, thus voiding the original preference claimed. In that case, the family's placement on the waiting list may require adjustment upward or downward based on their circumstances. Similarly, a family originally having no preference status at the time of application may gain a preference while waiting that would change their placement on the waiting list. For example, a family claiming homeless status at the time of application, may find adequate housing while waiting thus losing the preference status or a family claiming a preference based on being employed, may lose that employment before their name comes up on the waiting list. In either case, their placement on the waiting list may change.

The following methods may be used based upon the PHA's preference policies:

1. Former Federal Preferences:

The PHA may adopt the verification policies applicable to the former Federal Preferences if they choose to retain one or more of these preferences as their local preference(s).

Verification of an applicant's involuntary displacement is established by the following documentation.

- Certification from a unit or agency of government that an applicant has been or will be displaced as a result of a disaster.
- Certification from a unit or agency of government that an applicant has been or will be displaced by government action.
- 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 action specified in the regulations.

- Certification of displacement by hate crimes, if one or more family member is a victim of a hate crime and law enforcement officials and/or appropriate social service agencies show that the hate crime occurred recently or is of a continuing nature. A hate crime is 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, natural origin, disability, or familial status.
- The owner and/or the appropriate social services agency can provide certification of displacement due to inaccessibility of the unit. In this case, the owner must be able to demonstrate that he/she is not required by law to make the unit accessible.
- Certification by HUD or other governmental or relocation agency regarding the displacement of families in a multi-family housing development that is subject to disposition.

2. Verification of Employment, Offer of Employment or Job Training/Education

- a. Employer verification of employment or offer of employment;
- b. Educational institution verification of full-time student/trainee status;
- c. Statement from job training site;
- d. Paycheck stubs with year-to-date earnings.

Note: Applicants who are elderly or disabled are entitled to this preference status.

3. Verification of Veteran Status

- a. Honorable, general discharge papers;
- b. DD 214 form.

K. Verification of Income

All income will be verified. This may include, but not be limited to the following:

1. Gross Employment Income of all Household Members;
2. Social Security, Pensions, SSI and Disability Income;
3. Unemployment Compensation;
4. Welfare (TANF) Payments or General Assistance;
5. Alimony or Child Support , Monetary or Not;
6. Net Income From a Business, Including Childcare and Home Sales;
7. Recurring Monetary Contributions and Gifts;
8. Zero and/or Sporadic Income Status;
9. Full-Time Student Status; or
10. All Income Excluded by Federal Mandate is Verified for Reporting Purposes Only.

L. Assets and Income from Assets

All assets to which any household member has access and income from assets will be verified. This may include, but not be limited to the following:

1. Checking accounts;
2. Current savings accounts and Certificates of Deposit of all household members;
3. Property owned or financed by household members;
4. Cash value of life insurance policies;
5. Retirement/pension funds; or
6. Assets disposed of for less than fair market value in previous 24 months

M. Verification of Deductions from Income

1. Childcare Expenses-Reasonable Limits

HACEP will verify:

- Eligibility for childcare expenses for children under 13 years of age;
- Cost for childcare, the maximum allowable is as follows and is based on the El Paso YWCA childcare fee schedule:

Age:	Full-Time:		Part-Time:	
	Weekly	Daily	Weekly	Daily
Infant & Toddlers (0-35 Mos.)	\$105	\$27	\$92	\$22
Preschooler & Up (3-12 Yrs.)	\$100	\$25	\$90	\$20
After School Care (6-12 Yrs.)			\$90	\$20

- Other, actual cost for the following: including but not limited to summer school programs, vacation sports/band/bible camp.
- If childcare is required for education or to actively seek employment, childcare costs must be reasonable.

If childcare is required for employment, childcare expense will be capped by employment income.

Childcare for actively seeking employment is allowed if the resident provides verifiable documentation of his/her efforts to seek employment away from home.

Childcare will not be provided for time spent seeking employment via home computer.

Allowable deductions and the calculation for childcare amounts are contained in Section 9 Determination of Income and Rent Calculation.

2. Medical Expenses (Elderly/Disabled Family Only)

Families who claim medical expenses or expenses to assist a person with disability will be required to submit a certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source. Documentation must be provided for any medical expenses for which reimbursement has been received. Reimbursement of medical expenses must be reported on form HUD-50058.

3. Disability Assistance Expense Deduction

Families are entitled to deduction for un-reimbursed expenses for care attendants and auxiliary apparatus expenses for a member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including disabled member) to work. The allowable disability assistance expense is that portion that exceeds three percent of annual income. This deduction may not exceed the earned income received by family members who are 18 years of age and older, and who are able to work because of such attendant care or auxiliary apparatus.

HACEP will verify:

- The disability;
- The un-reimbursed expenses for care or apparatus;
- Whether the expense is directly related to enabling employment; and
- Income earned due to the care or apparatus.

N. Verifying Non-Financial Factors

Non-financial factors that must be verified include, but are not limited to:

1. Legal Identity;
2. Familial Relationship;
4. Permanent Absence of Adult Member;
5. Change in Family Composition;
6. Disability;
7. Funds Owed HACEP or Other Housing Authorities;
8. Social Security Numbers
9. Citizenship and Immigration Status.

SECTION 9. DETERMINATION OF INCOME AND RENT CALCULATION

NOTE: See Appendix H for HUD Form 50058 Income and Exclusions Chart

A. Annual Income

Annual income is used to determine whether the family is within the Income Limits applicable to HACEP's jurisdiction. Annual income is the anticipated amounts, monetary or not, that go to, or on behalf of, the family (including temporarily absent head, spouse or co-head), and are received from a source outside the family within the twelve (12) months following certification. All income that is not specifically excluded in the HUD regulations or the Low Income Housing Tax Credit Program ("LIHTC Program") is counted.

Adjusted income is the annual income minus HUD required expenses and deductions.

Both annual and adjusted income is used to calculate the amount of rent. In calculating annual and adjusted income, HACEP must include the income of every member of the household, including those who are temporarily absent. Income of persons who are permanently absent from the household will not be counted.

Income is defined by HUD regulations and is further interpreted in HUD Notices and Memos that must be followed. However, there are policy decisions that are needed in order to assure consistent interpretation of HUD regulations.

HACEP is required to verify family income, family composition and characteristics, value of assets, and other factors relating to eligibility determinations both before an applicant is issued assistance and annually.

HACEP will use several methods to verify income and income deductions. Up-front and third-party (independent) verifications will be obtained by HACEP either electronically, by fax or sent by mail to the appropriate agency.. If third-party written verification is not possible, HACEP may use third-party oral verification. If third-party oral verification is not possible, the Review of Documents method of verification may be used. And if that method is not possible, HACEP may accept self-declaration. When any form of verification other than third-party written is used, HACEP must document the file with the reason that another form of verification was used.

Reference here will be limited to terms or concepts contained in the annual income listing.

B. Income Types (Inclusions and Exclusions)

1. Temporarily and Permanently Absent

HUD regulations specify that the income of family members who are "temporarily absent" from the household is to be included in total family income. HACEP has determined that "temporarily absent" can mean an absence for up to three (3) months. An exception to the inclusion of that income is extended to members of the military who are under "hostile fire" and **temporary absence** may exceed three (3) months Other absences, and the length of such absences, will be confirmed based on the circumstances of the absence.

If a claim is made that the absence of a household member is permanent or that his/her whereabouts are unknown, the head of household or remaining family member with legal capacity to enter into the lease must sign an affidavit describing the circumstances and duration of the absence, and stating that due diligence has been exercised to determine the whereabouts of the absent member.

In calculating annual and adjusted income, HACEP must estimate the income of every member of the household, including those who are temporarily absent. Income of persons who are permanently absent from the household and removed from the lease will not be counted. Families must report in writing to HACEP any absence from the household of more than seven (7) consecutive days, consistent with the lease provisions. Any changes in family composition must be reported in writing to HACEP within 10 days. Families will be counseled at briefing sessions and re-certification on the effect family composition may have in determining unit size and Total Tenant Payment as well as HACEP's policies for dealing with such changes. At times, situations may arise that result in the temporary or permanent absence of a family member or members from the household. Such situations will be handled in the following manner:

- a. Absence of single parent; use of caretaker adult. When a single parent leaves the household for an extended period as a result of imprisonment, hospitalization, military service, etc., and another adult moves into the home to care for the children, the rental assistance will not be terminated. The family composition will be modified to include the name of the caretaker as head of household. The caretaker's income will not be included in the family income.
- b. Absence of head of household, spouse, or co-head due to military service or school. If the head of household, spouse or co-head is absent from the home to serve in the military or attend school, the income will be included in the calculation of family income. However, income received as a result of special hazardous duty pay when exposed to hostile fire will not be included.
- c. Absence of other family member due to military service or school. If a family member other than the head of household, spouse or co-head is absent from the home to serve in the military or attend school, the family has the option of considering the person permanently absent (income not counted; not on lease) or temporarily absent (income counted; on lease). Income received as a result of hazardous duty pay when exposed to hostile fire will not be included.

2. Earned Income

Earnings anticipated to be received in the 12 months following the effective date of the certification will be annualized. To annualize income, HACEP will multiply:

- Hourly income by the number of hours worked in a year;
- Weekly income by 52 weeks, unless it is verified that less weeks will be worked;
- Bi-weekly income by 26 pay-periods;
- Semi-monthly by 24 pay-periods; and
- Monthly by 12 pay-periods.

Where income is seasonal or fluctuates as to hours or rates, such as for teachers, construction workers, farmers, or migrant workers, HACEP will use an average for 12 months based on past income history of the family and such anticipated income that can be verified.

3. Temporary or Sporadic Income

Temporary or sporadic income is not counted in determination of annual income. Employment lasting less than 30 days will be considered temporary. Sporadic income includes amounts that are neither reliable nor periodic.

4. Cyclical or Seasonal Work

When income varies due to cyclical or seasonal work, and the source of income has not changed from the previous year, HACEP may rely on the previous year's income to

anticipate income for the coming year. Increases in pay rate over that of the previous year would be considered.

When anticipated income cannot be determined for a full 12-month period, HACEP will annualize current income and conduct an interim reexamination when income changes.

5. Net Income from Business or from Self-Employment

The net income from the operation of a business or self-employment is counted as income. Net income is the amount of business income received less expenses incurred. Deductions from business income can include business vehicle expenses, supplies and materials, staff salary and benefits, depreciation of assets. Any withdrawals of cash from the business will be considered income unless the withdrawal is reimbursements of cash or assets invested in the operation by the family. Expenditures for expansion or amortization of capital indebtedness are not used as deductions from income.

Business expansion includes substantially increasing the size of the business or branching out into adjacent areas that are not part of the original operation. Straight-line depreciation of assets is an allowable expense and can be verified through examination of the income tax forms filed for the business or audited financial statements. Similarly, the accounting records and financial statements can be used to determine the initial/ongoing cash or assets invested in the business. This information can be used to determine whether or not a withdrawal is a reimbursement of investments in the business. If a business is co-owned by someone outside the household, audited financial statements and income tax returns can provide information to determine the level of net income to be attributed to the family from part ownership of the business.

6. Regular Contributions and Gifts

HACEP has determined that regular contributions and gifts is one that are made weekly or monthly for at least seven months within a 12-month period. Contribution/gift values will be determined by verifying with the giver, the amount, type, and frequency of the contributions. For example, the average cost of regular donations of groceries or clothing to the family will be counted in family income. Also, where specific bills are paid such as telephone, gas, electric, cable, rent, etc., verification of billed amounts will be sought from the providers.

Payments made by persons or entities (such as insurance company reimbursement for doctor bills or prescriptions) specifically for medical expenses will be excluded from income. Verification of the amount paid will be secured directly from the provider and third-party verification will be secured from the recipient. Any discrepancy between the amount paid and the amount due, or credit to the family will be counted as income unless it is determined that the amount is a one-time contribution.

7. Alimony and Child Support

The full amount of alimony and child support payments is included in the calculation of annual income. Verification of the amounts can be found in the final divorce decree or settlement papers or may be obtained from the court if payments are made to and distributed by the court. If the family asserts that they are not receiving the full amounts due, HACEP will attempt to verify the lesser amount through the court, the payer or through examination of original payment documents. If the payee has filed a claim in court for non-payment or under-payment, HACEP may use those documents for verification. Until HACEP obtains verification of the lesser amount, the full amount of alimony and child support payments will be included in income.

In cases where there is no award by the court, HACEP must seek verification from the provider of the amounts paid, view canceled checks or money order receipts and, for alimony, the provider's income tax returns. Information from the provider will be matched against records provided by the payee including tax returns, if any, and any discrepancies reconciled to assure an accurate amount to include in annual income.

8. Lump Sum Payments

Lump-sum payments received due to delayed start of periodic payments (e.g., unemployment, TANF, or child support) except Social Security and Supplemental Security Income benefits, whether due to disputes or processing problems are counted as income.

Attorney fees may be deducted from lump-sum payments when the services were necessary to recover the lump-sum settlement and when the recovery does not include additional monies to pay the attorney fees.

Social Security and Supplemental Security Income benefits that are received in a lump sum or prospective monthly amounts are excluded from annual income. The lump sum payment may be treated as an asset.

9. Income from Assets

a. Assets Valued Under \$5,000

When assets owned by any family member (including minors) have a combined cash value of less than \$5,000, actual income received from the asset(s) is counted as income. (For example, checking and savings accounts.) In determining the value of checking accounts HACEP will use the lesser of the current balance or the average daily balance of the account for the most recent past three (3) months. Anticipated interest will be determined by multiplying the value of the checking account by the annual interest rate.

b. Assets Valued Over \$5,000

When assets owned by any family member (including minors) have a combined cash value of more than \$5,000, HACEP will use the greater of actual income received from the asset(s) or imputed income using the HUD passbook rate.

c. Assets Disposed of for Less than Fair Market Value

HACEP will count as an asset the difference between the market value and the actual amount received for assets disposed of for less than market value for two (2) years from date of disposition. An imputed income may be calculated if all assets total more than \$5,000.

d. Contributions to Retirement Funds

While an individual is employed, only the amount the family can withdraw without retiring or terminating employment is included as an asset. After retirement or termination of employment, any amount the employee elects to receive as a lump sum is included in income.

10. Military (Armed Forces) Pay

The Military Pay of the head of household, spouse, or co-head is included in annual income. All regular pay, special pay, and allowances of member of the military will be included in income (EXCEPTION: Special hazardous duty pay for a family member exposed to hostile fire).

11. Public Assistance

Public assistance amounts are included in annual income, and include but are not limited

to:

- Temporary Assistance to Needy Families (TANF); and
- General Assistance.

Special calculations must be made for benefits received in “as paid” state or local programs.

“As paid” programs are those in which the family receives a specific amount for shelter and utilities and the amount is adjusted based upon the actual amount the family pays for shelter and utilities.

In “as paid” programs, the amount of welfare assistance income shall consist of:

- The amount of the grant exclusive of the amount specifically designated for shelter and utilities; plus
- The maximum amount that the welfare assistance agency could 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 counted, as income is the actual amount received.

12. Imputed Welfare Income

HACEP will not reduce a family’s contribution if the family’s welfare benefits were reduced due to:

- a. Welfare fraud; or
- b. Failure to fulfill the Welfare Department’s economic self-sufficiency or work requirements.

Imputed Welfare income must be calculated if the Welfare Agency verifies in writing that a family has been sanctioned for one of the two reasons above. Under these circumstances, HACEP will not reduce the total tenant payment (TTP) for the family. The amount of the sanction in welfare benefits is identified as imputed welfare income. The amount of the imputed welfare income plus other income received by the family is used to calculate the total tenant payment.

When new income to the household exceeds the imputed welfare income, the imputed welfare income is no longer considered in the determination of annual income.

If imputed welfare income is determined and is to be included as part of the family income, the family will be offered an opportunity for an informal hearing. HACEP will determine through third-party written verification why the benefits were reduced or suspended before adjusting the income and rent. If welfare benefits expired and program requirements were met, the family income will be reduced to determine rent.

13. Payments in Lieu of Earnings

When payments in lieu of earnings cannot be anticipated for the 12 months following examination, the payments in lieu of earnings must be annualized and an interim recertification should be conducted when income changes.

- Unemployment and Disability Compensation; and
- Severance Pay.

Lump-sum health and accident insurance payments and Workers’ Compensation benefits are not counted as income.

14. Periodic Payments and Allowances

The full amount of periodic amounts received from:

- Social Security;
- Supplemental Security Income;
- Annuities;
- Insurance Policies;
- Retirement Funds;
- Pensions;
- Disability or Death Benefits;
- Alimony or Spousal Support;
- Child Support;
- Other Types of Periodic Receipts.

The withdrawal of cash from an investment that is received as periodic payments (i.e. 401K, IRA) should be counted as income unless the family can document and HACEP verifies that amounts withdrawn are reimbursement of amounts invested. When a family makes a withdrawal from an account in which it has made an investment (such as an annuity or IRA), the withdrawals count as income only after the amount invested has been totally paid out.

If benefits (such as Social Security or Veteran's benefits) are reduced due to a prior overpayment, use the actual amount of the current allocation (before withholding for medical premiums).

If benefits are reduced due to other withholding, such as an IRS garnishment or child support garnishment, use the full award amount.

15. Income of Dependents

A dependent is a family member who is under 18 years of age, is disabled (regardless of age), or is a full-time student (regardless of age).

The head of household, spouse or co-head, foster-child, or live-in aide are never dependents.

Benefits and non-earned income of minors are counted in determining annual income. Earned income of minors is not counted.

Count only the first \$480 of earned income of full-time students age 18 and older who are not the head of household, spouse or co-head.

Count all non-earned income of full-time students.

Count all income (earned and non-earned) of the head of household, spouse or co-head, even if he/she is a full-time student or a minor.

16. Income of Student of Higher Education

Include first \$480 of earnings for full time students other than the head of household, spouse, co-head, foster children or live-in aide.

Include the gross earnings of a student of higher education who is head of household,

spouse, or co-head. Exclude earnings of dependents who are FULLTIME students of higher education.

Include all other unearned income (except that which is excluded by federal regulation) of students of higher education.

17. Income of a Live-in Aide

The income of a live-in aide is excluded from income provided that the person meets the live-in aide criteria established by HUD.

A live-in aide is a person who resides with one or more elderly or near elderly persons or persons with a disability and who:

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

This definition does not automatically exclude relatives. Husbands or wives for example may provide attendant care for spouses but would not have their income excluded since they would be living in the unit and are legally responsible for support. Adult sons, daughters or other relatives would have their income excluded if they can demonstrate that they otherwise would be living elsewhere. Verification would involve a determination regarding whether the person previously lived outside the unit and moved back solely to take care of the family member, or hasn't resided in the unit for at least three (3) months.

Verification of the need for live-in aide services should be obtained from qualified medical, health or social services/rehabilitation specialists. Verification of a legal requirement for support includes marriage certificates, court ordered guardianship, or other legal documents requiring the attendant to be legally responsible for support of the person they care for. HACEP would have to verify residency of the attendant as being elsewhere through prior landlords, rental agreements or leases, rental receipts, utility bills in the attendant's name for another address, driver's license or other government issued ID, etc.

Live-in aides are not remaining members of a resident family and must vacate the unit if the person they care for vacates. Also, live-in attendants should have their own bedroom and may have family members live with them provided that HUD will not increase the operating subsidy by the cost of additional bedrooms and the presence of the live-in aide's family does not cause overcrowding.

18. Unearned Income

Unearned Income is income received that is not wages, tips, or other compensation for work performed (family contributions, SSI, child support, TANF etc.)

C. Averaging Income

There are two ways to calculate income when the income cannot reasonably be anticipated for a full year:

1. Annualize current income (and subsequently conduct an interim reexamination if income changes); or
2. Average known sources of variable income to estimate an annual income (no interim

adjustment is required if income remains as predicted).

Income from the previous year may be analyzed to determine the amount of anticipated income when future income cannot be clearly verified. If, by averaging, a reasonable estimate can be made, that estimate will be used to anticipate annual income over the next 12 months, instead of changing the TTP every month as the income fluctuates.

D. Federally Mandated Income Exclusions

Some amounts are prohibited from being included in a family's income for rent determination purposes. These amounts, called exclusions, are not part of Annual Income.

Excluded income is reported on form HUD-50058.

HACEP must obtain verification for income exclusions if without that verification a PHA would not be able to determine whether or not the income is to be excluded from Annual Income. Depending on the circumstances, any or all of the following may need to be verified:

- Source of excluded income;
 - Circumstances that qualify a family member's income to be excluded; and
 - The amount of the exclusion.
1. Wages of Family Members under Age 18

The full amount of income from employment of children, including foster children, under 18 years of age (excluding the head of household, spouse of head of household, or co-head).
 2. Earnings in excess of \$480 for full-time students over 18 years of age **except** head of household, spouse or co-head.

The first \$480 of earned income of each full-time student 18 years of age or older (excluding the head of household, spouse or co-head) is counted in the calculation of annual income.
 3. Refunds or Rebates of Property Tax on Home

Amounts received by a family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit are excluded in the calculation of Annual Income.
 4. Payments for Student Financial Assistance Paid Directly to the Student or Educational Institution

The full amount of financial assistance, including grants, scholarships, educational entitlements, work-study programs and financial aid packages, are excluded in the calculation of Annual Income. (Although not counted toward annual income HACEP shall record grants, scholarships and student financial aid on Form HUD-50058 and show as excluded.)
 5. Lump-Sum Additions to Family Assets

Lump-sum additions to family assets, such as inheritances, health and accident insurance, worker's compensation, capital gains and settlements for personal or property losses are excluded in the calculation of Annual Income.

6. Lump-Sum Payments of Deferred Benefits

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security (SS) benefits that are received in a lump sum amount or in prospective monthly amounts are excluded in the calculation of Annual Income.

7. Amounts Set Aside for Use under PASS

Amounts received by a person with a disability that are disregarded for a limited time for purposes of SSI eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) are excluded in the calculation of Annual Income.

8. Temporary, Non-Recurring, Sporadic Income

Temporary, non-recurring or sporadic income (including gifts) is excluded in the calculation of Annual Income.

Sporadic income is that which is not of a regular nature and which cannot be counted on continuing.

9. Medical Expenses

Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member are excluded in the calculation of Annual Income.

10. Income of a Live-In Aide

All income of a live-in aide is excluded in determining annual income.

11. Adoption Assistance Payments in Excess of \$480 per Child.

Count as Annual Income the first \$480 per child of adoption assistance payments.

12. Payments to Keep Developmentally Disabled Family Members at Home

An amount paid by a State or local agency to a family with a member who has a developmental disability living at home is excluded in the calculation of Annual Income.

13. Payments Received for the Care of Foster Children or Adults

Payments received for the care of foster children or foster adults are excluded in the calculation of Annual Income. Foster Adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone.

14. Armed Forces Hostile Fire Pay

The special pay to a family member serving in the Armed Forces who is exposed to hostile fire is excluded in the calculation of Annual Income. All other pay to household members who are serving in the Armed Forces is included in income.

15. Foreign Government Reparation Payments

Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era are excluded in the calculation of Annual Income.

16. Earnings and Benefits from Employment Training Programs Funded by HUD

Training programs funded by HUD will have goals and objectives. This is not to be confused with employment by HACEP.

17. Incremental Earnings and Benefits from Participation in Qualifying State and Local Employment Programs

Incremental earnings and benefits received by any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded in the calculation of Annual Income.

A qualified training program is one that is part of a State or local employment-training program and has clear goals and objectives. This would include programs that have the goal of assisting participants in obtaining employment skills, and are authorized or funded by Federal, State or local law, or operated by a public agency. These include programs through Department of Labor, Employment Training Administration, and Welfare-to-Work Grants.

Amounts excluded by this provision are excluded only for the period during which the family member participates in the employment-training program.

18. Reimbursement for Out of Pocket Expenses While Attending a Public Assisted Training Program

Amounts received by participants in other publicly assisted programs that are specifically for, or in reimbursement of, out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program are excluded in the calculation of Annual Income.

19. Resident Service Stipend not to Exceed \$200 per Month for Services to HACEP

Amount received under a resident service stipend are excluded in the calculation of Annual Income.

A resident service stipend is a modest amount, not to exceed \$200 per month, received by a resident for performing a service for HACEP, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, ground maintenance, resident initiatives coordination, and serving as a member of HACEP's governing board.

No resident may receive more than one such stipend during the same period of time.

20. The value of the allotment provided to an individual under the Food Stamp Act.

21. Payments to volunteers under the Domestic Volunteer Services Act which includes, but is not limited to:

- RSVP;
- Foster Grandparents;
- Senior Companion Program;
- Americorps VISTA;
- Peace Corps;
- Service Learning Program;

- Special Volunteer Programs;
 - Small Business Administration programs such as National Volunteer Program to Assist Small Business and Promote Volunteer Service to Persons with Business Experience;
 - Service Corps of Retired Executives (SCORE); or
 - Active Corps of Executives.
22. The first \$2000 of payments received under the Alaska Native Claims Settlement Act.
 23. Income derived from certain sub-marginal land of the U.S. that is held in trust for certain Indian tribes.
 24. Payments or allowances under Department of Health and Human Services Low-Income Home Energy Assistance Program (LIHEAP).
 25. Payments received under programs funded in whole or in part under the Partnership Act.
 26. Income derived from the disposition of funds of the Grand River Band of the Ottawa Indians.
 27. The first \$2000 of per capita shares from judgment funds awarded by the Indian Claims Commission or the Court of Claims or from funds held in trust for an Indian tribe by the Secretary of the Interior.
 28. The full amount of Federal scholarships funded under Title IV of the Higher Education Act of 1965, including awards under Federal work study programs or under the Bureau of Indian Affairs student assistance program.
 29. Payments received from programs funded under Title V of the Older Americans Act of 1965 which includes, but is not limited to:
 - Senior Community Services Employment Program;
 - National Caucus Center on the Black Aged;
 - National Urban League;
 - Association National Pro Personas Mayors;
 - National Council on Senior Citizens; or
 - Green Thumb.
 30. Payments received on or after January 1, 1989 from the Agent Orange Settlement Fund or any fund established pursuant to the settlement in the Agent Orange product liability legislation.
 31. Payments received under the Maine Indian Claims Settlement Act of 1980.
 32. Child care arranged for or provided under the Child Care and Developmental Block Grant Act or any amount received for such care or reimbursement for costs incurred in such care.
 33. Federal and State Earned Income Tax Credit refund payment.
 34. Payments by the Indian Claims Commission to the Confederate Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation.
 35. The first \$2000 of income received by an individual Indian derived from interests or trusts or restricted land.

36. Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990.
37. Any allowance paid under provisions of 38 U.S.C 1805 to a child suffering from spina bifida who is the child of a Vietnam Veteran.
38. Any amount of crime victim compensation that the applicant (under the Victims of Crime Act) receives through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant.
39. An amount earned by temporary Census employees for determining income in the Department's assisted housing programs. Terms of employment may not exceed 180 days for the purposes of the exclusion.

E. Self-Sufficiency Incentive (Earned Income Disallowance)

1. Any family may qualify for the earned income disallowance if:
 - a. Their annual income increases as a result of employment of an adult family member who was previously unemployed for one or more years prior to the employment; or
 - b. Their annual income increases as a result of increased earnings by an adult family member during participation in any economic self-sufficiency or other job training program; or
 - c. Their annual income increases as a result of new employment or increased earnings of an adult family member, during or within six (6) months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act. The TANF program includes formula-driven maintenance assistance and such benefits and services as one-time payments; wage subsidies and transportation assistance, provided that the total amount over a six (6) month period is at least \$500.

Note: Receipt of Supplemental Nutrition Assistance Program (SNAP), aka Food Stamps, and/or Medicaid is not part of the TANF program. If no TANF assistance is provided as listed above, the family will not qualify for the earned income disallowance under TANF provisions but may qualify under the remaining criteria. HACEP will verify receipt of benefit or services other than monthly maintenance with the TANF provider if the family indicates that their eligibility for the earned income disallowance is based on other assistance under TANF.

Incremental increases in earned income are excluded fully for the first 12-month period and 50% excluded for the second 12-month period. HACEP will maintain a log for each individual showing, if applicable, earning and benefits from qualified training programs, incremental increased earnings from employment for the first 12-month period and the second 12-month period. Since the total window of opportunity for the earned income disallowance extends over 48 months, the log will adequately reflect all periods of employment and non-employment, to assure the family member receives the benefit of each full 12-month period.

2. The disallowance of increase in earned income will be calculated as follows:
 - a. During the cumulative 12-month period beginning on the date an adult member, of a qualified family, is first employed or the family first experiences an increase

in annual income attributable to employment, HACEP must exclude from annual income, of a qualified family, any increase in earned income of the adult family member as a result of employment, over prior income of that family member.

Example: The adult family member receives SSI of \$500 per month. The adult family member starts a job as a greeter at a local retail store for \$5.00 per hour, 20 hours per week. Assume for this example the SSI remains the same.

The first 12 months the income is as follows:

SSI: $\$500 \times 12 = \$6,000$

Work: $\$5.00/\text{hr} \times 20 \text{ hrs} \times 52 \text{ weeks} = \underline{\$5,200^*}$

\$6,000 Gross Annual Income

*this amount is excluded for 12 months.

- b. Phase-In Period. During the second cumulative 12-month period after the date an adult family member, of a qualified family, is first employed or the family first experiences an increase in annual income attributable to employment, HACEP must exclude from the annual income of a qualified family member 50% of any increase in income of such family member as a result of employment over income of the family member prior to the beginning of such employment.

The second 12 months the income is as follows:

SSI: $\$550 \times 12 = \$6,600$

Work: $\$5.50/\text{hr} \times 25 \text{ hrs} \times 52 \text{ weeks} = \$7,150$

Excluded 50% = \$3,575

\$10,175 Gross Annual Income

- c. Maximum four (4)-year window of opportunity. The disallowance of increase in earned income of an adult family member, as provided in a. and b., above, is limited to a lifetime 48-month period window of opportunity. The disallowance applies for the 100% exclusion for a cumulative 12-month period and for the 50% exclusion for the second 12-month period.
- d. This exclusion does not apply to admissions.

F. Assets

HACEP will determine the net cash value of each asset by deducting reasonable costs that would be incurred to convert the asset to cash from the market or face value of the asset.

Reasonable costs include, but are not limited to: penalties for early withdrawal of funds from CD's, Money Market accounts, IRAs, annuities, etc.; the cost basis plus commissions and fees for stocks, bonds and other capital investments; appraisal fees, realtor commissions, closing costs, repair costs, if applicable, for real property; penalty fees for early withdrawal of IRA's, pensions and annuities.

If assets are held jointly in an "and" or an "or" account, the full value of the asset less any reasonable costs will be counted unless the family member can demonstrate that their access to the account is legally restricted. HACEP must be able to verify the restriction.

Not counted as assets are necessary items of personal property. These include but are not limited to: clothing; furniture, personal automobiles, computers and related equipment for personal but not business use.

Assets include, but are not limited to trusts (only if a family member has access or control of the trust), joint accounts, investments, CDs, IRAs, Keogh, real or personal property or other annuities

to which the family member has access even if penalties would be imposed for early withdrawal. In determining the net cash value of assets, HACEP will treat assets as follows:

1. Trusts

Principal from a trust is not counted as an asset if the trust is not revocable by, or under the control of, any member of the family, so long as the fund continues to be held in trust. The distributions are considered to be part of annual income. A lump sum distribution in total or in part will be added to all other income and divided by 12 to obtain the gross monthly income. Verification of trust provisions should be contained in the original trust documents. If the documents cannot be obtained, verification should be obtained from the trustee (individual or financial institution).

If a family sets up an un-revocable trust for the benefit of another person outside of the household, HACEP must determine whether or not the value of the trust is less than the fair market value of the assets contained therein had the family retained the asset. If that is the case, the fair market value less reasonable costs must be determined and the net value of the asset included in total assets. Any income the family receives from this trust will be included in annual income. Nominal amounts set aside in trust for or donated to charitable organizations up to \$1000.00 will not be considered assets disposed of for less than fair market value.

2. Joint Ownership

For joint ownership of assets, HACEP must determine the percentage of ownership attributable to the family member. Documents that may provide this information include deeds, tax returns, ownership papers, and financial institution records. These types of documents should, if applicable to the asset, describe whether the family member has full or restricted access to the asset. If restricted, HACEP will use only that portion of the asset available to the family member.

3. Investments

The family must maintain the original copies of receipts for purchases of stocks, bonds, etc. Another source is original periodic statements from brokers that reflect the cost basis of any investment holding which are liquidated. This information will provide the basis for determining reimbursement for amounts invested.

4. Retirement Benefits (CDs, IRAs, Keogh)

Retirement/pension accounts, while the household member is employed, are counted as assets only if there is access to cash from the account while employed. Similarly, if funds are held in the account with the principal restricted from access, only distributions from the fund are counted as income.

5. Checking and Savings Accounts

Checking and savings accounts are also considered as assets. The total amount in savings will be considered an asset unless the account is specifically designated under a plan for self-sufficiency for a person with a disability under Social Security Administration guidelines. Checking accounts are also assets under HUD guidelines; however, since most checking accounts are used primarily as a pass-through for receipt of income and payment of monthly household expenses, only the amount in the checking account in excess of \$1000.00 will be considered to be an asset. HACEP may grant an exception to this threshold if the family states and HACEP can verify that regular household expenses such as rent, utilities, food, etc., exceed that threshold. Verification of these accounts will

be made first, from a bank verification form completed by the bank. If the bank charges either the resident or PHA more than \$5.00 per Bank Statement, then HACEP will use bank statements and passbooks. Bank statements for at least six (6) consecutive months will be requested for verification of balances in checking accounts. For threshold exceptions, original billings, rental receipts, and related documents will be required.

Note: The interest from an interest bearing checking account is considered as income.

6. Annuities

Annuities may provide for either fixed or variable payment. For variable payments, HACEP will evaluate historical information to determine the approximate anticipated payment amount for the next 12-month period. This annualized income may be adjusted based on significant changes from the anticipated income. The holder of an annuity may withdraw the funds at any time before maturity but will pay a penalty for early withdrawal. Verification of the penalty amount may be obtained from the company holding the annuity and should be deducted from the total distribution before determining asset or income amounts. Monthly or periodic regular annuity payments are counted, as income while the principal of the annuity remains an asset until fully liquidated. Verification of any annuity expenses will be obtained from the annuity provider.

7. Net Cash Value of Assets Disposed of for Less than Fair Market Value for 2 Years from Date of Disposition

Reasonable costs include, but are not limited to: penalties for early withdrawal of funds from CD's, Money Market accounts, IRAs, annuities, etc.; the cost basis plus commissions and fees for stocks, bonds and other capital investments; appraisal fees, realtor commissions, closing costs, repair costs, if applicable, for real property; penalty fees for early withdrawal of IRA's, pensions and annuities.

If assets are held jointly in an "and" or an "or" account, the full value of the asset less any reasonable costs will be counted unless the family member can demonstrate that their access to the account is legally restricted. HACEP must be able to verify the restriction.

Not counted as assets are necessary items of personal property. These include but are not limited to: clothing; furniture, personal automobiles, computers, and related equipment for personal but not business use.

8. Lump Sum Additions

Lump sum additions such as inheritances, insurance payments (including payments under health and accident insurance and Workers' Compensation, except those portions which are reimbursement for expenses paid out by the family or otherwise excluded by HUD regulation), capital gains and settlement for personal or property losses are counted as assets whether or not they are placed in savings or other investment vehicles. HACEP will verify payments of inheritances through the executor; health, accident, and Workers' Compensation payments through the provider; capital gains through the broker, original 1099s or tax returns; and settlements for personal or property losses through the insurer.

Lump sum payments of \$500 or less will not be included in the calculation of deductions.

G. HUD Required Deductions

HUD has five (5) allowable deductions from annual income:

1. Dependent Allowance: \$480 each for family members, **except** the head of household,

spouse or co-head who are minors (including children who are adopted), and for family members who are 18 years of age and older, **except** head of household, spouse, or co-head, who are full-time students or who are disabled. Foster children, foster adults, and children of live-in aides are not entitled to this deduction.

2. Elderly/Disabled Allowance: \$400 per family for families whose head, spouse or co-head is 62 years of age or older or disabled.
3. Allowable Medical Expenses: Deducted for all family members of an eligible elderly/disabled family.

IRS Publication 502 (Appendix G) will be used as guidance where questions arise as to an item's eligibility. This publication provides a complete listing and description of allowable medical and dental expenses that can be included as medical deductions. Where an expense item can be treated as either a medical or a disability assistance expense HACEP will calculate the expenses both ways and give the family the greater deduction.

Expenses paid to Mexican medical care professionals and for prescriptions filled in Mexico are allowed provided the proper documentation is submitted.

Medical care expenses for a service or companion animal will be considered allowable expenses; this deduction is not permitted for pets.

HACEP will advise all families at each certification/recertification that they may report any one-time nonrecurring medical or disability expense cost and request an interim recertification.

4. Allowable Disability Assistance Expenses: Deducted for attendant care or auxiliary apparatus for persons with disabilities if needed to enable the disabled person or another adult family member to work.

Disability assistance expenses are those reasonable expenses that are anticipated during the period for which annual income is computed for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled family member) to be employed. These expenses may not be paid to a member of the family nor reimbursed by an outside source.

HACEP must determine what is "reasonable" based on local conditions and costs as well as whether the expenses are directly linked to enabling the family member to work. Reasonable attendant care costs for the locality should be verified through a local social services agency which handles attendant care needs, or an Independent Living Center that assists families in matching attendants with disabled clients. In determining the reasonable cost for equipment, special apparatus or accessibility modifications, the family should provide estimates of costs for HACEP's use in evaluating what is "reasonable".

Attendant care includes the actual cost of providing an attendant to care for a disabled person either in the home or in the work place based on local standards for hourly pay or salary. Equipment may include, but not be limited to, providing a wheelchair (manual or electric) to allow the disabled individual the mobility to go from home to place of employment or to facilitate care in the home, ramps to provide access to and from the unit, modifications to a vehicle or special equipment to enable a blind individual to read or type, but only if this enables the disabled person or other family member to work, any other type of special equipment needed for mobility if the use thereof is demonstrated to be employment related for the disabled person or another family member. The amount allowed is limited to the amount that exceeds 3% of gross

family income and does not exceed the amount earned as a result of the expense.

HACEP will advise all families at each certification/recertification that they may report any one-time nonrecurring medical or disability expense cost and request an interim recertification.

HACEP must be able to verify that there is a direct link between the disability assistance expenses claimed by the family and a family member (including the disabled family member) going to work. This will generally involve determining whether the employed family member was previously employed.

If more than one family member is enabled to work as a result of the incurring of disability assistance expenses, HACEP will verify the employment and combine the incomes of all working family members to establish the cap by which the expenditures are limited.

In some cases, equipment purchased, a computer with adaptation devices for the disabled individual, for example, will not be used exclusively for employment purposes. In such case, HACEP will require the family to certify as to the percentage of the time the equipment is used strictly for employment purposes and prorate the expense.

Example: A computer is purchased for the home and is used by the disabled person to perform medical billing or transcription. The disabled person certifies that 60% of the computer use is strictly related to the employment and 40% for other personal use. The cost of the computer, peripheral equipment (printer, software, etc) and special adaptive devices is verified by original invoices and receipts to be \$2,400. HACEP would allow \$1440 as the disability assistance expense deduction provided that the income from the employment use of the equipment exceeds the expense cap.

If both childcare and disability expenses are needed to enable a person to work, HACEP will use the same employment income to justify the childcare allowance and the disability assistance allowance.

5. Childcare Expenses: Deducted for the care of children under 13 years of age when childcare is necessary to allow an adult member to work, attend school, or actively seek employment.

The amounts allowable as childcare expense are based on the El Paso YWCA childcare fee schedule. The following standards are the criteria for allowing childcare expenses as a deduction:

- a. Childcare to work: The maximum childcare expense allowed would be based on the amount earned by the person enabled to work. The "person enabled to work" is the adult member of the household who earns the least amount of income from employment. The childcare deduction may not exceed the amount of income earned by the person enabled to work.
- b. Childcare for school: The PHA will compare the number of hours the family member is attending school and base the reasonableness standard on the number of hours that the family member is attending school (with the addition of one hour travel time to and from school) versus the number of hours claimed for childcare. The number of hours for which the childcare deduction is allowed shall not exceed the school and travel time.
- c. Childcare to seek employment: The deduction for childcare to seek employment must not exceed the Annual Adjusted Income of the family member seeking employment. The deduction does not include transportation costs, or other expenses incurred, and are limited to one (1) year per individual.

To claim the deduction, verification from the childcare provider must include the name, address, and phone number of the company or individual childcare provider, the names of the children being cared for, the number of hours for which childcare is provided, the rate of pay, and the typical yearly amount paid (taking into account school and vacation periods).

Verification from the job seeker must include documentation from an employment service agency and/or written verifications of interviews from potential employers.

Childcare expenses must be “reasonable” and may not exceed the amount of employment income that is included in annual income. HACEP will make a determination as to what is a reasonable rate for childcare based on local conditions and rates. HACEP will obtain information from the social services agency that certifies childcare providers, day care centers, federally funded after school programs, etc., and determine a scale of reasonable costs. The maximum allowable amount will be that charged under the agency fee schedule (see Section 8.M.1).

If the family has school age children who require care only before and/or after school hours, HACEP will consider payment for before and/or after school activities to be a reasonable expense in lieu of individual childcare.

At annual certification HACEP will determine the total anticipated childcare expense for the employed family members (including increases for care need during school breaks and summer vacations for school age children) and average the amount over 12 months. Should there be a significant variation from the estimated amount the family may request an interim certification adjustment.

If childcare is required to allow one or more family members to be employed, the amount of the childcare expense may not exceed the total of earned income received by all family members. The amount of childcare expenditure must be reasonable if the purpose of the childcare is to allow a family member to actively seek employment or to further his or her education.

To qualify for childcare deductions under the provision of actively seeking employment, the family member may be a participant in an official job search program or may simply demonstrate independent job search activities. In either case, in order to verify the time spent in seeking employment, HACEP will require the family to maintain a log that reflects the following:

- The date and time of departure from home (including time needed to drop off children for childcare, if provided outside the home);
- The name and location of the prospective employer, unemployment office or employment agency;
- The name of the person(s) contacted and telephone number;
- The length of time for completion of the application, the interview, testing or other job search activity;
- The time the children are picked up and the time arrived at home;
- The name, address, telephone number and social security number of the childcare provider; and
- The total amount paid for the childcare.

If multiple applications are placed or interviews are held consecutively or on the same day, the above information should be provided for each prospective employer or agency. HACEP will use this information to verify the contacts and the eligibility of childcare expenses. Since job search activities may be irregular and not easily anticipated, HACEP may attempt a limited inclusion at the annual certification and conduct an interim

examination after some actual expenditures have been incurred. In many instances, job search periods will be of limited duration, but in some cases the job search period may be extended, especially if the type of employment sought is limited in availability, employment opportunities of any kind are scarce or the job skills needed are unusual.

To qualify for childcare deductions under the provision of furthering education, the family member must demonstrate that they are enrolled in some accredited or approved educational or training program. While the type of educational effort may vary widely and be either full-time or part-time, evidence of regular participation will be required and verified by HACEP. Furthering education can include but is not limited to; completing high school or equivalency (General Educational Development - GED), trade school, Community or Junior College, four-year College, technical schools, English as a Second Language (ESL) or basic education classes, apprenticeship programs, certificate programs, clerical school and even independent study, if the family member must access on-line educational programs out of the home. The family member must provide and HACEP verifies information on the type of educational program, the number of units or hours of participation, the name of the educational institution or training facility. HACEP will allow childcare expense coverage to include pick-up and drop-off of children at the provider's location. HACEP will also evaluate expenses which may exceed the norm if childcare must be provided evenings, nights or week-ends for either educational or employment purposes.

HACEP will review the work hours or educational hours to assure that the combined employment or education hours plus pick-up/drop-off times are within a reasonable timeframe (generally determined to be no more than one hour before or after scheduled work hours or class times). Exceptions may be made for overtime, special seminars or testing, providing HACEP can verify the extended times.

Childcare expenses may be divided between two households in cases of split custody. If only one custodian is an assisted family, the cost of childcare will be pro-rated based on the percentage paid by each custodial parent. The cap on eligibility for childcare expenses allowed the assisted family would still be based on the earned income limitation.

One or more family members can engage in qualifying activities for childcare purposes as long as the limitations of reasonable expenses for job search and education and expenses not exceeding earned income for employment are applied.

The deduction for childcare is not given if an agency or person outside the household reimburses the expenses.

6. Extraordinary Childcare Expenses: HACEP may allow a deduction for extraordinary childcare expenses for children with disabilities. Such expenses can include diapers, special dietary formulas, medical equipment, cleaning supplies, etc. The maximum allowable deduction cannot exceed an amount equal to the cap for childcare. The expenses must be verified with receipts and a medical provider's statement as to the necessity for the expense.

H. Minimum Rent

HACEP has adopted a minimum rent of \$25.00.

1. The minimum rent requirement may be waived due to certain financial hardships. The request for minimum rent hardship must be made in writing to HACEP prior to the rent becoming delinquent. HACEP will verify whether the hardship claimed is temporary or long term. Payment of the minimum is suspended immediately for 90 days when a

hardship is requested on one of the following conditions:

- a. The family has lost eligibility or is awaiting an eligibility determination to receive federal, state or local assistance, including a family having a non-citizen household member lawfully admitted for permanent residence and who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996;
- b. The family income has decreased due to changed circumstances such as loss of employment, separation, divorce, and abandonment;
- c. The family would be evicted as a result of imposing the minimum rent requirement;
- d. There has been a death in the family; or
- e. There are other hardship situations determined by HACEP on a case-by-case basis, i.e. alimony, child support, etc.

Financial hardship exemption only applies to payment of minimum rent - not to rent based on the statutory formula for determining the Total Tenant Payment (TTP) or Flat Rent in the public housing program. A Request for Hardship Exemption Form shall be completed and signed by the Head of Household requesting the exemption, and shall be submitted for approval by the Area Supervisor and the Director of Public Housing.

2. If tenant initiates a request for a hardship exemption that HACEP determines is temporary in nature:
 - a. Rent may be suspended, during the 90-day period beginning on the day the request is made. At the end of the 90-day period, the minimum rent is reinstated retroactively to the date of suspension.
 - b. HACEP will allow the family a maximum of six (6) months to make payment of any delinquent minimum rent payments accrued during the suspension period. However, the family must execute a Repayment Agreement.
 - c. The family may not be evicted for non-payment of rent during the 90-day suspension period.
 - d. If the hardship is subsequently determined to be long-term, HACEP will retroactively exempt residents from the minimum rent requirement for the 90-day period.
3. If the circumstances supporting the request for a minimum rent hardship exemption are long term, tenant's rent will be based on the statutory income-based rent calculation formula during the minimum rent exemption period.
4. Hardship determinations are subject to HACEP's Informal Hearing process and families are exempt from any escrow deposit that may be required under regulations governing the hearing process for other determinations.

I. Prorated Assistance for "Mixed" Families

1. Applicability

Prorated assistance must be offered to any mixed applicant or participant family. A mixed family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible members.

Mixed families that were a participant on June 19, 1995 and do not qualify for continued assistance must be offered prorated assistance. Mixed family applicants are entitled to prorated assistance. Families that became mixed after June 19, 1995 by addition of an ineligible member are entitled to prorated assistance.

2. Prorated Assistance Calculation

Prorated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying by the percent of the family members who actually are eligible. Total Tenant Payment is the gross rent minus the prorated assistance.

J. Zero Income Families

Families reporting no family income will be asked at application and re-certification how the family pays for necessary living expenses. If it is determined that the family is receiving regular monetary or non-monetary contributions and/or gifts from non-household members, the value of these gifts will be annualized to estimate income.

If it is determined that the family receives no income from gifts, contributions, or any other source, the family will be required to complete, sign, and date a statement of zero family income. Such families will be required to maintain all receipts for any expenses (e.g., food and clothing, utility bills) for the most recent three (3) months. This amount, excluding any food stamps or HACEP Utility Allowance payments, will be annualized to determine annual income. Zero income families will be reevaluated every 30 days to determine if there are any new sources of income. The reevaluation may include an inquiry to the Department of Labor.

1. If a family reports that it does not have an income, all adult members will be required to sign a no income affidavit, and answer all questions on a zero income questionnaire and execute a temporary 30-day recertification.
2. Family members 18-25 years of age who are attending school full-time may not be required to report income status every 30 days.
3. Where outside sources are paying bills or donating household goods on a regular basis, the value of these contributions will be included as annual income.

SECTION 10. NOTIFICATION OF ELIGIBILITY

After completing the screening process, HACEP will, in writing, promptly notify applicants, both ineligible and eligible, of the results of the screening. This will be done as follows:

A. Ineligible Applicants

HACEP will promptly notify, in writing, any applicant determined to be ineligible for admission to a development of the basis for such determination within 10 business days, and will provide the applicant, upon request, an opportunity for an informal review on such determination.

1. Informal review for denial of admission due to ineligibility, other than non-citizen eligibility:
 - a. If HACEP determines that an applicant does not meet the criteria for receiving a preference, HACEP will provide the applicant with written notice of the determination within 10 business days.
 - b. The notice will contain a brief statement of the reasons for the determination, and will state that the applicant has the right to meet with HACEP's designated person to review it.
 - c. If the meeting is requested, it will be conducted by a person or persons designated by HACEP. Those designated may be an officer or an employee of HACEP, other than the person who made or reviewed the determination, or his or her subordinate.
 - d. The policies will be carried out in accordance with HUD's requirements.
 - e. The applicant may exercise other rights if the applicant believes that he or she has been discriminated against on the basis of race, color, religion, sex, national origin, age, familial status, or disability.
2. Informal Hearing Policies for Applicants Denied Assistance for Non-Eligible Immigration Status.
 - a. Requests for an informal hearing will be personally presented either orally or in writing, to HACEP's administrative office so that the grievance may be discussed informally.
 - b. The applicant shall be provided a hearing before any person(s) designated by HACEP (including an officer or employee of HACEP), other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.
 - c. The applicant 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 HACEP pertaining to the applicant's eligibility status, or in the possession of the U.S. Citizenship and Immigration Services (CIS), as permitted by CIS requirements, including any records and regulations that may be relevant to the hearing.
 - d. 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.
 - e. The applicant shall be provided the opportunity to controvert evidence relied upon by HACEP and to confront and cross-examine all witnesses on whose testimony or information HACEP relies.
 - f. 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.

- g. The applicant shall be entitled to arrange for an interpreter to attend the hearing, at the expense of the the family or HACEP, as may be agreed upon by both parties.
- h. The applicant shall be entitled to have the hearing recorded by audiotape (a transcript of the hearing may, but is not required to be provided by HACEP).
- i. HACEP shall provide the applicant with a written final decision, based solely on the facts presented at the hearing within 14 business days of the date of the informal hearing. The decision shall state the basis for the determination [24 CFR 5.514(f)(3)]
- j. A decision against a family member, issued in accordance with 24 CFR 5.514(d) does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.
- k. If the family chooses not to continue to contend eligible immigration status, the family may be offered prorated housing assistance, if at least one family member is a U.S. citizen or has eligible immigration status (not a non-citizen student).

B. Eligible Applicants

When a determination has been made that an applicant is eligible and satisfies all requirements for admission, including the resident selection criteria, the applicant will be notified, in writing, of the approximate date of occupancy insofar as that date can be reasonably projected.

C. Resident Orientation

Eligible applicants selected for admission will be required to participate in an orientation program which may include viewing of videos and presentations to acquaint new resident families with the policies herein; the Lease Agreement; maintenance procedures; services provided HACEP; Grievance Procedures; resident rights, responsibilities and obligations; and the operation of heating, cooling, and plumbing equipment in the units. See also Section 14.E.

SECTION 11. TYPES OF DEVELOPMENTS AND REQUIREMENTS

Housing Authorities typically have several types of housing developments and dwelling unit sizes. Admission requirements for these may be different. The following outlines requirements for general occupancy developments, developments for the elderly, and units designed for persons with disabilities.

A. General Occupancy Developments

1. HACEP will not give elderly families or non-elderly families a preference over single applicants for admission to general occupancy developments.
2. An elderly family that wants to, or needs to, be admitted to a general occupancy development must be considered on the same basis as any other family.
3. If units of appropriate sizes are available in both a general occupancy development and a development for the elderly, elderly families with children or young disabled family members may choose to be housed in the general occupancy development. For example, the general occupancy development might have other children, a playground, etc.

B. Mixed Population Developments

1. Preference for Elderly Families

Unless HACEP has obtained HUD approval to designate certain developments or portions of developments for the elderly and/or disabled, HACEP may not limit occupancy of certain units to those groups. If a non-elderly, non-disabled applicant is next on the waiting list and the unit available is located in a development originally built for elderly/disabled but not designated, HACEP must offer that unit to the applicant, even if the family includes children, as long as the composition and size of the family meets HACEP's occupancy standards.

Elderly and non-elderly disabled families may receive preference over non-elderly families in mixed population developments.

Elderly and non-elderly disabled families will not receive preference in general occupancy developments.

2. Selection Preference for Mixed Population Developments

- a. HACEP is required to give preference to elderly families and disabled families equally in determining priority for admission to mixed population developments. No limit will be established on the number of elderly or disabled families who may be accepted for occupancy in such developments.
- b. When offering units in mixed population developments, HACEP will first offer units with accessible features to persons with disabilities who require the accessibility features of the unit.

3. Discretionary Preference for Near Elderly Families in Mixed Population Developments

A near elderly person(s) is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons, who are at least 50 years of age but below the age of 62, living with one or more live-in aides.

- a. In no event will HACEP admit a near elderly family to a development for elderly families if there are eligible elderly families on HACEP's waiting list that would be willing to accept an offer of a suitable vacant unit in a mixed population development.
 - b. When HACEP determines that there are not enough elderly families to fill all of the units that are currently vacant or expected to become vacant within the next 12 months, HACEP will give near elderly families a preference for admission to mixed population developments.
 - c. Before electing to give near elderly families such a preference, however, HACEP will conduct outreach to attract eligible elderly families, including:
 - (1) Those groups that historically have been the least likely to apply; and
 - (2) Where appropriate, elderly families residing in general occupancy developments.
 - d. If HACEP elects to give near elderly families a preference for admission to a mixed population development, HACEP will apply the preference when it selects applicants for admission from among near elderly families.
4. Discretionary Preference for Near Elderly Single Persons in Mixed Population Developments
- If a near elderly applicant is a single person, as that term is defined in HUD regulations, the near elderly single person is given a preference for admission over other single persons to mixed population developments.
5. HACEP will not set a minimum age (such as 50 or 55) for the admission of persons who are disabled to mixed population developments.
6. HACEP will not exclude families with children from mixed population developments, provided such developments have dwelling units of the appropriate sizes for such families.

C. Units Designed for Persons with Disabilities

1. Without incurring vacancies, HACEP will make every reasonable effort to provide dwelling units that are specially designed for family members with a physical disability who require such units.
 2. HACEP may provide a dwelling unit designed for the disabled to a family that includes a mobility impaired person (such as a child or a grandparent who uses a wheelchair) even though the family head or spouse is not disabled.
 3. When there are not enough disabled applicants to fill units especially designed for such persons, non-disabled applicants may be offered such units. However, it must be made clear to the family that when another unit becomes available which meets the family's needs, they will be required to move if the accessible unit is needed for a family with a member who has a disability. The Residential Lease Agreement reflects this requirement.
 4. Should there be a disabled applicant or resident needing a unit with special features, that applicant/resident will be offered the unit prior to transferring a family or individual who is over-housed or under-housed.
5. A vacant accessible unit will be offered:

- a. First, to a current resident in the same project with disabilities requiring the accessibility features of the vacant unit and occupying a unit not having such features, or, if no such occupant exists; then
- b. Second, to a resident of a different project with disabilities requiring the accessibility features of the vacant unit and occupying a unit not having such features; and
- c. Third to the next qualified applicant on the waiting list having a disability requiring the accessibility features of the vacant unit.

D. Designated Elderly/Disabled Family Housing

The PHA will give priority for occupancy of the designated housing development units to designated families.

1. If there are an insufficient number of elderly families to fully occupy the units in the designated development, the PHA may make units available to near elderly families, who qualify for preference.
2. If there are an insufficient number of elderly and near elderly families to fully occupy the units in the designated development, the PHA shall make available to all other families any dwelling unit that is:
 - a. Ready for re-rental and for a new lease to take effect; and
 - b. Vacant for more than 60 consecutive days.
3. If any disabled family or elderly family chooses not to occupy or accept occupancy in a designated development there will be no adverse affect on:
 - a. The family's admission to or continued occupancy in public housing; or
 - b. The family's position on or placement on a public housing waiting list.

E. HACEP is using mixed financing, including HOPE VI, for the revitalization of Alamito, and will use mixed financing for other HACEP activities. This mixed financing will include, but not be limited to tax credit, tax exempt bond financing for mixed income development and public housing units. Tenants in any development that has been financed by tax credits or other mixed financing will be required to meet all eligibility requirements as set out by applicable Federal law and regulations, as well as IRS Section 42 and HUD Handbook 4350.3.

F. See Appendix C for List of Developments or Sites by Type.

SECTION 12. MIXED-FINANCE/HOPE VI ALAMITO TERRACE & ALAMITO GARDENS

- A. HACEP participates in Mixed-Finance transactions which include HOPE VI Alamito Terrace and Alamito Gardens, and anticipates using mixed financing for other HACEP properties. This mixed financing will include, but not be limited to tax credits, tax exempt bond financing for mixed income development and public housing units.
- B. LIHTC Program. The Low Income Housing Tax Credit Program, as set forth in IRS Section 42 of the United States Code and the Tax Credit Restrictive Covenant/LURA.
- C. Tenants in any development that has been financed by tax credits or other mixed financing will be required to meet all eligibility requirements as set out by applicable Federal law and regulations, as well as IRS Section 42 and HUD Handbook 4350.3.
- D. Mixed-Finance properties and the occupancy rules for these properties are subject to restrictions as required by IRS Section 42, TDHCA (including the tax credit application), the Land Use Restriction Agreement, the Extended Use Agreement, and the project documents including but not limited to the Regulatory & Operating Agreement, as well as HUD rules.
- E. Income at the time of admission should not exceed the more restrictive of the income limits for occupancy established by the Department of Housing and Urban Development (HUD), and posted separately in HACEP offices, or the Low Income Housing Tax Credit Program ("LIHTC Program"), as set forth in IRS Section 42 of the Internal Revenue Code of 1986, as amended (the "Code") and the TDHCA Indenture of Restrictive Covenants ("Tax Credit Restrictive Covenants"), which is 50% of area median income, as determined by HUD and adjusted for family size.
- F. Flat Rent. Rent which a tenant can elect to pay for a public housing unit, and which is based on the rental value of the unit (as determined by comparable units in the private unassisted rental market) and designed so as to create a disincentive for continued residency by families who are attempting to become economically self-sufficient through employment or who have attained a level of self-sufficiency through their own efforts.

In no event will the Flat Rent exceed the permissible rent under the LIHTC Program or such lower amount as may be required by TDHCA. [24 CFR §960.253(b)].

- G. Change in Formula. Rent formulas or procedures are changed by Federal Law or regulation or as a result of the implementation of an Action Plan, as described in the Regulatory & Operating Agreement between Owner and HACEP.
- H. Decrease in Operating Subsidy. Notwithstanding anything to the contrary in this Policy, in the event that the operating subsidy provided to HACEP by HUD (and thereafter to Owner by HACEP) is substantially decreased, then subject to certain interim remedies provided in the Regulatory and Operating (R&O) Agreement between HACEP and the Owner concerning the Development, HACEP and the Owner shall develop and implement an Action Plan.

Such Action Plan shall be designed to eliminate any payment Shortfall (as defined in the R&O) while maximizing the availability of public housing units for low-income and very low-income families and minimizing the adverse effects on existing tenants.

The Action Plan will include revisions in the rent structure for the public housing units that may require some households to pay more than the Income-Based Rent, or the Flat Rent provided herein, and may impose a higher Minimum Rent than provided herein. The Owner shall give each tenant household written notice of any new rent structure, which shall be effective no sooner than 30 days following such notice.

SECTION 13. STANDARDS FOR OCCUPANCY AND RESIDENCY

HACEP’s Occupancy Standards specify the minimum and maximum number of household members who will be permitted to occupy dwelling units of various sizes, depending on family size, composition and extenuating circumstances, such as the ages, sexes, and disabilities of household members. The standards take into consideration the need to assign a unit with the smallest number of bedrooms that will avoid overcrowding the unit or development and minimize vacancies. The occupancy standards are as follows:

1. The Occupancy Standards described below take into consideration the minimum number of occupants for admission and the maximum number of persons for continued occupancy based on an occupancy standard of two (2) persons per bedroom.

No. of Bedrooms	Minimum No. of Persons	Maximum No. of Persons
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8
5	5	10
6	6	12

2. Units will be assigned so that persons of the opposite sex, other than husband and wife, will not be required to occupy the same bedroom, except for minors under the age of six (6) years. Minors older than three (3) years of age may share the same bedroom with an adult of the same sex, at the discretion of the family.
3. Every family member, regardless of age, will be counted as a person. For the purpose of establishing the unit size for a family, an unborn child will not be counted as a member of the family household.
4. Normally, two (2) persons will be assigned to each bedroom. Persons of opposite sex six (6) years of age or older will not be required to occupy the same bedroom, except where no unit of a suitable size is available for transfer of the family.

HACEP will continue to recognize children of the opposite sex 6 (six) years of age and younger as its official standard for the sharing of bedrooms.

5. Living room space may be used for sleeping purposes, at the request of the family.
6. A live-in aide who is not a family member normally will be provided a separate bedroom.
7. As a disability or health-related accommodation, a separate bedroom may be provided for individual family members, as verified by a medical professional and approved the HACEP Equal Opportunity Compliance Officer.

8. For reasons of health (old age, physical disability, etc.), a separate bedroom may be provided for individual family members, as verified by a medical professional.
9. When HACEP determines that a family is over-housed or under-housed according to the above standards, HACEP will require the family to transfer to a unit of the appropriate size. Transfers of this nature will be effective prior to voluntary or family requested transfers.
10. Foster children will be counted as family members in determining the number of bedrooms to be assigned.
11. If HACEP is unable to fill units with families of appropriate sizes and types, it will house eligible families of the most nearly appropriate sizes on a temporary basis. Each such family will be informed, before moving in, of the Dwelling Lease Agreement "to transfer to an appropriate size dwelling unit, based on family composition, upon appropriate notice by PHA that such a dwelling unit is available."
12. Exceptions to the minimum standards will be made if they are necessary to provide reasonable accommodation for a person with disabilities.
13. A single head of household shall not be required (but may choose) to share a bedroom with his/her children.
14. Additional bedrooms are not provided for visitors or guests. See part B.8 & 9 of this Section concerning adult visitors and overnight guests. Residents will be allowed to have visitors for a period of up to 14 days in any 12-month period, except in the case of a family member requiring care during illness or recuperation from illness or injury as certified by a medical professional. Written permission must be obtained from HACEP for any deviation from the Occupancy Standards included in this policy which may result from the presence of the temporary caregiver in the unit.
15. **IMPORTANT:** The maximum and minimum number of persons per unit shall be discussed with each applicant family. Families will also be informed about the status and movement of the various waiting lists and sub-lists maintained by HACEP. Families will be asked to declare in writing the waiting list on which they wish to be placed. If a family opts for a smaller unit than would normally be assigned under the standard (because, for example, the list is moving faster), the family will be required to sign a statement agreeing to occupy the unit assigned at their request until their family size or circumstances change. HACEP shall change the family's sub-list at any time while the family is on the waiting list at the family's request.

B. Residency Standards

At times, situations may arise that result in the temporary or permanent absence of a family member or members from the household, or the addition of persons to the household. Such situations will be handled in the following manner:

1. Absence of Children for Foster Care. In instances in which the children have been removed from the home by a social service agency, the agency will be contacted to determine the approximate length of time the children are expected to be away from the home.
 - a. If the agency indicates that the children are expected to return to the home at some point during the next 12 months, the children will remain a part of the family composition and will be counted in determining the family's unit size.

- b. If the children are not ever expected to be returned to the home, the children will be removed from the family composition and the family's unit size may be reduced accordingly.
 - c. If the agency indicates that it is unknown whether the children will be returned to the home, the children will remain a part of the family composition.
 - d. Oral conversations with the social service agency must be thoroughly documented in the family file, including the date of contact, name and title of contact person, name of agency, and telephone number and the details of the conversation.
2. **Absence of Single Parent; Use of Caretaker Adult.** When a single parent leaves the household for an extended period as a result of imprisonment, hospitalization, military service, etc., and another adult moves into the home to care for the children, the rental assistance will not be terminated. The family composition will be modified to include the name of the caretaker as head of household. The caretaker's income will not be included in the family income. The single parent's name shall be temporarily removed and the file documented to explain the circumstances. When the parent returns to the unit, the caretaker may leave or remain in the household. If the caretaker remains, his/her income will be included in the calculation of family income.
 3. **Absence of Head of Household, Spouse or Co-head Due to Military Service or School.** If the head of household, spouse or co-head is absent from the home to serve in the military or attend school, rental assistance will not be terminated. The income will be included in the calculation of family income. However, income received as a result of special hazardous duty pay when exposed to hostile fire will not be included.
 4. **Absence of Other Family Member Due to Military Service or School.** If a family member other than the head of household, spouse or co-head is absent from the home to serve in the military or attend school, the family has the option of considering the person permanently absent (income not counted; not on lease) or temporarily absent (income counted; on lease). Income received as a result of imminent danger pay when exposed to hostile fire will not be included.
 5. **Absence Due to Hospitalization of Sole Family Member.** When the family consists of only one member and that person leaves the home to go into a hospital or nursing home for a period of more than three (3) months, the assistance will be terminated. If a medical source documents that the person is expected to return to the unit in 90 days or less, the person shall continue to receive assistance, provided the person maintains the rent current. If the person is not back in the unit within 90 days, assistance will be terminated. However, if the person subsequently recovers at any time in the future, assistance may resume without the person having to reapply or be placed on a waiting list, provided, however, the person maintains the rent current. Hospitalization will not necessarily abate any eviction action already pending at the time of hospitalization. In any event, the tenant is obligated for rent payments during any absence.
 6. **Absence of All Household Members.** If all members of the household are absent for 30 days without prior notice to management, the unit will be considered abandoned and processed in accordance with the Lease Part II 18 and the ACOP Section 23 T.

If all members of the household are absent for 30 days without prior notice to management, the unit will be considered abandoned and processed in accordance with the Lease Part II. 18 and the ACOP
 7. **Addition of Adults.** Any addition of adults (individuals 18 and older) to the household, including live-in aids, require advance written approval of HACEP. Such approval may

be granted only if the new family member passes HACEP's admission screening criteria and a dwelling unit of the appropriate size is available.

8. **Overnight Guests.** These guests are permitted in a dwelling unit in accordance with HACEP's policies on Guests/Visitors so long as they have no previous history of behavior on HACEP's premises that would be a lease violation.
9. A guest is a person who is allowed by any family member to stay overnight for not more than 14 days per 12 month period and with prior written approval from the property manager. Exceptions may be granted by HACEP if the guest is providing care for a household member with a long-term illness. Documentation from the family member's medical provider shall be required. Adults exceeding this limit must be approved by the HACEP before being considered a family member and added to the lease. Addition of such person may not be approved if they cannot be accommodated within the existing Occupancy Standards limit for the unit.
10. **Unauthorized Dweller.** An unauthorized dweller is a person who, with the consent of a tenant, is living in the unit, and is not listed on the lease documents or approved by HACEP to dwell in the unit.
11. **Addition of Children.** Biological newborn family members may be added to the Lease without prior approval. However, tenants must notify HACEP of the addition within 10 calendar days of the child's arrival in the unit. Addition of non-biological, foster and biological children may be made provided the family has the written approval of HACEP, and of the court (in the case of foster children), the child's legal guardian, custodial parent, or pursuant to a child custody court order.
12. **Child Visitors.** Children under the age of 18 may visit a unit for a maximum of 90 cumulative (total) days per 12 month period without being added to the lease, provided the family has the written permission of HACEP, and of the child's legal guardian or custodial parent; or pursuant to a child custody court order.
13. **Joint Custody of Children.** Children who are subject to a joint custody agreement but live in the unit at least 51% of the time will be considered members of the household.
14. **Babysitting.** Children who are in a unit for purposes of babysitting are not considered part of the family. "Babysitting" means the child is dropped off and picked up on a daily basis.

C. **Live-in Aide**

A live-in aide is a person who resides with one or more elderly or near elderly persons or persons with a disability and who:

- Is determined to be essential to the care and well-being of the person(s);
 - Is not obligated for the financial support of the person(s); and
 - Would not be living in the unit except to provide the necessary supportive services.
1. Adult sons, daughters or other relatives can be designated as a live-in aide, and would have their income excluded if they can demonstrate that they otherwise would be living elsewhere. Verification would involve a determination regarding whether the person previously lived outside the unit and moved back solely to take care of the family member, or has not resided in the unit for at least 90 days.
 2. The need for live-in aide services must be verified from qualified medical, health or social services/rehabilitation specialists. A verification form must be completed and signed by a

medical care/social service/rehabilitation specialist, and shall become part of the resident file.

3. The PHA should verify residency of the live-in aids as being elsewhere through prior landlords, rental agreements or leases, rental receipts, utility bills in the attendant's name for another address, driver's license or other government issued ID, etc.
4. Live-in aides are not remaining members of a resident family and must vacate the unit if the person they care for vacates.
5. Live-in aides should have their own bedroom and may have family members live with them provided that HUD will not increase the operating subsidy by the cost of additional bedrooms and the presence of the live-in aide's family does not cause overcrowding.
6. Live-in aides are not considered residents and are not eligible for membership in resident associations.

D. Deceased Tenants

1. Deceased Single Member Households. HACEP will immediately terminate program assistance for deceased single member households. In the event of the death of a single member household, HACEP will notify the next-of-kin or the person identified by the tenant as the person to be contacted in the case of an emergency. If no individual has been named by the tenant, HACEP will make a good-faith effort to identify and contact the next-of-kin. If no individual can be located or identified, HACEP will contact the appropriate authorities and transfer the deceased to the care of said authorities. The belongings of the decedent will be held in storage for 30 days while the decedent's agent or next-of-kin, if any, is notified, and will be released to said individual. If no one is available, or HACEP is advised in writing by the decedent's agent or next-of-kin that the decedent's belongings are to be disposed of by HACEP, HACEP will dispose of the items as abandoned property pursuant to the terms of the lease.
2. Deceased Head of Household & Remaining Minor Household Members. HACEP will allow an adult caretaker to become the head of household provided the new head of household meets eligibility requirements for public housing.

SECTION 14. OFFERING THE UNITS (TENANT SELECTION AND ASSIGNMENT PLAN)

As dwelling units become available for occupancy, responsible HACEP employees will offer units to applicants on the waiting list. In accordance with the Quality Housing and Work Responsibility Act of 1998 (QHWRA), HACEP encourages occupancy of its developments by families with a broad range of incomes. At a minimum, 40% of all new admissions on an annual basis will be families with incomes at or below 30% (extremely low-income) of the local area median income (See Appendix D for Income Limits). The offer of assistance will be made without discrimination because of race, color, religion, sex, national origin, age, disability or familial status.

No family other than a low-income family, as defined in regulations, is eligible for admission to Low-Rent Public Housing units. In any given year, at least 40% of a PHA's admissions to the Public Housing Program will be extremely low-income families. This percentage of admissions of extremely low-income families to the Public Housing Program may be decreased by up to 10% when more than 75% of extremely low-income families are admitted to the HCV program in HACEP's fiscal year. The percentage of extremely low-income families admitted to the Public Housing Program can never be less than 30% in a fiscal year. [24 CFR 960.202(b)(iii)(2)]

The credit for Voucher program admissions that exceed the minimum Voucher program targeting requirement shall not exceed the lower of:

- 10% of public housing waiting list admissions during HACEP's fiscal year; or
- 10% of waiting list admission to HACEP's Section 8 tenant-based assistance program during HACEP's fiscal year; or
- The number of qualifying low-income families who commence occupancy during the fiscal year of HACEP's public housing units located in census tracts with a poverty rate of 30% or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

The offers will be made in the following manner.

To the maximum extent feasible, the de-concentration and income-mixing requirements of the QHWRA will be followed. Families with incomes ranging from 0% to 80% of median income will be selected in accordance with their preferences and priorities. Families with the highest incomes will be offered units in developments where average family incomes are lowest. Conversely, families with the lowest incomes will be offered units in developments with the highest average family incomes. HACEP may offer incentives to families to accomplish the de-concentration and income-mixing objectives.

HACEP may employ a system of income ranges in order to maintain a resident body composed of families with a range of incomes and rent paying abilities representative of the range of incomes among low-income families in HACEP's area of operation, and may take into account the average rent HACEP or the individual property should receive to maintain financial solvency. HACEP's selection policies are designed so that selection of new public housing residents will bring HACEP's actual distribution of rents closer to the projected distribution of rents.

HACEP will select, based on date and time of application and preferences, two (2) families in the extremely low-income category and two (2) families from the lower income category (31% to 80% of area median income) alternately until the 40% admission requirement of extremely low-income families is achieved (2 plus 2 policy).

After the minimum level is reached, all selections will be made based solely on date, time and preferences. Any applicants passed over as a result of implementing this 2 plus 2 policy will retain their place on the waiting list and will be offered a unit in order of their original placement on the waiting list.

Applicants may select more than one property at which they would like to live, however, only one offer will be made (not one offer at each location). Unless the applicant has good cause for refusing the offer, the applicant will be removed from the waiting lists of all properties selected.

Mixed-Finance properties with vacancies shall be placed at the top of vacancy lists, and those vacancies shall be the first offered until the mixed-finance property is leased up.

The applicant must accept the vacancy offered within 48 hours of the date the offer is communicated (by phone, mail or other method of communication designated by the applicant) or be withdrawn from the waiting list. A letter will be sent to the applicant confirming any offer made by telephone. If HACEP is unable to contact the applicant by phone, HACEP will send a letter via first class mail.

- A. When leasing a vacant dwelling unit, the PHA will offer the unit to applicants on the waiting list in sequence, until someone accepts it, in accordance with the PHA's local preferences or the date and time of application.
- B. When the final offer is rejected or the applicant fails to respond, the application will be withdrawn from the waiting list and the applicant will be required to reapply.
- C. If more than one unit of the appropriate size and type is available, the first unit to be offered will be the unit that will serve to achieve the PHA's goal of economic de-concentration.
- D. The applicant will not be considered to have been offered a suitable unit if:
 1. The unit is not of the proper size and type, and the applicant would be able to reside there only temporarily (e. g., a specially designed unit that is awaiting a disabled applicant needing such a unit).
 2. The unit contains lead-based paint, and accepting the offer could result in subjecting the applicant's children who is under six (6) years of age to lead-based paint poisoning.
 3. The applicant is unable to move at the time of the offer and presents clear evidence that substantiates this to the satisfaction of the PHA. Examples:
 - a. A physician verifies that the applicant has just undergone major surgery and needs a period of time to recuperate; or
 - b. A court verifies that the applicant is serving on a jury which has been sequestered.
 4. Accepting the offer would result in undue hardship to the applicant, and such acceptance is not related to consideration of race, color, sex, age, religion, disability, national origin, or familial status, and the applicant presents clear evidence which substantiates this to the satisfaction of the PHA. Examples of this circumstance are inaccessibility to employment, education or job training, children's day care or educational programs for children with disabilities if the move would require a household member to quit a job, education or training program or take the child out of the special program.
 5. A low-income family refuses the offer of a unit in a development with very low-income families or visa versa.
- E. As part of the leasing process and prior to taking occupancy, applicants will be required to view orientation videos and/or presentations on topics related to residing in public housing including, but not limited to,
 - lease requirements
 - housekeeping standards
 - Community Service and Self-sufficiency Requirements

- tenant obligations
- rules relating to the dwelling unit
- rules relating to the community premises
- reporting fraud or illegal activities
- fees associated with tenant related damages to dwelling units

In addition, residents may be required to view the videos/presentations as part of the re-examination process or as needed to help ensure continued compliance with the lease.

SECTION 15. RENTAL FEES AND OTHER CHARGES

The following outlines the policies for calculating rental fees and other charges to be paid by PHA residents.

A. Tenant Rent

The amount of rent payable by the resident to HACEP will be the Tenant Rent, as defined in HACEP's Definitions section of these policies and calculated in accordance with these policies. Each resident family is required to pay a minimum rent of \$25.00, the calculation of which does not include any applicable utility allowance for resident-paid utilities. Should the applicable utility allowance exceed the minimum rent, HACEP will provide the difference to the family or to the utility company(s). HACEP may choose to send the utility reimbursement directly to the utility supplier(s) without the consent of the public housing family that is paying an income-based or minimum rent. HACEP will also notify the family of the amount(s) paid to the utility supplier(s).

Rent is due on the first day of the month. The term "Rent" includes utilities and any applicable maintenance charges. A late charge of \$10.00 will be assessed if rent is received after the 10th day of the month.

All payments received will be applied to any past due or delinquent amounts and remaining payment amounts, if any will be applied to the current billing cycle.

HACEP's policy does not allow acceptance of cash or online bill pay for rent or other charges. Rent and other payments will be accepted only in the form of money orders, cashier's checks, personal checks, or with a draft set up with the Housing Authority. Personal checks and drafts (ACH) will be accepted until more than one (1) Non Sufficient Funds (NSF) check is presented. An NSF fee of \$25.00 will be assessed against the resident's account. The resident will then be required to make payment using money orders or cashier's checks.

Beginning January 1, 2009, all rent payments, along with the payment stub containing the Tenant Number, must be mailed to HACEP's lockbox for processing. An envelope will be included with the billing statement. However, the tenant will be responsible for the cost of appropriate postage.

B. Choice of Rent

1. The family selects the type of rent to pay to HACEP annually from the following options:

- a. Flat Rent: Rent, as determined by HACEP, which is based on the market value of the unit. The market rent is the rent charged for comparable units in the private, unassisted rental market in which HACEP operates and where HACEP could lease the public housing unit after preparation for occupancy. However, flat rents may be less than the rental market value to be an incentive to stay in place.

The Flat Rent calculated for Mixed-Finance properties will in no event exceed the permissible rent under the LIHTC Program or such lower amount as may be required by TDHCA. [24 CFR § 960.253(b)].

HACEP will not pay a utility reimbursement for a family that has chosen to pay a flat rent for its unit. Families choosing flat rents generally will be re-certified once every three (3) years, but HACEP reserves the right to conduct such re-certifications more frequently. Family composition, community service, self-sufficiency and other criteria related to continued occupancy will still be verified annually. (The Table of Flat Rents by unit size, type and development is found in Appendix E.) Note that Annual Inspections of unit conditions shall still be performed.

- b. **Income-based Rent:** Rent which is based on the family's income as determined by HACEP based on HACEP's rent policies, which may specify a percentage of income, include a schedule of rents, involve depositing a portion of the Tenant Rent to an escrow account, imposing a ceiling on Tenant Rents, adopting permissive income deductions, etc. The income-based rent plus any applicable utility allowance will not exceed the Total Tenant Payment (TTP) as determined by the statutory formula.

The income-based rent levels, as adopted by HACEP, will be identified in a separate policy adopted by HACEP's Board of Commissioners and incorporated by reference into this policy.

2. HACEP will provide, through its orientations, individual counseling and written notices, sufficient information to allow families to make an informed choice of rent payment options. At a minimum, families will be advised of the dollar amounts of Tenant Rent for the family under each option and HACEP's policies on switching the type of rent in circumstances of financial hardship.
3. If HACEP determines that the family is unable to pay the flat rent because of financial hardship, HACEP will switch the family's rent from flat rent to income-based rent on the first of the month following verification of the change. Once a family switches from flat rent to income-based rent due to financial hardship, the family must wait until its next annual recertification to be offered the choice of rent again.
4. HACEP has established the following policies for determining financial hardship circumstances:
 - a. The family's income has decreased because of changed circumstances, loss or reduction of employment, death in the family which results in income reduction or funeral expenses; and reduction in or loss of earnings or other assistance;
 - b. The family has experienced an increase in expenses, because of changed circumstances, for un-reimbursed medical costs, child care, transportation, education, or similar items;
 - c. HACEP may include other reasonable financial hardship circumstances which may be applied on a case-by-case basis at management's discretion.
5. HACEP will review the flat rent levels, at least annually, to ensure that the established levels continue to mirror market rent values. This periodic review may result in the flat rents being either increased or decreased. Residents paying flat rents would not have their rent adjusted (up or down) until their annual reexamination or annual update.

C. **Total Tenant Payment (TTP)**

The Income-Based TTP for families shall be the highest of the following, subject to IRS Section 42 and TDHCA rules, regulations and restrictions, rounded to the nearest dollar:

1. 30% of the family's Monthly Adjusted Income; or
2. 10% of the family's Monthly Gross Income; or
3. A minimum rent of \$25.00.

The minimum rent requirement may be waived under certain financial hardships providing that the family requests the waiver in writing prior to the rent becoming delinquent as detailed in Section 9 above under paragraph H "Minimum Rent".

D. Special Reexamination

If, at the time of admission, a family's existing conditions of employment are too unstable to develop the adjusted income into the coming 12-month period for the purpose of determining TTP, HACEP will schedule a special reexamination. This special reexamination will take place within 30, 60, or 90 days of admission, or at a date by which HACEP estimates that the family's circumstances will be stable. If at the time of such special reexamination it is still not possible to make a reasonable estimate of adjusted income, special reexaminations will continue to be scheduled until a reasonable estimate of the adjusted income can be made. Rents determined at special reexaminations shall be made effective the first of the second month following the final rent determination unless the rent determination is a reduction. In that case, the effective date will be the first of the month following the reexamination verification. Until the final rent determination can be made, the family will pay rent based upon the existing adjusted income.

Persons reporting zero income will have their circumstances reexamined every 30 days until they have a stable income. Persons claiming zero income will also be asked to complete a family expense form. This form will ask residents to estimate how much they spend on food, beverages, transportation, health care, childcare, debts, household items, etc. Residents will then be asked how they pay for these items.

E. Policies to Obtain a Hearing Regarding Amount of Rent

1. Before a hearing is scheduled in any grievance involving the amount of rent that HACEP states is due, the family must pay an escrow deposit to HACEP in the amount which HACEP states is due and payable as of the first of the month preceding the month in which the family's act or failure to act took place. After the first deposit, the family must continue to deposit the same amount monthly until the family's complaint is resolved by decision of the hearing officer or panel.
2. HACEP must waive this requirement for escrows concerning the financial hardship exemption of minimum rent or reductions in welfare benefits related to work requirements.
3. Unless HACEP waives the requirement or it meets the criteria of E 2 above, the family's failure to pay the escrow deposit will terminate the grievance procedure.
4. The family's failure to pay the escrow deposit does not constitute a waiver of the family's right to contest HACEP's disposition of the grievance in any appropriate judicial proceeding.

F. Charges In Addition to Rent

1. HACEP Dwelling Lease imposes charges for: 1) the late payment of rent and NSF check charges; 2) security deposits; 3) charges for maintenance and repair beyond normal wear and tear (See Appendix A); 4) charges for the consumption of excess utilities; 5) pet security deposits; and 6) the payment of all court costs, expenses and attorney fees incurred in enforcing the dwelling lease or in recovering possession of the premises, if ordered by the court, unless the resident prevails in such legal action.
2. HACEP will provide basic pest control services without charge to its residents. PHA employees or contractors will perform the services after obtaining any required permit or licenses, or via contract with an authorized, reliable pest control service. If a resident's housekeeping habits are such that insects and/or vermin persist, even after treatment of the dwelling unit by HACEP, then that particular resident may be charged the actual cost of any additional service(s) provided.

3. The security deposit is made upon occupancy and the pet security deposit and/or fee is paid in full prior to the pet being brought into the unit. Arrangements for partial payments of security deposits may be considered on a case by case basis. Partial payments for pet security deposits or fees will not be considered for any reason. Security deposits for a pet are not charged if the animal is determined to be a service animal needed by a person with a disability.
4. The payment of court costs by the resident occurs only when HACEP takes action against the resident and prevails.
5. **Other charges listed above will not be due and payable until two weeks after written notice is mailed or hand delivered to the resident [24 CFR 966.4(b)(4)].**
6. A copy of the work order with charges will be left with the tenant at the time the work order is completed or will be invoiced by HACEP. Invoices and work orders will state that the resident has a right to grieve said charges according to HACEP's established Grievance Procedures.
7. Appendix A contains HACEP's Schedule of Resident Charges.

SECTION 16. SECURITY DEPOSIT

- A. HACEP requires that residents pay a security deposit. The purpose of this deposit is to reimburse HACEP for any resident-caused damage to the dwelling unit, unpaid rent and other unpaid charges when a resident vacates the unit. Requirements concerning deposits are as follows:
 - 1. HACEP currently requires all resident families, to pay a Security Deposit. The Security Deposit shall be the greater of \$200 or one month's Tenant Rent. The Security Deposit and first month's rent must be paid before occupancy occurs. Elderly/Disabled families are required to pay a Security Deposit of \$50.00 plus the first month's rent.
 - 2. HACEP may provide for the security deposit and first month's rent to be paid in a partial payment agreement on a case-by-case basis.
 - 3. The first month's rent shall be paid in full no later than 15 days from the date of execution of the lease. Failure to do so shall result in lease termination.
- B. HACEP will deposit the Security Deposit paid by a resident in a bank or other lending institution. It will maintain full, accurate and detailed accounting records with respect to the Security Deposit paid by each resident.
- C. HACEP will not pay a resident interest on a security deposit.
- D. HACEP will not use the security deposit for any purpose whatsoever while the resident continues to occupy a dwelling unit.
- E. When the resident vacates the premises, HACEP will refund the security deposit to the resident in accordance with state law, provided the following conditions have been met:
 - 1. HACEP and the resident have inspected the dwelling unit and HACEP attests that there are no resident-caused damages, or if there are such damages, the resident has paid HACEP for the cost of the necessary repairs and/or replacements to the dwelling unit.
 - 2. The resident does not owe HACEP rent or other charges.
 - 3. The dwelling unit and all equipment therein have been left reasonably clean and free of all trash and debris.
 - 4. The resident has returned all keys to the dwelling unit and any tools, supplies and equipment borrowed from HACEP.
- F. If a resident dies leaving a security deposit and all of the above conditions prevail, HACEP will dispose of the security deposit in accordance with state laws, rules and regulations pertaining to the resident's estate.

SECTION 17. UTILITY ALLOWANCES

A. General Policy

Allowances for PHA-furnished utilities represent the maximum consumption units (e.g., kilowatt hours of electricity) that may be used by a family occupying a dwelling unit without a surcharge for the excess consumption against the resident based on cost.

Allowances for resident-purchased utilities represent fixed dollar amounts that are deducted from the total Tenant Rent chargeable to a resident who pays the actual utility charges directly to the utility suppliers. (See Appendix B)

The information which follows does not apply to dwelling units which are served by PHA-furnished utilities, unless check-meters are installed to measure the actual utility consumption for the individual dwelling units, except that residents in such units will be subject to charges for the consumption of resident-owned major appliances, or for the optional functions of PHA-furnished equipment such as air conditioners.

HACEP will take the following actions with respect to allowances:

1. For all check-metered utilities, establish consumption allowances for PHA-furnished utilities.
2. For all utilities purchased directly by residents, establish utility allowances for resident-purchased utilities.
3. Maintain a record of the basis on which allowances and scheduled surcharges are established and revised, plus records of any revisions to the allowances and scheduled surcharges. HACEP will make such records available for inspection by residents.
4. Notify all residents of proposed allowances, scheduled surcharges and revisions. Transmit the notice to residents not less than 60 days prior to the proposed effective date of the new allowances, scheduled surcharges or revisions and describe the basis for determining these.

Include in the notice a statement of the specific items of equipment and functions whose utility consumption requirements were included in determining the allowances, scheduled surcharges or revisions. Also include the name and address of the place where HACEP maintains, and residents may inspect, records pertaining to these matters.

5. Provide all residents an opportunity to submit written comments at least 30 days before the proposed effective date of the new allowances, scheduled surcharges or revisions.
6. Maintain the resident comments and make them available for inspection by the residents and HUD.
7. Establish separate allowances for each utility, and for each category of dwelling units that are reasonably comparable in utility usage.
8. Establish allowances for both PHA-furnished utilities and resident-purchased utilities so that they include a reasonable amount of consumption for:
 - a. Major equipment or utility functions furnished by HACEP for all residents, such as a heating furnace and a hot water heater;
 - b. Essential equipment, whether or not furnished by HACEP, such as a cooking stove, range or refrigerator; and

- c. Minor items of equipment furnished by residents, such as toasters, radios and television sets.
9. In establishing allowances, take into account relevant factors affecting consumption requirements, such as the equipment and functions to be covered by the utility allowance; the local climate; design and construction of the housing development; energy efficiency of appliances and equipment; utility consumption requirements of appliances and equipment to be covered by the TTP; insulation, weatherization and other physical aspects of the housing development; and temperature of domestic hot water, size of units; and number of occupants.
 10. Incorporate into the utility allowance the full price of any utility for which the resident pays a fixed price. For example, garbage collection cost.
 11. For dwelling units that are subject to consumption allowances for PHA-furnished utilities and have check-meters installed, establish surcharges for utility consumption in excess of the allowances. Base surcharge on HACEP's average utility rate; compute the surcharge on HACEP's average utility rate; compute the surcharge on either a straight per unit-of purchase basis (such as so many cents per kilowatt hour of electricity) or on a stated block of excess consumption, and describe in the HACEP Schedule of Surcharges the basis for calculating such surcharges.
 12. For dwelling units that are served by PHA-furnished utilities and have no check-meters installed, establish a Schedule of Surcharges. Such schedules indicate the additional dollar amounts residents will be required to pay, on the basis of the estimated utility consumption attributable to resident-owned major appliances or optional functions, such as air conditioning or PHA-furnished equipment. In such Schedule of Surcharges, state the resident-owned equipment or PHA-furnished equipment for which surcharges will be made, and the amounts of such surcharges, based on HACEP's cost of the utility consumption estimated to be attributable to the reasonable use of equipment.
 13. At least annually, review the basis on which the utility allowances has been established, and if necessary to adhere to the above standards, revise the allowances. Include in the review all changes in circumstances, such as the completion of a modernization program, energy conservation measures, and changes in utility rates. Following the annual review, HACEP will adjust the utility allowances if there is a 10% or more change in the rates of one or more utilities.
 14. If a resident's TTP is less than the resident's allowance for utilities, pay the resident a utility reimbursement, i.e., the difference between the TTP and the allowance for utilities. HACEP's present utility allowances, by development, and by bedroom size, are listed in Appendix B.
 15. Utility Reimbursement. HACEP has the option to pay the utility reimbursement to the family or directly to the utility company.
 16. When a resident makes application for utility service in his/her own name, he/she shall sign a third-party notification agreement so that HACEP will be notified if the resident fails to pay the utility bill.
- B. Reasonable Accommodation of Residents with Disabilities

Upon a request from a family that includes a disabled or elderly person, HACEP will approve a utility allowance that is higher than the applicable amount on the Utility Allowance Schedule (Appendix B) if a higher utility allowance is needed as a reasonable accommodation in accordance with 24 CFR Part 8 to make the program accessible to and useable by the family with

a disabled family member.

Residents with disabilities will not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability.

C. Individual Resident Relief from Excess Utility Charges

Requests for relief from surcharges for excess consumption of PHA-purchased utilities, or from payment of utility supplier billings in excess of the allowances for resident-purchased utilities may be granted by HACEP on reasonable grounds. Reasonable grounds may include special needs of elderly, ill or disabled residents or special factors affecting utility usage not within the control of the resident.

The criteria for granting individual resident relief and the procedures for requesting such relief will be adopted at the same time as the methods and procedures for determining utility allowances. Notice of the availability of individual relief will be included in each notice to residents in accordance with A.4. above.

The criteria for granting individual relief and the procedures for requesting relief are at Appendix Q.

SECTION 18. RESIDENTIAL LEASE AGREEMENT (DWELLING LEASE)**A. Residential Lease Agreement Term, Renewal, Modification and Termination**

Each dwelling lease has a 12-month term which will be automatically renewed for all purposes except non-compliance by an adult member with the community service requirements *or if the family exceeds 80% of the Area Median, Income*. HACEP incorporates the regulatory provisions in all leases for dwelling units assisted under the U. S. Housing Act of 1937, as amended, in developments owned by or leased to HACEP and leased or sublet to residents. HACEP can modify the lease, and any other documents referenced therein, at any time during the lease term provided that HACEP provides the required notice to residents and resident organizations and considers their comments before adopting the new dwelling lease. The lease may be modified at any time by written agreement of the resident and HACEP. HACEP may terminate tenancy if the resident refuses to accept a revision to the lease after being given at least 60 days notice of its proposed effect and being allowed a reasonable time to respond to the offer [24 CFR 966.4(I)(2))(iii)(E)].

B. Policies

The dwelling lease policies are implemented for each resident as follows:

1. At admission, for new residents;
2. At the next regularly scheduled reexamination of income, for present residents;
3. Immediately, for any resident so requesting, whose next regularly scheduled reexamination of income is later than six (6) months after the date of adoption;
4. At the time of transfer, for any resident moving from one dwelling unit in a development to any other dwelling unit in a development.

C. 30 Day Display and Comment Period

HACEP will provide at least 30 days written notice to residents and resident organizations of any proposed changes in the dwelling lease. Residents and resident organizations can present written comments on the proposed changes to HACEP during this 30-day period. HACEP will take into consideration all comments before adopting any new lease. If any change in the resident's status results in the need to change or amend any provision of the lease, or if HACEP desires to waive a provision with respect to the resident:

1. The existing lease is to be canceled and a new lease executed, or
2. An appropriate rider is to be prepared and executed by the resident and PHA and made a part of the existing lease.

D. Residential Lease (Dwelling Lease) Agreement Contents

The dwelling lease, executed by HACEP and each adult resident of a dwelling unit, will contain provisions with respect to the following subjects:

1. Description of Parties and Dwelling Unit Rented
2. Household Members and Any PHA-approved Live-In Aide
3. Tenant Rent,
4. Security Deposits
5. Other Charges to Include Maintenance Charges, Late Payment Penalties, and When Charges are Due

6. Lease Term and Renewal
7. Redetermination of Rent and Family Composition
8. Tenant's Right to Use and Occupancy
9. Tenant's Obligations Including Community Service Requirements
10. HACEP Obligations
11. Defects Hazardous to Life, Health, and Safety
12. Pre-occupancy and Pre-termination Inspections
13. Entry of Dwelling Unit During Tenancy
14. Utilities, Services and Equipment Supplied by HACEP
15. Utilities and Appliances Paid by the Tenant
16. Maintenance, Repairs and Services
17. Abandonment and Abandoned Property
18. Parking
19. Notices and Flyers
20. Notice Procedures
21. Termination of Lease and Eviction
22. VAWA Provisions
23. Grievance Procedures
24. Modification of the Lease
25. Accommodation of Persons with Disabilities
26. Warranties and Representation of the Tenant
27. PHA's Commitment to Investigate Misrepresentations and Pursue Remedies
28. Solicitation, Trespassing and Exclusion of Non-residents
29. IRS Section 42 and TDHCA Rules and Regulations, if applicable
30. Remedies under the Mixed-Finance Property's Regulatory and Operating (R&O) Agreement

E. Additional Mandatory Lease Provisions

1. Persons convicted of manufacturing or producing methamphetamine on the premises of public housing will have their assistance **permanently** terminated.
2. Any person residing in public housing identified by HACEP as having fled to avoid prosecution, custody or confinement after a conviction of a felony, and/or in violation of a condition of probation or parole imposed under Federal or State law will have their lease terminated.
3. Any person in the household or guest determined to have tampered with, destroyed or removed batteries from any smoke detector will be charged an administrative charge of \$150.00 plus labor and materials costs. Any second offense will result in the termination of the lease.
4. HACEP will notify the U.S. Postal Service of any family evicted for criminal and/or drug/alcohol abuse.
5. A family without disabilities that is housed in an accessible or adaptable dwelling unit must transfer, HACEP's expense, to a dwelling unit without such feature should a family with disabilities require the dwelling unit.

F. Specific Data Required

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 TTP or Tenant Rent (whichever is applicable), security deposit to be charged, the utility allowances, other charges under the lease, and the terms of occupancy. It shall be explained in detail to the applicant and his/her family before he/she executes the lease. The lease shall be kept current at all times. The Head of

Household of each family accepted as a resident is required to execute a lease agreement prior to actual admission. All household members 18 years of age or older will be required to sign the lease. One copy of the lease will be given to the lessee and the original will be filed as part of the permanent records established for the family.

G. Termination of Lease

Termination of the lease will be in accordance with the provisions of the lease signed by the resident.

H. Violence Against Women Act (VAWA)

1. A resident household shall not be denied public housing or denied recertification solely because it includes a victim of domestic violence, dating violence, or stalking.
2. When a household living in public housing breaks up and domestic violence is a factor, the domestic violence victim will be preferred over the perpetrator if disputes arise regarding which party will retain the public housing unit.
3. If there is a court determination of the family members' respective rights as to the unit, including a determination set out in a domestic violence restraining order, protective order, or injunction, HACEP will follow that determination.
4. When rent for a public housing unit has previously been determined based on the income of an abusive family member who has left the household or been excluded from the household by a domestic violence restraining order, protective order, injunction or other court order, rent for the unit will immediately be adjusted to reflect the household's changed circumstances.

In determining eligibility for public housing, housing assistance to an applicant (male or female) who has been a victim of domestic violence, dating violence, or stalking may not be delayed or denied if the applicant otherwise qualifies for assistance or admission.

5. In order to request an accommodation as it relates to VAWA, an individual needs to certify that he/she is a victim of domestic violence, dating violence, or stalking, and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse. The following items satisfy the requirements to request the accommodation:
 - a. Form HUD 50066 must be completed and submitted with the required documentation within 14 business days from the date requested by HACEP; and
 - b. domestic violence restraining orders, protective orders, or injunctions from any federal, state, tribal, or territorial court documenting an incident or incidents of domestic violence, dating violence, or stalking; or
 - c. criminal court records documenting domestic violence, dating violence, or stalking; or
 - d. police records, records of calls to the police, and records of police visits to the victim's address documenting an incident or incidents of domestic violence, dating violence, or stalking; or
 - e. documentation signed and attested to by an employee, agent or volunteer of a victim service provider, an attorney or medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking, or the effects of abuse, in which the professional attests under penalty of perjury (28 U.S.C. §1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, or stalking has signed or attested to the documentation.

SECTION 19. REDETERMINATIONS

To assure that residency in the community is restricted to families meeting the eligibility requirements for continued occupancy and that such families are charged appropriate rents, the eligibility status and the adjusted income for all residents who are paying income-based rents are to be examined and redetermined at least once every 12 months. Families paying flat rents are to have their family composition, community service, self-sufficiency and other criteria related to continued occupancy, redetermined annually and must be reexamined and have their income redetermined at least every three (3) years. At its option, HACEP may establish a policy requiring redeterminations of families paying flat rents at more frequent intervals, but not more frequently than annually unless the family requests a redetermination based on hardship circumstances. In the event the resident(s) fails to participate in the recertification interview and/or to provide information required by HACEP, HACEP may establish the resident's rent based upon local market rents or actual operating cost, whichever is higher, until the matter is resolved, or HACEP may terminate the resident(s) from the program.

Eligibility status and adjusted income redeterminations shall be performed in accordance with IRS Section 42 and TDHCA rules and regulations. Annual recertifications are required under the lease agreement with the Housing Authority of the City of El Paso, Texas. In cases where a recommendation of lease termination has been submitted, the annual recertification should be conducted. However, no additions or any household member can be deleted as this triggers a new lease.

A. Requirements Applicable to all Residents

The following requirements apply to all residents:

1. Social Security Numbers
 - a. All participants are required to disclose a Social Security Number (SSN)
 - b. Individuals exempt from disclosure include individuals who do not contend to have eligible immigration status; tenants age 62 and over as of 1/31/2010; and tenants who have previously disclosed a valid SSN.
 - c. New household members under the age of 6 and who have not been assigned a SSN will be included as a household member and entitled to benefits (a PIC Alternate ID will be generated). The Head of Household will be provided 90 days to obtain documentation of the SSN. HACEP may extend the time frame for an additional 90 days if unforeseen circumstances outside the control of the Head of Household prevent timely disclosure of the required documentation.
 - d. New household members at least 6 years of age who have an assigned SSN must disclose and provide documentation of the SSN at the time of request to add new household members or during interim reexamination. The new household member cannot be added to the family composition until the family has complied with SSN disclosure and verification requirements. The Head of Household will be provided 90 days to provide documentation of the SSN. The HACEP may extend the time frame for an additional 90 days if unforeseen circumstances outside the control of the Head of Household prevent timely disclosure of the required documentation.
 - e. Failure to provide the required SSN documentation within the timeframes allowed by the HACEP will result in termination of the family's tenancy or assistance of the entire family (24 CFR 5.216 & 5.218 PIH Notice 2010-3).
2. Generally, HACEP will schedule annual reexaminations to coincide with the family's anniversary date. HACEP will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, curing a family's first year in the program, from the effective date of the family's initial examination (admission).

3. Community Service Requirement

HACEP will provide written notice to all applicants and residents of the community service requirement and describe the process to change exemption status of family members. HACEP will determine compliance at least once each 12 months with community service and self-sufficiency requirements. For those residents paying flat rents or market rents, and who are determined to be required to comply with performing community service requirements, an annual review of status will be performed at least 12 months after the initial determination and at least once every 12 months thereafter. Self-certification by residents of compliance is not acceptable; third-party certification must be provided by the entity with whom the resident is performing community service.

Existing documentation will be accepted as evidence of disability and self-certification of inability to perform community service is acceptable; however, disabled family members not yet officially classified as such do not meet the requirements for automatic exemption and are required to provide verification from a medical or service provider of their inability to perform under the community service requirements. The effective date of participation for all non-exempt residents is the date the family executes the lease containing this requirement. It should be noted that new admissions, as well as families in occupancy, are affected by this requirement. As a general rule, the new lease will be executed for new admissions on or after HACEP's fiscal year that begins after October 1, 2003 and for current residents at the time of their annual redetermination or other interim redetermination after that date.

An economic self-sufficiency program is any program designed to encourage, assist, train, or facilitate the economic independence of assisted families or to provide work experience for such families. It includes any work activities as defined in Section 407(d) of the Social Security Act. For purposes of this requirement a combination of Community Service and/or participation in economic self-sufficiency programs may be counted toward the eight (8) hours per month requirement.

HACEP may provide a guidance list of acceptable activities or advance approval of a community service activity to avoid the possibility of refusing to recognize the activity as eligible after the resident performs it. This approval will help to ensure that the activity is not performed under conditions that would be considered hazardous, work that would normally be performed by PHA staff, or work that is otherwise unacceptable. HACEP will not allow a family to build credits toward this requirement by working more or less than 8 hours per month.

The PHA has a separate policy on the Community Service Requirements that is incorporated by reference into this policy (see Appendix O).

Exempted from the Community Service/Self-sufficiency Requirement are:

- a. The elderly, age 62 years of age or older, blind or disabled as defined under law and who are unable to comply;
- b. The primary caretakers of such elderly, blind or disabled individuals;
- c. Individuals/families receiving public assistance who are in compliance with state or TANF requirements;
- d. Family members who are employed (actively engaged in work activities at least 30 hours per week as defined in Section 407(d) of the Social Security Act and 42

- U.S.C. 607(d)), in educational or training programs or in self-sufficiency activities for eight (8) hours or more per month.
- e. Full-time students attending an educational institution.
4. Adjustments resulting from changes in welfare benefits will be handled as follows:
 - a. A family's loss of welfare benefits due to the expiration of the lifetime time limits is not considered as a failure to comply. HACEP will lower the family's rent as appropriate.
 - b. A family whose welfare benefits are reduced because of fraud will not have its rent reduced.
 - c. A welfare agency may reduce welfare benefit payments to sanction a family for non-compliance with welfare self-sufficiency or work activities requirements. The rental contribution of a family assisted in the public housing program may not be reduced for this reason. The law requires that family income include the amount of the welfare benefits that would have been paid if not for the welfare agency sanction. For purposes of this section, HACEP will use the "imputed welfare income" (see Appendix F Definitions) to determine the family's annual income.
 - d. A family's annual income includes the imputed welfare income plus the total amount of other annual income; however, the amount of imputed annual income is offset by income from other sources received by the family that start after the sanction is imposed.
 - e. The family's rent will not be adjusted until the basis for the reduction is confirmed through third-party verification and the return envelope will be retained in the resident's file. At the request of HACEP, the welfare agency is to inform HACEP in writing of the amount and term of any specified welfare benefit reduction and the reason for such reduction. Therefore, HACEP is entitled to base its imputed income on the information provided to it by the welfare agency and is not responsible for confirming the accuracy of the welfare agency's calculation.
 - f. HACEP must make its best effort to enter into cooperation agreements with welfare agencies to comply with this requirement.
 - g. If a family claims that HACEP has not correctly calculated the amount of the imputed welfare income, and if HACEP denies the family's request to modify such amount, HACEP will notify the family in writing with a brief explanation of the basis for their determination. The notice must state that the family has the right to a hearing through HACEP's Grievance Procedures without paying a deposit in escrow.
 5. If HACEP determines that a resident has falsified or misrepresented family income, composition, circumstances, conduct or behavior, HACEP will:
 - a. Require the resident to pay the difference between the TTP the resident is currently paying and the TTP the resident should have been paying;
 - b. Evict the resident in accordance with state law and HUD regulations; or
 - c. Take such other remedial action as HACEP may deem necessary under pertinent HUD and PHA laws, rules and regulations.
 6. The family must have demonstrated satisfactory past performance in meeting financial obligations, especially rent.
 7. The family must have no record of the disturbance of neighbors, destruction of property, or living or housekeeping habits that adversely affect the health, safety, or welfare of other residents.
 8. The family must have no history of criminal activity involving crimes of physical violence to persons or property or other drug-related criminal acts or evidence of a pattern of

alcohol abuse which adversely affect the health, safety, or welfare of other residents.

9. If at the time of redetermination, or at any time during occupancy, it is determined by HACEP that any household member has been convicted of manufacturing or producing methamphetamine on the premises of any federally assisted housing, HACEP is required permanently terminate assistance to the family. Such termination is not subject to the PHA's Grievance Procedures.
10. The family may request an interim redetermination of income or composition based on any changes since the last determination. HACEP will conduct the redetermination within five (5) business days of the request. HACEP has a policy on income level changes which must be reported and when rent adjustments will be made. (See Fixed Rent System later in this Section.)
11. Any change in income resulting from the redetermination is annualized, even if the income is not expected to last for a full year. If the income changes again, the new amount of monthly income will be annualized again.
12. If at the time of annual recertification a family's present conditions of employment are too unstable to project the adjusted income for the coming 12-month period for the purpose of determining TTP, a special reexamination will be scheduled. This special reexamination will take place on a date by which HACEP estimates that the family's circumstances will be stable. If at the same time of such special reexamination it is still not possible to make a reasonable estimate of the adjusted income, HACEP will continue to schedule special reexaminations until such time as a reasonable estimate of the adjusted income can be made. TTPs determined at special reexaminations shall be made effective the first of the second month following the final determinations.

B. Permissible Deductions

No deductions other than those contained and described in this policy shall be allowed.

C. Interim Rent Adjustments: Fixed Rent System

1. Rent Adjustments

Residents must report all changes in family composition and/or income, in writing, to the management within 10 calendar days of the occurrence. Failure to report within the 10 calendar days may result in a retroactive rent charge.

HACEP will process interim changes in rent in accordance with the following chart:

FIXED RENT INCOME CHANGE CHART	
Income Change	PHA Action
Decrease in income for any reason except for decrease that lasts less than 30 days.	HACEP will process an interim adjustment in rent. An interim adjustment will not be processed if the decrease will last less than 30 days.
Increase in earned income due to the employment of a formerly unemployed current household member who is not qualified for earned income disallowance (EID). HACEP will grant the EID if the family is qualified.	HACEP will process an interim rent adjustment. This rent increase will be effective on the first day of the second month following the increase in income.
Increase in unearned income.	HACEP will defer the increase to the next regular reexamination.
Increase in income because a person with income (from any source) joins the household.	HACEP will process an interim rent adjustment. This rent increase will be effective on the first day of the second month following the income increase.
Increase in earned income due to increase from current employment, or due to new employment of current household member. PHA will grant EID if family member is qualified.	HACEP will defer the increase until the next regular re-examination.
Increase in income due to start of a new source of unearned income.	The PHA will process an interim re-adjustment effective the first of the second month following receipt of new unearned income to household.
Increase in earned income subject to the earned income disallowance.	HACEP will exclude 100% of the qualified increase for 12 months and 50% of the qualified increase for an additional 12 months. The combined exclusion periods may not exceed a total of 48 months.

This is the "Fixed Rent System". HACEP may elect to increase resident rent at an Interim Readjustment due to any increase in income (the "Interim Rent System") or for selected increases in income stated in the lease.

2. Residents that go to work to obtain the deferral of income and quit work to avoid being employed will be subject to retroactive increases as described below at the next regular reexamination. Residents with seasonal or part-time employment of a cyclical nature will be asked for third-party documentation of the circumstances of their employment including starting and ending dates.
3. HACEP will process an interim adjustment in rent if it is found that the resident at an annual or interim reexamination has misrepresented the facts upon which the rent is

based so that the rent the resident is paying is less than the rent that he/she should have been charged. HACEP will apply any increase in rent retroactive to the first of the month following the month in which the misrepresentation occurred.

4. Complete justification and verification of the circumstances applicable to rent adjustments must be documented by the resident and approved by the Chief Executive Officer and/or his/her designee.
5. HACEP will process interim adjustments in rent accordance with the following policy:
 - a. When a decrease in income is reported, and HACEP receives confirmation that the decrease will last less than 30 days, an interim adjustment will not be processed.
 - b. Residents reporting decreases in income that are expected to last more than 30 days will have an interim adjustment processed.
6. Residents granted a reduction in rent under these provisions might be required to report for special reexaminations at intervals determined by the Housing Manager. Reporting is required until the circumstances cease or until it is time for the next regularly scheduled reexamination, whichever occurs first. If family income increases during this time, the rent will be increased accordingly. A fully documented record of the circumstances and decisions shall be included in the resident's file.
7. **Effective Date of Adjustments**

Residents will be notified in writing of any rent adjustment and such notice will state the effective date of the adjustment.
8. Rent decreases go into effect the first month following HACEP's verification of the reported change. Failure to report a decrease will not result in retroactive action.
9. Rent increases (except those due to misrepresentation) require a 30-day notice.

D. Failure to Report Accurate Information

If it is found that the resident has misrepresented or failed to report to management the facts on which his/her rent is based so that the rent being paid is less than what should have been charged, then the increase in rent will be made retroactive. Failure to report complete and accurate information is also grounds for initiating eviction proceedings in accordance with HACEP's dwelling lease.

E. Preservation of Mixed Families - Calculation of Rent

The following types of assistance are available only to families who were assisted as of June 19, 1995. These types of assistance would be offered a family during the reexamination process if the family contends that one or more family members do not have legal non-citizen resident status or that no family members have status. The assistance may also be offered when the appeals process with CIS and the Grievance Procedures with HACEP have all been exhausted.

1. Continued Assistance

Continued assistance is available to a mixed family only if all of the following conditions are met:

- a. The family was receiving assistance under a Section 214 covered program on June 19, 1995;

- b. The family's head of household or spouse has eligible immigration status; and
- c. 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;
 - parents of the spouse; or
 - any children of the head of household or spouse.

For continued assistance only, children who are only under guardianship or who are stepchildren, but not natural children of either the head of household or spouse, do not meet the criteria of child for this restricted definition of family.

Continued assistance means the family's rent is calculated in the same manner as a family where all members are eligible. Families who do not qualify for continued assistance will be offered either prorated assistance or temporary deferral of termination of assistance as outlined in this policy.

2. Prorated Assistance

Prorated assistance applies to a mixed family who is not receiving continued assistance other than a family who is eligible for, requests and receives temporary deferral of assistance. An eligible family who requests prorated assistance must be provided prorated assistance.

HACEP shall prorate the family's assistance as follows:

- Step 1: Determine the TTP in accordance with 24 CFR 913.107(a) (annual income includes the income of all family members including any family member who has not established eligible immigration status).
- Step 2: Subtracting the TTP from the "public housing maximum rent" (as defined by HUD) applicable to the unit or HACEP. (See PHA's Definition section of these policies for further information on public housing maximum rent.) The result is the maximum subsidy for which the family could qualify if all members were eligible ("family maximum subsidy").
- Step 3: Dividing 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."
- Step 4: Multiplying the member maximum subsidy by the number of "eligible" family members.
- Step 5: The products of steps 1-4, as set forth here, 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.

3. Temporary Deferral of Termination of Assistance

Temporary deferral of termination of assistance is available to a mixed family who qualifies for prorated assistance, and does not qualify for continued assistance, but decides not to accept prorated assistance. Temporary deferral of termination of assistance is available to a family who has no family members with eligible status. The deferral period is to allow the family time for the orderly transition of those family members who are ineligible, and any other family members involved, to seek other affordable housing.

The family will be given written notice on HACEP's decision concerning the family's qualifications for assistance under this section. If the family is not eligible for assistance under this section, the notification will state the reasons, based on relevant factors. Resident families will be notified of any applicable appeal rights.

For purposes of temporary deferral of termination of assistance, affordable housing is defined as:

- Unassisted;
- Not substandard;
- An appropriate size for the family; and
- Can be rented for an amount not to exceed the amount that the family pays for rent, including utilities, plus 25%.

The process for HACEP and family is as follows:

- a. HACEP will notify the family that the family has chosen temporary deferral of termination of assistance or that there are no eligible family members and therefore, the family only qualifies for temporary deferral of termination of assistance. The family will be notified that they are ineligible for financial assistance and HACEP will offer the family information concerning and referrals to assist in finding other affordable housing.
- b. The family will initially be given a maximum of six (6) months to seek affordable housing as defined above.
- c. The initial period may be renewed for additional periods of six (6) months, but the aggregate deferral period shall not exceed 18 months.
- d. Prior to the end of the deferral period, HACEP must:
 - (1) Make a determination of the availability of affordable housing of appropriate size based on evidence of conditions that when taken together will demonstrate an inadequate supply of affordable housing. The determination will include HACEP's knowledge of the local housing market and the resident family's search for appropriate housing.
 - (2) At least 60 days prior to the expiration date of the deferral period, the family will be notified in writing that:
 - (a) The termination will be deferred for another six (6) months and that there was a determination made that there is no affordable housing (providing the extension will not exceed an aggregate of 18 months); or
 - (b) The termination of financial assistance will not be deferred because either the aggregate period of 18 months has been reached or that a determination has been made that there is affordable housing available.
 - (c) The eighteen (18) month time limit is effective November 26, 1996 and does not apply to those families under the original three (3) year limitation.
- e. The family has a choice to request prorated assistance at the end of the temporary deferral of assistance period if a good faith effort has been made to locate affordable housing and there is at least one family member with eligible immigration status.

SECTION 20. FAMILY DEBTS TO HACEP

A. Repayment Agreement for Families

1. A Repayment Agreement is a document entered into between HACEP and a person who owes a debt to HACEP. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of repayment, special provisions of the agreement, and the remedies available to HACEP upon default of the agreement.
 - a. The minimum initial payment for any repayment agreement is 50% of the amount owed, except for the provision below.
 - b. The maximum length of time HACEP will allow for a repayment agreement with a family is 12 months.
 - c. A family who requested a hardship exemption for payment of minimum rent will have automatically up to six (6) months to repay any overdue minimum rent.

Exception to this policy may be granted by the CEO or his/her designee.

2. Repayment Options

Tenants have the option to repay the retroactive rent or other family debt balances as follows:

1. In a lump sum payment; or
2. Monthly installments; or
3. A combination of 1 and 2 above
(For example, a tenant may owe \$1,000, make a lump sum payment of \$600, and enter into a repayment agreement for the remaining balance of \$400.)

3 Late Payments

- a. A payment will be considered to be in arrears if the payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be the close of the next business day.
- b. If the family's repayment agreement is in arrears, HACEP will:
 - Require the family to pay the balance in-full;
 - Pursue civil collection of the balance due; and
 - Terminate the tenancy if the balance is not paid.
- c. If the family requests a transfer to another unit and has a repayment agreement, and the repayment agreement is not in arrears, the family will be required to pay the balance, in full, prior to the unit transfer.
- d. If the family requests a transfer to another unit, and is in arrears on a repayment agreement, the family will be required to pay the balance, in-full, or be terminated from the program.

4 There are some circumstances in which HACEP will not enter into a repayment agreement. These are as follows:

- a. If the family already has a repayment agreement in place;
- b. If HACEP determines that the family has committed program fraud, unless otherwise approved by the CEO or his/her designee.

5 Guidelines for Repayment Agreements

Repayment agreements will be executed between HACEP and the head of household and spouse, if applicable.

- a. No transfer will be approved until the debt is paid-in-full, unless the move is needed due to one of the following causes, and the repayment agreement is current:
 - Family size exceeds the maximum occupancy standards for the unit;
 - A natural disaster;
 - Verified evidence of family violence, spousal or child abuse;
 - Protection of witnesses to violent crime as verified by a law enforcement agency or District Attorney; and
 - Victim of hate crimes.
- b. If a request to transfer is denied, the family will be advised in writing of the reasons therefore, and advised of their right to request an informal hearing.

6. Additional Monies Owed

If the family has a repayment agreement in place and incurs an additional debt to HACEP:

- a. HACEP will demand payment of the new debt in-full within 90 days if the repayment plan the family is already under is current.
- b. HACEP will not enter into more than one repayment agreement at a time with the same family.
- c. If a repayment agreement already in place is in arrears more than five (5) days, any new debts must be paid-in-full by the first of the second month following the assessment of the debt. Failure to meet these time frames will result in HACEP issuing a notice to terminate.

B. Prior Debts Owed to PHA

If a family owes money to HACEP or any other housing authority from a prior occupancy:

1. HACEP will not enter into a repayment agreement; and
2. Will require the family to repay the amount, in-full, prior to admission; or
3. Will require payment in-full and withhold admission for three (3) years from the date the debt was incurred if the family was evicted for drug-related or violent criminal activity.

C. Remaining Family Members and Prior Debt

1. As a party to the lease, remaining members of a resident family (other than head or spouse) 18 years of age or older will be responsible for any delinquent rent, charges or other indebtedness incurred by the former head or spouse.
2. Remaining family members under the age of 18 shall not be held responsible for any delinquent rent incurred by the former head of household.

D. Debts Due to Fraud/Non-Reporting of Income

HUD's definition of program fraud and abuse is a single act or pattern of actions that constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead.

E. Family Error/Late Reporting

Families who owe money to HACEP due to the family's failure to report increases in income and/or assets will be required to repay, in accordance with the repayment policies for program fraud.

F. Program Fraud

1. Families who owe money to HACEP due to program fraud will be required to repay it in accordance with the repayment policies for program fraud above
2. Where appropriate, HACEP may refer the case for criminal prosecution.

G. Writing-off Debts

Debts will be written off if:

1. The debtor's whereabouts are unknown and the debt is more than one (1) year old.
2. The debtor is deceased.

SECTION 21. PROGRAM INTEGRITY

The Housing Authority of the City of El Paso (HACEP) is committed to assuring that the proper level of benefits is paid to all participants, and that housing resources reach only income eligible families so that program integrity can be maintained.

HACEP will take all steps necessary to prevent fraud, waste and mismanagement to ensure that program resources are utilized judiciously. This policy outlines HACEP's policies for the prevention, detection and investigation of program abuse and participant fraud.

A. Investigation of Suspected Abuse and Fraud

HACEP will initiate an investigation of a participating family in the event of one or more of the following:

1. Referrals, Complaints or Tips. HACEP will follow up on referrals from other agencies, companies or persons which are received by mail, by telephone or in person, which allege that a family is in non-compliance with, or otherwise violating the lease or any other program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A copy of the allegation will be retained in the resident's file. Anonymous complaints will be investigated if the information received contains specific allegations that can be independently verified. If the anonymous complaint is not specific, the information will be retained in files, but will not be used to initiate investigations.
2. Internal File Review. A follow-up will be made if HACEP staff discovers (as a function of a certification or recertification, an interim redetermination, or a quality control review), information or facts which conflict with previous file data, HACEP's knowledge of the family, or deviates from statements made by the family.
3. Verification or Documentation. A follow-up will be made if HACEP receives UIV/EIV verification, independent verification or documentation that conflicts with representations in the family's file (such as public record information, or credit bureau report, or reports from other agencies).

B. Steps to Detect Program Abuse and Fraud

1. Quality Control File Reviews. On a random basis (at least 5% of files processed each month) resident files will be reviewed for accuracy and completeness. The Regional Supervisors who are not directly involved in the processing of applicant/resident files will complete these reviews once annually. Such reviews shall include, but are not limited to:
 - a. Assurance that verification of all income and deductions is present;
 - b. Changes in reported Social Security Numbers or dates of birth are noted;
 - c. File documents are authentic and, where applicable, are signed and dated;
 - d. Ratio between reported income and expenditures is accurately computed; or
 - e. Signatures are consistent with previously signed file documents.
2. HACEP staff (to include inspection and maintenance personnel) will maintain high awareness of circumstances that may indicate program abuse or fraud, such as unauthorized persons residing in the household and indications of unreported income. The observations will be documented in the family's PHA file.

3. Credit Bureau inquiries may be made (with proper authorization by the resident) in the following circumstances:
 - a. At the time of the final eligibility determination if the information provided by the applicant conflicts with information obtained through outside sources or third-party verifications.
 - b. When HACEP receives an allegation wherein unreported income sources are disclosed.
 - c. When a participant's expenditures exceed his/her reported income and no plausible explanation is given.

C. Handling of Allegations of Possible Abuse and Fraud

HACEP will review allegations that contain one or more independently verifiable facts.

1. An internal file review will be conducted to determine:
 - a. If the subject of the allegation is a resident of HACEP and, if so, to determine whether or not the information reported has been previously disclosed by the family.
 - b. It will then be determined if HACEP is the most appropriate authority to do a follow-up (more so than police or social service). Any file documentation of past behavior, as well as corroborating complaints, will be evaluated.
2. If, at the conclusion of the preliminary file review, there is/are fact(s) contained in the allegation which conflict with file data, and the fact(s) are independently verifiable, the staff will initiate an investigation to determine if the allegation is true or false.

D. Investigations of Allegations of Abuse and Fraud

If HACEP determines that an allegation or referral warrants follow-up, the staff person who is responsible for the file will conduct the initial investigation. If there is enough information to substantiate the allegation, the incident will be transferred to the Fraud Unit for further investigation. The steps taken will depend upon the nature of the allegation and may include the items listed below. In all cases, HACEP will ensure that a current written authorization form (Form HUD 9886) authorizing the release of financial records is on file. In addition, HACEP will ensure that a signed Criminal History Release form (form No. 51-1740) is also on file.

1. Credit Bureau Inquiries (CBI). In cases involving previously unreported income sources, a CBI may be made to determine if there is financial activity that conflicts with the reported income of the family.
2. Employers and Ex-Employers. Employers or ex-employers may be contacted to verify wages that may have been previously undisclosed or misreported.
3. Neighbors/Witnesses. Neighbors and/or other witnesses may be interviewed if it is believed that they have direct or indirect knowledge of facts pertaining to HACEP's review.
4. Other Agencies. Investigators, caseworkers, or representatives of other benefit agencies may be contacted.
5. Public Records. If relevant, HACEP will review public records kept in any jurisdictional courthouse. Examples of public records which may be checked are: real estate, marriage, divorce, uniform commercial code financing statements, voter registration,

judgments, court or police records, state wage records, utility records and postal records.

6. Interviews with Head of Household or Other Family Members. HACEP will discuss the allegation (or details thereof) with the head of household or family member by scheduling an appointment at HACEP office.

HACEP staff person who conducts such interviews will maintain a high standard of courtesy and professionalism. Management will not tolerate inflammatory language, accusations, or any unprofessional conduct or language under any circumstances. If possible, an additional staff person will attend such interviews.

E. Evidence and Statements Obtained by HACEP

Documents and other evidence obtained by HACEP during the course of an investigation will be kept in a separate "work file."

F. Evaluation of the Findings

If it is determined that a program violation has occurred, the PHA will review the facts to determine:

1. The type of violation (procedural, non-compliance, fraud);
2. Whether the violation was intentional or unintentional;
3. What amount of money, if any, is owed by the resident;
4. If the family is eligible for continued occupancy.

G. Action Policies for Violations that Have Been Verified

Once a program violation has been documented, HACEP will propose the most appropriate remedy based upon the type and severity of the violation.

1. Procedural Non-Compliance. This category applies when the resident "fails to" observe a procedure or requirement of HACEP, but does not misrepresent a material fact, and there is no retroactive rent owed by the family.
 - a. Examples of non-compliance violations are:
 - Failure to appear at a pre-scheduled appointment; and
 - Failure to return verification in the time period specified by HACEP.
 - b. Warning Notice to the Family. In such cases, a notice will be sent to the family that contains the following:
 - A description of the non-compliance and the procedure, policy or obligation, which was violated;
 - The date by which the violation must be corrected, or the procedure complied with;
 - The action, which will be taken by HACEP if the procedure or obligation is not complied with by the date specified by HACEP; or
 - The consequences of repeated (similar) violations.

2. Procedural Non-Compliance, Retroactive Rent. When the family owes money to HACEP for failure to report changes in income or assets, HACEP will issue a Notification of Retroactive Rent. This notice will contain the following:
 - a. A description of the violation and the date(s);
 - b. Any amounts owed to HACEP;
 - c. A 10 business days' response period;
 - d. The right to disagree and to request an informal hearing with instructions for the request of such hearing.
 - The Resident Fails to Comply with PHA's Notice. If the resident fails to comply with PHA's notice, and a material provision of the lease has been violated, HACEP will initiate termination of tenancy.
 - The Resident Complies with PHA's Notice. When a resident complies with HACEP's notice, the staff person responsible will meet with him/her to discuss and explain the lease provision that was violated. The staff person will complete a Tenant Counseling Report, give one copy to the family, and retain a copy in the resident's file.

H. Misrepresentations

When a resident falsifies, misstates, omits, or otherwise misrepresents a material fact which results (or would have resulted) in an underpayment of rent by the resident, HACEP will evaluate whether or not the resident had knowledge that his/her actions were wrong, and whether the resident willfully violated the lease or the law.

1. Knowledge that the action or inaction was wrong. This will be evaluated by determining if the resident was made aware of program requirements and prohibitions. The resident's signature on various certifications, Personal Declaration and Things You Should Know are adequate to establish knowledge of wrongdoing.
2. The resident willfully violated the law. Any of the following circumstances will be considered adequate to demonstrate willful intent:
 - An admission by the resident of the misrepresentation;
 - The act was done repeatedly;
 - A false name or Social Security Number was used;
 - There were admissions to others of the illegal action or omission;
 - The resident omitted material facts, which were known to him/her (e.g., employment of self or other household members);
 - The resident falsified, forged or altered documents; and
 - The resident uttered and certified to statements at a rent (re) determination, which were later independently verified to be false.

I. The Tenant Conference for Serious Violations and Misrepresentations

When HACEP has established that material misrepresentation(s) has occurred, a Tenant Conference will be scheduled with the family representative and HACEP staff person who is most knowledgeable about the circumstances of the case.

1. This conference will take place prior to any proposed action by HACEP. The purpose of such conference is to review the information and evidence obtained by HACEP with the resident, and to provide the resident an opportunity to explain any documented findings which conflict with representations in the resident's file. HACEP will take into consideration any documents or mitigating circumstances presented by the resident. The resident will be given five (5) business days to furnish any mitigating evidence.

2. A secondary purpose of the Tenant Conference is to assist HACEP in determining the course of action most appropriate for the case. Prior to the final determination of the proposed actions, HACEP will consider:
 - The duration of the violation and number of false statements;
 - The resident's ability to understand the rules;
 - The resident's willingness to cooperate and to accept responsibility for his/her actions;
 - The amount of money involved;
 - The resident's past history; and
 - Whether or not criminal intent has been established.

J. Disposition of Cases Involving Misrepresentation

In all cases of misrepresentation involving efforts to recover monies owed, HACEP may pursue, one or more of the following actions, depending upon its evaluation of the criteria stated above:

1. **Criminal Prosecution:** If HACEP has established criminal intent, and the case meets the criteria for prosecution, HACEP will refer the case to the local State or District Attorney, notify HUD's RIGI, and terminate rental assistance.
2. **Administrative Remedies:** HACEP will terminate assistance and demand payment of restitution in-full.
3. **PHA Legal Action:** If restitution is not made within 30 days and \$500.00 or more dollars are owed to HACEP due to participant fraud, HACEP will seek restitution through legal judicial channels.
4. **Continue Assistance:** Contingent upon full lump-sum restitution or minimal term repayment plan **and** warning that repeat of the offense will result in immediate eviction.

K. Notification to Resident of Proposed Action

HACEP will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include:

1. A description of the error or program abuse
2. The basis on which HACEP determined the error or program abuse
3. The remedies to be employed
4. The family's right to appeal the results through an informal hearing or through HACEP's grievance procedures

SECTION 22. INSPECTIONS

HACEP will conduct periodic inspections of dwelling units to redetermine the eligibility of the family, the amount of rent to be charged and the appropriate size of units assigned to residents. The following outlines pertinent policies in these areas:

A. Housing Inspection

1. The dwelling unit and the premises should be inspected jointly by the applicant or resident and a member of HACEP staff. The applicant/resident has the option to be present at this inspection. Both parties will agree on the condition of the dwelling unit by signing an inspection check-sheet. HACEP will keep the original check-sheet and a copy will be given to the applicant or resident.
2. The inspection will serve as a guide in determining needed maintenance or repairs, and to assess charges in addition to rent for damages above and beyond normal wear and tear.
3. HACEP may cancel the resident's dwelling lease if the resident fails to maintain the dwelling unit and the premises assigned to him/her in a decent, safe, sanitary condition and in good repair.

B. Annual Inspections

The dwelling unit and premises shall be inspected at least annually by HACEP. The inspection will serve as a guide in the determination of needed maintenance or repairs and to assess damage above and beyond normal wear and tear. The resident will be given notice of said inspection and encouraged to be present during the inspection. The inspection form will be kept by the PHA and a copy will be given to the resident. Failure by the resident to maintain a safe, decent and sanitary dwelling unit and premises may result in lease termination.

C. Time of Inspections

HACEP will inspect the resident's dwelling unit:

1. Before the resident moves into the unit;
2. Periodically, every six (6) months, but not less than annually. Follow-up inspections will be made if the resident's housekeeping practices or other circumstances require. HACEP will give the resident appropriate notice at least two (2) days before entry, prior to any inspection, in accordance with the dwelling lease;
3. At move-out. The dwelling unit and the premises will be inspected jointly by the resident and a member of HACEP staff, unless the resident has previously vacated the unit without giving notice to HACEP, and is unavailable. In such case, HACEP will inspect the unit independently.
4. At any time that the resident, a PHA employee or other interested person determines that a special inspection is necessary.

Any charges for damages beyond normal wear and tear will be based on a comparison of the original inspection check-sheet and the condition of the unit and premises when/after the resident moves out.

SECTION 23. OTHER MATTERS

The following pertains to requirements and/or references to guidelines for other matters involving admissions and occupancy.

A. Lead-Based Paint Notification and Records

1. Applicants

A notice of the dangers of lead-based paint poisoning and a notice of the advisability and availability of blood lead level screening for children under six (6) years of age will be provided to every applicant family at the time of application.

2. Residents

a. Residents in any PHA-owned low-income public housing developments constructed prior to 1978 will be notified:

- (1) That the property was constructed prior to 1978;
- (2) That the property may contain lead-based paint;
- (3) Of the hazards of lead-based paint;
- (4) Of the symptoms and treatment of lead-based paint poisoning;
- (5) Of the precautions to be taken to avoid lead-based paint poisoning (including maintenance and removal techniques for eliminating such hazards); and
- (6) Of the advisability and availability of blood lead level screening for children under six (6) years of age.

b. Residents will be advised to notify HACEP if an elevated blood lead condition is identified so that HACEP can initiate testing and abatement actions, if necessary, or relocate the residents to a lead-free dwelling unit.

c. In accordance with the US Environmental Protection Agency (EPA) Renovation, Repair and Painting (RRP) Rule (40 CFR 745), prior to beginning renovation, repair, or preparation of surfaces for painting in pre-1978 housing, tenants will be provided with a copy of EPA's lead hazard information pamphlet "Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools." Compliance with this requirement will be documented for each tenant on the pre-renovation form.

3. Records

HACEP will maintain records that provide evidence that the resident and any purchaser of low-income housing developments constructed before 1978 has received the required notification. The signature portion of the notification form will be retained in HACEP's resident file for three (3) years after the resident vacates the dwelling unit. This is established at the time of move-in.

B. Utility Reimbursement

If the allowance for utilities exceeds the Total Tenant Payment, HACEP has the option to pay the utility reimbursement to the tenant or directly to the utility company each month (see 24 CFR 960.253(c)(3)).

C. Pet Ownership Policy

HACEP has adopted a *Pet Ownership Policy* (Appendix L) that governs pet ownership in all its

Public Housing communities. The Pet Ownership Policy does not pertain to assistance animals. Assistance animals are permitted as a reasonable accommodation, since they provide a person with a disability the equal opportunity to use and enjoy his or her dwelling. For additional information on assistance animals, refer to HACEP's *Assistance Animal Policy* (Appendix K) or contact HACEP's Equal Opportunity Compliance Officer.

D. Privately owned Playground Equipment

Installation and use of privately owned playground equipment including swing sets, trampolines and swimming pools is prohibited on all HACEP properties.

E. Transfers and Transfer Waiting List

The dwelling lease requires the resident to transfer to a dwelling unit of appropriate size, based on family composition, upon appropriate notice by HACEP that such a dwelling unit is available. HACEP may require a resident to move, permit a resident to move, or physically help a resident to move, depending on the circumstances in each particular case. HACEP's policies and procedures for transferring residents from one dwelling unit to another are as follows.

1. Non-discrimination

HACEP will not discriminate against any person at any stage of the transfer process because of race, color, religion, sex, age, disability, familial status, national origin, or marital status. HACEP will abide by the non-discrimination requirements of the following laws and Executive Orders. (24 CFR 960.203)

- a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 200d), which prohibits discrimination based on race, color, or national origin in programs receiving Federal financial assistance. (24 CFR part 1)
- b. The Fair Housing Act of 1988 (42 U.S.C. 3601-3619), also prohibits discrimination in housing practices based on disability in residential real estate-related transactions. (24 CFR parts 100, 108, 109, & 110)
- c. Executive Order 11063 on Equal Opportunity Housing. (24 CFR part 107)
- d. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination based on disability in programs receiving Federal financial assistance. (24 CFR part 8)
- e. The Age Discrimination Act of 1975 (42 U.S.C. 6101-6107), which prohibits discrimination based on age in programs receiving Federal financial assistance. (24 CFR part 146)
- f. Title II of the Americans with Disabilities Act (42 U.S.C. 12101-2213)

2. Types of Transfers

- a. This policy sets forth several categories of transfers. Priority for transfer and the order in which families are transferred shall be subject to the hierarchy by category set forth below.

- 1) Emergency Transfers - Are mandatory when the unit or building conditions pose an immediate threat to resident life, health or safety, as determined by PHA. Any condition requiring an emergency work order may be defined as an emergency if repairs cannot be made within 24 hours. Emergency transfers within sites or between sites may be made to:
 - Permit repair of unit defects that are hazardous to life, health, or safety;
 - Permit modernization of units.

- Demolition, Disposition, Revitalizations, or Rehabilitation the family may be allowed to return to their unit.

These transfers shall take priority over new admissions.

- 2) Safety Transfers - Include mandatory transfers to remove to safety residents who are witnesses to crimes and may face reprisals (as documented by a law enforcement agency):

- Alleviate verified medical problems of a life threatening or serious nature;
- Provide housing options to residents who are victims of hate crimes or extreme harassment;
- Protect members of the household from attack by the criminal element in a particular property or neighborhood, based on threat assessment by a law enforcement agency.

These transfers shall take priority over new admissions.

- 3) Disability-Related Transfers - The resident shall provide the manager with the necessary documentation to substantiate the need for a disability-related transfer

- Alleviate verified medical problems;
- Permit a family that requires a unit with accessible features to occupy such a unit.
- Reasonable Accommodation; (e.g., moving a person with mobility problems to a unit with accessible features).
- Transfers to make an accessible unit available.

Transfers mandatory to the PHA are mandated for the tenant.

Transfers of residents with disabilities and placement of applicants with disabilities requiring accessible units will be centrally coordinated.

Tenants who request a transfer as a reasonable accommodation for their disability will be given priority on the transfer list over tenants who request transfers for any reason other than Emergency and Safety Transfers.

These transfers shall take priority over new admissions.

- 4) Hardship Transfers - Administrative Transfers within sites or between sites may be made to:

- Correct and avoid concentration of the most economically and socially deprived families;
- Alleviate financial burden (can no longer pay utilities)
- Head of household or spouse is employed 25 miles or more from the public housing unit.

These transfers shall take priority over new admissions.

These transfers are mandatory.

- 5) Medically-Necessitated Transfers – The resident shall provide the manager with the necessary documentation to substantiate the need for

a medically-necessitated transfer.

- Alleviate verified medical conditions
- Permit a family or individual that requires a unit with the necessary amenities to alleviate a medical problem/condition
- Transfers to make a unit with the necessary amenities available

These transfers shall take priority over new admissions.

6) Occupancy Standards Transfers – These are Administrative Transfers within sites or between sites which may be made to correct:

- Under-housed when the number of household members exceeds the maximum number of persons allowed for the unit size according to occupancy standards.
- Over-housed when the family no longer qualifies for the bedroom size in which they are living based on occupancy standards.

These transfers shall take priority over new admissions.

These transfers are mandatory.

- b. Whenever feasible, transfers shall be made within a resident's area and on a case-by-case basis.
- c. HACEP may periodically review the Transfer List to determine if a past request meets current priorities.

3. Processing Transfers

- a. The Occupancy Division will administer a centralized transfer waiting list. Managers are responsible for submitting written requests for transfers including necessary documentation, to the Eligibility/Admissions Supervisor. The Eligibility/Admissions Supervisor will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family. HACEP will respond within ten (10) days of the submission date. If the request is denied, the family will be informed of its grievance rights by the manager.
- b. The central transfer administrator will sort requests for transfer into categories. Admissions will be made in the following order:
 - First Emergency Transfers; then
 - Safety Transfers; then
 - Disability-Related Transfers; then
 - Hardship Transfers; then
 - Medically-Necessitated Transfers; then
 - Occupancy Standards Transfers (over-housed & under-housed); and finally
 - Applicants.

Within each category, transfer applications will be sorted by the date the completed file (including any verification needed) is received from the manager.

- c. Transfers to correct occupancy standards may be recommended at the time of reexamination or interim redetermination. This is the only method used to determine over/under-housed status.
- d. Residents in an over/under housed status will be advised that a transfer is recommended and that the family has been placed on the transfer list. Interviewers will record transfer recommendations in duplicate for each manager affected by the transfer.

- e. If a family requested to be placed on the waitlist for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two (2) years from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation. (Other than for births that occur during tenancy, PHA's prior approval of additions to the household is required).
- f. With the approval of the Administrator, HACEP may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list in order to address the immediate need of a family in crisis.
- g. Tenants will receive one offer to a transfer. When the transfer is required by HACEP, refusal of that offer without good cause will result in lease termination. When the transfer is not PHA mandated, refusal of that offer without good cause will result in the removal of the household from the transfer list and the family must wait six months to reapply for another transfer.
- h. In disability and medically-related transfers, the refusal of two (2) offers without good cause will result in the removal of the household from the transfer list and the family must reapply for a transfer. The applicant will be placed at the bottom of the transfer list.
- i. Examples of good cause for refusal of a unit offer include, but are not limited to , the following:
Inaccessibility to source of employment, education, or job training, children's day care, or an educational program for children with disabilities, so that accepting the unit offer would require the adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.

The family demonstrates to HACEP's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.

The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

The unit has lead-based paint and the family includes children under the age of six.

HACEP will require documentation of good cause for unit refusals.

4. Good Record Requirement for Transfers

- a. In general, and in all cases of resident-requested transfers, residents will be considered for transfers only if they:
 - 1) Have not engaged in criminal activity that threatens the health and safety of residents and staff;
 - 2) Do not owe back rent or other charges, or evidence a pattern of late payment;

- 3) Meet reasonable housekeeping standards and have no housekeeping lease violations, and
 - 4) In disability and medically-necessitated transfers, residents must provide appropriate documentation as stated in the *Reasonable Accommodation and Modification Policy*.
- b. Exceptions to the good record requirements will be made for emergency transfers and to provide accessible housing or when it is to HACEP's advantage (e.g. a single person is living alone in a 3-bedroom unit and does not want to move) to move forward with the transfer. The determination to make an exception to the good record requirement will be made by the central transfer administrator with recommendation by the Manager.

Absent a determination of exception the following policy applies to transfers:

- 1) If back rent is owed the resident will not be transferred until a payment plan is established or, if prior payment plans have failed, back rent is paid-in-full.
- 2) A resident with housekeeping standards violations will not be transferred until he/she passes a follow-up housekeeping inspection.

5. Cost of Transfers

HACEP will pay the reasonable cost of transfers initiated by HACEP due to demolition, disposition, revitalization, or rehabilitation; transfers required because of building system failure or other emergency condition HACEP is unable to repair in a timely manner; and transfers required as a reasonable accommodation for residents with disabilities as well as those without disabilities who are required to transfer to a vacant, non-accessible unit upon notice by HACEP that there is an eligible, qualified resident or applicant with disabilities who requires the unit's accessible features. Resident will bear the cost for transfers due to change in family composition.

6. Notice of Transfer

Resident families that are to be transferred will be given a Notice of Transfer. The notices shall be:

- a. Hand-delivered, and/ or
- b. Mailed, via first-class mail.

F. Collection

The PHA dwelling lease contains the PHA's policies with respect to the amount of rental payments, the due date, and charges for late payment and returned checks.

G. Termination of Lease

1. It is the obligation of the Housing Authority of the City of El Paso to enforce the terms of all leases and agreements, and seek judicial remedy when required and as permitted by law. Please see Lease Termination Policy (Appendix N).
 - a. This Policy is established in order that HACEP function effectively and meet all responsibilities pursuant to the United States Housing Act of 1937, as amended (including VAWA), Title VI of the Civil Rights Act of 1964, all other civil rights requirements, regulations promulgated by the U. S. Department of Housing and Urban Development (HUD), the Code Federal Regulations, the laws of the State

of Texas which includes landlord/tenant laws, County of El Paso and Municipal Ordinances of the City of El Paso and the ACOP.

- b. This Policy governs all actions regarding lease enforcement to insure compliance and provide a method for the equitable administration of a lease termination.
- c. Lease termination, eviction, Forcible Detainer; have the same meaning and refer to ending a lease agreement and the vacancy of the property.

2. REGULATORY COMPLIANCE

HACEP will periodically review and update this policy and procedure to comply with any changes to the aforementioned laws, regulations, rules or ordinances. In cases where inconsistencies between this ACOP and laws, regulations, rules, ordinances or HUD directives exist, the laws, regulations, ordinances and HUD directives will prevail.

3. NON-DISCRIMINATION

The lease enforcement policy is non-discriminatory and complies with all laws, regulations, rules or ordinances as listed in I. A. There will be no disparate treatment.

4. DUE PROCESS

a. "Due Process Determination", means the determination made by the U. S. Department of Housing and Urban Development (HUD.) that Texas law provides that the tenant is given an opportunity for a hearing in a court which provides the basic elements of due process before eviction from the unit. Due to HUD's determination for the State of Texas, HACEP is not required to provide an administrative grievance hearing before evicting a public housing tenant for:

- 1) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA; or
- 2) Any violent or drug-related criminal activity on or off such premises.

b. All grievances, disputes or appeals arising from the Lease which are subject to the Administrative Grievance Procedure shall be processed and resolved. Grievances associated with termination of tenancy related to any activity, not just criminal activity, which threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or by employees of the Authority are excluded from the Grievance Procedure. This includes any criminal and/or any drug-related criminal activity on or off HACEP premises.

H. One-Strike Policy

All federally-assisted housing is intended to provide a place to live and raise families, not a place to commit crime, use or sell drugs or terrorize neighbors. At any time during a tenant's residency, if HACEP has reasonable cause (e.g., newspaper articles, credible informants, police reports, etc.) to believe that a household member is engaging in drug-related or other criminal activity which would pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents or agency employees, the agency may run a subsequent criminal check of that household member.

HACEP will also order a criminal history on any individual(s) 10 years of age and older who are added to the lease after initial occupancy.

All criminal reports received will be maintained confidentially, not misused, or improperly disseminated, and the utmost security will be maintained.

All criminal reports, while needed, will be housed in a locked file with access restricted to individuals responsible for screening and determining eligibility, the Director of Public Housing, and to the Chief Executive Officer. Once determination of eligibility or ineligibility is made reports will be shredded.

Misuse of this information by any employee will be grounds for termination of employment. Legal penalties for misuse are contained in Section 411.085 of the Texas Government Code.

HACEP shall enforce this One-Strike policy with a “zero-tolerance” position with respect to drug-related and/or other criminal activity which would pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents or agency employees. Evidence of such activity shall be grounds for immediate termination of assistance.

I. Notices and Flyers

The PHA does not allow door-to-door sales. If a Tenant desires to distribute notices or flyers in his development, the Tenant must, in advance, give the development’s Housing Manager notice that he/she will be distributing notices or flyers in the complex. Flyers may be distributed only between the hours of 9:00 A.M. and 8:00 P.M. Flyers may not be distributed before 9:00 A.M. or after 8:00 P.M. Under no circumstances will a notice or a flyer be left in plain view on a Tenant’s door if a Tenant is not at home or declines to answer the door. A Tenant distributing such flyers or notices must ensure that the flyers or notices do not become litter or disrupt the peaceful use and enjoyment of the other Tenants in the development or the Tenant’s use of the common areas.

J. Political and Religious Activity

Any person, whether a tenant or a non-resident, has the right to enter any PHA development complex for purposes of engaging in political and/or religious activities, including door-to-door political campaigning and/or religious activities. A non-resident of a complex wishing to enter a HACEP development complex for such purposes must provide advance written or telephonic notice to the complex manager’s office or the central administrative offices (5300 E. Paisano Dr., El Paso, Texas 79905; 915-849-3742). It is the individual’s responsibility to ensure that advance notice is given prior to 5:00 p.m. on Friday for any activities to take place during the weekend in that administrative and complex managers’ offices are closed during this time period. Any door-to-door activities must be carried out between the hours of 9:00 a.m. and 8:00 p.m.

K. Parking

Tenants will park their motor vehicles in parking areas designated by HACEP. Vehicles may not be parked on sidewalks or lawn areas. No uninspected, unlicensed, or inoperable vehicles may be kept on PHA premises. Tenants may not undertake repairs on a vehicle which requires raising the vehicle, except to change a tire. Oil spills in parking areas are to be cleaned immediately by the responsible tenant.

Any vehicle may be removed by HACEP without prior notice to the Tenant in an emergency situation, including but not limited to situations requiring access or egress by police, fire, or other emergency vehicles, and when a vehicle is improperly (sidewalk or lawn) or illegally parked.

Parking Rules will be enforced in accordance with HACEP Parking Policy(Appendix R) and the Lease Agreement.

L. Grievance Procedures

HACEP maintains Grievance Procedures that are incorporated by reference in the lease and is posted in the Management Office.

M. Community Service/Self-Sufficiency Requirements

HACEP has a separate Community Service/Self-Sufficiency Policy (Appendix O).

N. Housekeeping Standards

The Residential Lease Agreement (Dwelling Lease) establishes HACEP's policy on housekeeping standards.

O. Resident Initiatives Policy

HACEP supports resident initiative for all its families. A separate *Resident Initiatives Policy* has been developed for this program and is incorporated in this document by reference (See Appendix P).

P. Preemption of Restrictions on Placement of Direct Broadcast Satellite, Multi-channel Multipoint Distribution Service and Television Broadcast Antennas

Under the Telecommunications Act of 1996 as amended effective January 1999 and October 25, 2000, the Federal Communications Commission (FCC) adopted the Over-The-Air Reception Devices Rule regarding restrictions on viewer's ability to receive video programming signals from direct broadcast satellites (DBS), multi-channel multipoint distribution (wireless cable) providers (MMDS) and television broadcast stations (TVBS). This rule prohibits restrictions that impair the installation, maintenance or use of antennas used to receive video programming. The rule applies to video antennas including direct-to-home satellite dishes that are less than one meter (39.37") in diameter (any size in Alaska), TV antennas and wireless cable antennas. The rule prohibits most restrictions that: (1) unreasonably delay or prevent installation, maintenance or use; (2) unreasonably increase the cost of installation, maintenance or use; or (3) preclude reception of an acceptable quality signal.

The rule applies to acceptable size antennas placed on property that is rented (including public housing) on property which is under the tenant's exclusive use or control (i.e., balconies, patios, designated yard areas, etc.). Local governments and landlords may enforce restrictions that do not impair installation, use or maintenance of these antennas as well as restrictions needed for safety or historic preservation.

HACEP will not unreasonably restrict the installation of antennas by residents if:

1. The unit has a tenant use only area such as a balcony, patio or designated yard area for which they are solely responsible (mowing, watering, etc.).
2. The installation will not block or restrict access or egress to or from the unit or otherwise violate health and safety codes.
3. The installation does not result in damage to the unit (i.e., holes in walls or ceiling).
4. The installation of an interior antenna does not damage the unit beyond normal wear and tear.
5. The resident submits a request in writing asking to install an outside antenna. Inside antennas do not require approval in writing.
6. The resident agrees to restore any interior and exterior changes to original condition before vacating the unit. Otherwise, charges for repairs will apply.

HACEP will not assess any fees designed to unreasonably restrict the tenant's right to

install antennas as long as the tenant is in compliance with the limitations of this rule.

Q. Occupancy of Police Officers

HACEP reserves the right to place Police Officers who would not otherwise be eligible in HACEP's units, if it is determined that their presence would contribute to the safety of and security of residents. The number and location of units and a description of the terms and conditions for them to occupy units is identified in HACEP's annual plan.

R. Fair Housing and Equal Opportunity

A Fair Housing and Equal Opportunity poster that contains information on filing complaints with HUD will be prominently posted in HACEP offices. Individuals who believe that they have been discriminated against with respect to housing may receive assistance from PHA staff in filing such complaints.

S. Disclaimer Policy

This policy will be interpreted and applied in accordance with applicable federal statutes and HUD regulations and policy guidance. Any conflict between the language of this policy and such federal statutes and/or regulations will be resolved in accord with federal law and policy.

Additionally, since the provisions of this plan are based on local, state and federal law and regulation, the policy will be deemed automatically revised should any of those laws or regulations change. To the extent that the change is mandatory (allowing no PHA discretion), the text of this policy will be revised without requirement for administrative processing. By approving this provision, the Board of Commissioners understands that they are approving future automatic revisions responding to mandatory changes.

T. Abandonment and Abandoned Property

Tenant shall inform HACEP in advance if all occupants will be absent from the dwelling unit for more than seven (7) consecutive days.

A unit may be deemed abandoned and a tenant's lease may be terminated if HACEP has determined tenant is not temporarily absent per Part II. 2.G. of the Lease Agreement and:

- The tenant and all other authorized dwellers have not notified HACEP of their absence;
- The tenant and all other authorized dwellers have been absent for more than 14 days;
- The tenant is delinquent with the rent;
- HACEP has reviewed evidence of the household's intent to not return to the unit;
- HACEP has provided a 48-hour notice of inspection by hand-delivery or by posting the notice on the inside of the main door, or mailing it by regular mail;
- The tenant's clothes, furniture, and personal belongings have been substantially removed from the unit;
- Utilities paid for by the tenant directly to the utility provider have been disconnected;
- HACEP has provided a 48-hour notice of intent to declare the apartment abandoned by hand-delivery or by posting the notice on the inside of the main entry door and tenant and all other authorized dwellers have failed to respond;
- HACEP has attempted to contact the tenant at all telephone numbers, e-mail addresses, and third-party contact telephone numbers and e-mail addresses in its records to verify whether the tenant has abandoned the unit and HACEP has been unsuccessful in making contact with the tenant, and
- HACEP is not aware of any facts showing that the tenant has not abandoned the unit.

1. A unit may be deemed abandoned and a tenant's lease may be terminated if HACEP has determined the sole tenant has died.
2. Once a unit has been declared abandoned, HACEP will terminate the lease per the provisions of Part II. 18. Upon declaring the unit abandoned, HACEP may take possession of the unit and remove and store any of the household's property that was left in the unit. Property stored under this section will be sold after a 30-day written notice of the time and place of the sale has been mailed by certified mail and first class mail to the tenant at the tenant's last known address. HACEP may sell any such property at a public sale. If HACEP sells the property, the money received will first be used to pay for the cost of the storage and the sale, and then to charges owed by the tenant, if any. If there is any money remaining, it will be sent to tenant at the tenant's forwarding address. Any shortfall shall be charged to the tenant. HACEP may immediately dispose of trash or other property of no value. The tenant may reclaim its possessions at any time prior to the sale, subject to the costs of storage, sale and indebtedness.
3. A tenant may not "hold" a unit by paying rent while not actually residing in the unit. If Section Part II. 2.G. does not apply, a tenant who is absent for more than 30 days but is current on the rent will be subject to a judicial eviction.