

federal register

THURSDAY, JANUARY 23, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 16



PART IV

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Low-Income Housing

■

Section 8 Housing Assistance Payments
Program—Existing Housing

Title 24—Housing and Urban
Development

CHAPTER VIII—LOW-INCOME HOUSING,
DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT

[Docket No. R-75-308]

PART 1275—SECTION 8 HOUSING ASSISTANCE
PAYMENTS PROGRAM—EXISTING
HOUSING

Notice was given on December 10, 1974, at 39 FR 43170 that the Department of Housing and Urban Development (HUD) was proposing to amend Title 24 of the Code of Federal Regulations by adding a new Part 1275 to Chapter VIII.

The purpose of Part 1275 is to set forth the essential elements of the Section 8 Housing Assistance Payments Program—Existing Housing, including, among other things, the roles and responsibilities of HUD, public housing agencies (PHAs), Owners, and Eligible Lower- and Very Low-Income Families (Families); the basis for determining the amount of housing assistance payments; and the prescribed forms and procedures.

HUD has received more than 50 responses to the December 10, 1974 publication. All of these comments were seriously considered and many changes have been incorporated in these regulations, as a result. The principal changes are set forth below.

1. Section 1275.101(b) has been revised to clarify the relationship between Part 1275 and housing under Annual Contribution Contracts (ACCs) on January 1, 1975.

2. The definition of "Eligible Family," as set forth in § 1275.102(g), has been modified to clarify that disabled persons are included within this term.

3. The definition of "Gross Family Contribution," as set forth in § 1275.102(j), has been modified to clarify that this is the amount payable by the Family before deduction of the shopping incentive credit, where applicable.

4. A definition of the term "HUD" has been added in a new § 1275.102(o) to include HUD's designee.

5. Section 1275.103(a), which sets forth the "finders-keepers" policy, has been modified to require (rather than only to authorize) the PHA to provide assistance in finding units to Families who are unable to locate approvable units because of discrimination.

6. Section 1275.103(b), which sets forth provisions respecting the ACC, has been modified by adding a new § 1275.103(b)(3) stating that HUD, in addition to providing for a project reserve, will take additional steps authorized by section 8(c)(6) of the U.S. Housing Act of 1937 to assure the availability of funds to cover increases in housing assistance payments. (See also § 1.4(c)(2) of Appendix I.)

7. Section 1275.103(c)(2)(i) has been modified to increase the percent of Contract Rent payable in the event a family vacates its unit in violation of the lease from 70 to 80 percent. (See section 1.3c(1) of Appendix II.)

8. Section 1275.103(d)(1)(i), which sets forth the procedures under which Fair Market Rents may be exceeded by up to 20 percent, has been clarified.

9. Section 1275.103(d)(2), regarding subsequent adjustments in Contract Rents, has been modified to require that each Owner's request for such adjustments be accompanied by a certification signed by the owner and the family that the unit is in decent, safe, and sanitary condition and that the owner is otherwise in compliance with the lease. (See section 1.8a of Appendix II.)

10. Section 1275.103(d)(2)(ii), the provision authorizing special additional adjustments under limited circumstances, has been clarified. (See section 1.8a(2) of Appendix II.)

11. Section 1275.103(h), which sets forth provisions relating to the types of housing which may be utilized under this part, has been modified by (a) explicitly providing that owner-occupied units may not receive section 8 assistance, and (b) revising and clarifying the procedures under which assistance under Part 1275 may be provided with respect to units in a section 221(d)(3) below market interest rate (BMIR), section 202, or section 236 project.

12. Section 1275.103(i), which sets forth equal opportunity requirements, has been revised to clarify that the provisions of section 3 of the Housing and Urban Development Act of 1968 are applicable only to the PHA.

13. Section 1275.103(j) has been modified to permit the owner to require each family to make a security deposit in an amount equal to the amount payable by the family toward one month's gross rent. (See section 1.7 of Appendix II.)

14. Section 1275.103(l), which sets forth the provisions relating to the requirement that the PHA administer the program so that at least 30 percent of the families for whom leases are approved are very low-income families, has been clarified.

15. The definitions of "large family" and "very large family," as used in § 1275.103(m) for purposes of identifying those families for whom housing assistance payments will equal the difference between 15% of gross income and the gross rent, have been modified as follows:

(1) The term "large family" means a family which includes six or more minors (other than the head of the family or the spouse), and

(2) The term "very large family" means a family which includes eight or more such family members.

16. Section 1275.103(n), which sets forth the provisions relating to the shopping incentive credit, has been modified to eliminate the provisions that (1) the credit be limited to the initial term of the lease and (2) the dollar amount of the credit not be changed with subsequent changes in the gross family contribution.

17. Section 1275.103(q), which sets forth the responsibilities of the owner, has been modified by, among other things, the elimination of the requirement for HUD approval of a contract with another entity for the performance of owner services.

18. Section 1275.103(r)(2), respecting amendment to ACCs to provide for additional units, has been clarified as to the

manner by which the maximum annual contribution of the revised project will be calculated.

19. A new § 1275.105 has been added to provide procedures and policies (including special fair market rents) for utilization under this part of certain recently constructed or substantially rehabilitated housing.

20. Section 1275.207(a)(1), respecting public notice to lower-income families, has been clarified and modified so that, among other things, (1) notice to occupants of housing assisted under the United States Housing Act of 1937, applicants on waiting lists for any such housing, and holders of Certificates of Family Participation for such housing will be accomplished through the public notice and (2) such public notice will state that all such families must apply specifically if they wish to be considered for a certificate under Part 1275.

21. The contents of the certificate holder's packet, as described in § 1275.207(d), have been expanded to include equal opportunity complaint forms, information as to the gross family contribution, appropriate fair market rents and shopping incentive credit, the PHA's schedule of allowances for utilities and other services, and information as to recently completed housing, if any.

22. Section 1275.207(g), which sets forth the policies and procedures respecting continued participation when an assisted family moves, has been clarified.

23. Section 1275.207(o), respecting evictions, has been clarified with regard to minimizing PHA delay in making its determination on whether or not to authorize an eviction. (See section 1.5 of Appendix II.)

24. The provisions respecting required maintenance and security services by the owner have been clarified by deleting the proposed Appendix VIII and revising sections 1.6(c) of Appendix II and c of Appendix VI.

In view of the necessity for having limited the original comment period to fifteen days because of the statutory requirement that these regulations be made effective as of January 1, 1975, comments on these regulations will be received until February 24, 1975. Promptly thereafter, HUD will make such modifications in these regulations as it deems appropriate. Comments should be addressed to the Rules Docket Clerk, Office of the General Counsel, Room 10245, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. A copy of each communication will be available for public inspection during regular business hours at the above address.

In order to comply with the aforementioned statutory requirement, the Assistant Secretary for Housing Production and Mortgage Credit/FHA Commissioner has determined that these regulations be made effective as of January 1, 1975.

Effective date. These regulations are effective as of January 1, 1975. Accordingly, Title 24 is amended as follows:

A new Part 1275, Section 8 Housing Assistance Payments—Existing Housing, is added to Chapter VIII to read as set forth below.

Subpart A—Applicability, Scope and Basic Policies

Sec.

- 1275.101. Applicability and scope.
- 1275.102. Definitions.
- 1275.103. Basic policies.
- 1275.104. Direct HUD administration of programs under this part.
- 1275.105. Recently completed housing.

Subpart B—Project Development and Operation

Sec.

- 1275.201. Allocations of contract authority to field offices.
- 1275.202. Program mix (new construction, substantial rehabilitation, existing housing).
- 1275.203. Invitations for existing housing program applications.
- 1275.204. Submission of application.
- 1275.205. Evaluation of application.
- 1275.206. Annual contributions contract.
- 1275.207. Project operation.
- 1275.208. HUD review of contract compliance.
- 1275.209. PHA reporting requirements. [Reserved].

Appendices

NOTE.—Various prescribed forms which relate to internal HUD processing procedures are not included herein, but will appear in the HUD Existing Housing Handbook.

- I. Annual contributions contract.
- II. Housing Assistance Payments Contract.
- III. Certificate of Family Participation.
- IV. Request for lease approval.
- V. Agency determination with respect to request for lease approval.
- VI. Required lease provisions.
- VII. Prohibited lease provisions.
- VIII. Family's dwelling unit inspection report.
- IX. Owner's dwelling unit inspection report.

AUTHORITY: Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); section 5(b) of the U.S. Housing Act of 1937 (42 U.S.C. 1437c(b)); section 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f).

Subpart A—Applicability, Scope and Basic Policies

§ 1275.101 Applicability and scope.

(a) *General.*

(1) The policies and procedures contained herein are applicable to the making of Housing Assistance Payments on Behalf of Eligible Families leasing Existing Housing pursuant to the provisions of section 8 of the U.S. Housing Act of 1937 ("Act").

(2) For the purpose of this part, "Existing Housing" means housing that is in decent, safe, and sanitary condition except that it does not include housing:

- (1) Which is covered by an Agreement to Enter into Housing Assistance Payments Contract or by a Housing Assistance Payments Contract under 24 CFR Part 1272, 1273, 1276, or 1277, or
- (2) which is owned by the PHA administering the ACC under this part, or
- (3) which is subsidized under other provisions of the Act. Occupancy of housing which requires repairs in order to be made decent, safe, and sanitary may be assisted under this part only after such repairs have been made. (See also Sec. 1275.207(j)(4).)

(b) *ACCs in effect on January 1, 1975.* With respect to all housing under ACCs

(including uncommitted leasing authorizations) in effect on January 1, 1975, other than newly constructed or substantially rehabilitated section 23 housing and PHA-owned housing in existence or committed by that date:

(1) The PHA shall submit by June 30, 1975, or in any event in connection with any request for an amendment to an ACC, (i) a recommendation for continuing such housing under the previous ACC authorization with a justification that it is in the Government's interest to do so, or (ii) a schedule for orderly conversion of such housing to housing assisted under this Part. If an amendment to an ACC is requested by the PHA, the request will not be considered unless it is accompanied by the submission.

(2) Until the PHA's submission required by this paragraph (b) is approved by HUD:

(i) No leases for additional units shall be entered into;

(ii) Leases for unoccupied units shall be terminated as quickly as possible consistent with the legal rights of Owners; and

(iii) Leases for occupied units shall not be extended or modified for a term exceeding one year unless the Owner has the right to renew the lease without concurrence of the PHA.

(3) The provisions of this paragraph (b) shall not apply to ACCs implementing the HUD Experimental Housing Allowance Program.

§ 1275.102 Definitions.

(a) *Allowance for Utilities and Other Services ("Allowance").* An amount determined by the PHA as an allowance for the cost of utilities (except telephone) and charges for other services payable directly by the Family. Where the Family pays directly for one or more utilities or services, the amount of the Allowance is deducted from the Gross Rent in determining the Contract Rent and is included in the Gross Family Contribution.

(b) *Annual Contributions Contract ("ACC").* A written agreement between HUD and a PHA to provide annual contributions to the PHA to cover housing assistance payments and other expenses pursuant to the Act. (See Appendix I.)

(c) *Certificate of Family Participation.* A certificate issued by the PHA declaring a Family to be eligible for participation in this program and stating the terms and conditions for such participation.

(d) *Congregate Housing.* Housing in which some or all of the dwelling units do not have kitchen facilities and connected with which there is a central dining facility to provide meals for the occupants.

(e) *Contract Rent.* The rent payable to the Owner under his Contract including the portion of the rent payable by the Family. In the case of a cooperative, the term "Contract Rent" means

charges under the occupancy agreements between the members and the cooperative.

(f) *Decent, Safe, and Sanitary.* Housing is Decent, Safe, and Sanitary if the performance requirements outlined in § 1275.103(g) are met.

(g) *Eligible Family ("Family").* A family which qualifies as a Lower-Income Family and which meets the other requirements of the Act and this part. The term Family includes an elderly, handicapped, disabled, or displaced person and the remaining member of a tenant family as defined in section 3(2) of the Act. A Family's eligibility for housing assistance payments continues until the amount payable by the Family toward the Gross Rent equals the Gross Rent for the dwelling unit it occupies, but the termination of eligibility at such point shall not affect the family's other rights under its Lease nor shall such termination preclude resumption of payments as a result of subsequent changes in income or rents or other relevant circumstances during the term of the Contract.

(h) *Existing Housing.* See Sec. 1275.101(a)(2).

(i) *Fair Market Rent.* The rent, including utilities (except telephone), ranges and refrigerators, and all maintenance, management, and other services, which, as determined at least annually by HUD, would be required to be paid in order to obtain privately owned, existing, Decent, Safe, and Sanitary rental housing of modest (non-luxury) nature with suitable amenities. Separate Fair Market Rents shall be established for dwelling units of varying sizes (number of bedrooms) and types (e.g., elevator, non-elevator).

(j) *Gross Family Contribution.* The portion of the Gross Rent payable by an Eligible Family (i.e., the difference between the amount of the Housing Assistance Payment payable on Behalf of the Family and the Gross Rent), before deduction of shopping incentive credit, where applicable.

(k) *Gross Rent.* The Contract Rent plus any Allowance for Utilities and Other Services.

(l) *HCD Act.* The Housing and Community Development Act of 1974.

(m) *Housing Assistance Payments Contract ("Contract").* A written contract between a PHA and an Owner for the purpose of providing housing assistance payments to the Owner on behalf of an Eligible Family. (See Appendix II.)

(n) *Housing Assistance Payment on Behalf of Eligible Family.* The amount of housing assistance payment on behalf of an Eligible Family determined in accordance with schedules and criteria established by HUD. (See § 1275.103(m).)

(o) *HUD.* The Department of Housing and Urban Development or its designee.

(p) *Income.* Income from all sources of each member of the household as determined in accordance with criteria established by HUD.

(q) *Lease.* A written agreement between an Owner and an Eligible Family

for the leasing of an Existing Housing unit in accordance with the Contract, which agreement is in compliance with the provisions of this part.

(r) *Local Housing Assistance Plan.* A housing assistance plan submitted by a unit of general local government and approved by HUD under section 104 of the HCD Act or, in the case of a unit of general local government not participating under Title I of the HCD Act, a housing plan which contains the elements set forth in section 104(a)(4) of the HCD Act and which is approved by the Secretary as meeting the requirements of section 213 of that Act.

(s) *Lower-Income Family.* A Family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger Families, except that HUD may establish income limits higher or lower than 80 percent on the basis of its findings that such variations are necessary because of the prevailing levels of construction costs, unusually high or low incomes, or other factors.

(t) *Owner.* Any person or entity, including a cooperative, having the legal right to lease or sublease Existing Housing.

(u) *Public Housing Agency ("PHA").* Any State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of housing for low-income Families.

(v) *Secretary.* The Secretary of Housing and Urban Development.

(w) *Very Low-Income Family.* A Family whose income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller or larger Families.

§ 1275.103 Basic policies.

(a) *"Finders-Keepers" Policy.* A holder of a Certificate of Family Participation shall be responsible for finding an Existing Housing unit suitable to the holder's needs and desires in any area within the PHA's jurisdiction. A holder of a Certificate may select the dwelling unit which the holder already occupies if the unit qualifies as Existing Housing. A PHA may provide assistance in finding units for those Families who, because of age, handicap, or other reasons, are unable to locate approvable units and shall provide such assistance where the Family alleges that discrimination is preventing it from finding a suitable unit, any such assistance to be in accordance with the PHA's approved equal opportunity housing plan.

(b) *Annual Contributions.*

(1) The maximum total annual contributions that may be contracted for in the ACC for Existing Housing shall not exceed: (i) the total of the Fair Market Rents for all the units plus (ii) a fee for the regular costs of PHA administration. HUD-approved preliminary costs shall be payable out of this total.

(2) A project account will be established and maintained, in an amount as determined by the Secretary consistent

with his responsibilities under section 8 (c)(6) of the Act. This account shall be established and maintained by HUD as a specifically identified and segregated account, and payment shall be made therefrom only for the following purposes:

- (i) Housing assistance payments;
- (ii) The amount of the fee for regular PHA costs of administration; and
- (iii) Other costs specifically authorized or approved by the Secretary.

(3) In addition, the ACC will provide that HUD will take such additional steps authorized by section 8(c)(6) of the Act as may be necessary to assure availability of funds to cover increases in housing assistance payments on a timely basis as a result of increases in Contract Rents or decreases in Family incomes.

(c) *Housing Assistance Payments to Owners—(1) General.* Housing assistance payments shall be paid to an Owner in accordance with his Contract for the dwelling unit under lease by an Eligible Family. These housing assistance payments will cover the difference between the Contract Rent and the portion of said rent payable by the Family as determined in accordance with HUD-established schedules and criteria.

(2) *Vacated Units.*

(i) If an Eligible Family vacates its unit in violation of the provisions of the Lease or tenancy agreement, the Owner shall receive housing assistance payments in the amount of 80 percent of the Contract Rent for a vacancy period not exceeding 60 days or the expiration or other termination of the Lease or tenancy agreement, whichever comes first; provided, however, that if the Owner collects any of the Family's share of the rent for this period in an amount which, when added to the 80 percent payments, results in more than the Contract Rent, such excess shall be payable to HUD or as HUD may direct; and provided further, that if the vacancy is the result of action by the Owner, the Owner shall not receive any payment under this paragraph if his action was in violation of the Lease or the Contract or any applicable law or if the Owner failed to comply with § 1275.207(o).

(ii) The Owner shall not be entitled to any payment under this paragraph (c)(2) unless he: (A) Immediately upon learning of the vacancy, has notified the PHA of the vacancy or prospective vacancy, (B) has taken and continues to take all feasible actions to fill the vacancy including, but not limited to, contacting applicants on his waiting list, if any, requesting the PHA and other appropriate sources to refer eligible applicants, and advertising the availability of the unit and (C) has not rejected any eligible applicant, except for good cause acceptable to the PHA.

(iii) The Owner shall not be entitled to housing assistance payments with respect to vacant units under this paragraph (c)(2) to the extent he is entitled to payments from other sources (for example, payments for losses of rental income incurred for holding units vacant

for relocatees pursuant to Title I of the HCD Act or payments under § 1275.103 (j)).

(d) *Maximum Rents to Owner.—(1) Initial Maximum Rents.* (i) For any Existing Housing unit, the sum of the Contract Rent and any Allowance for Utilities and Other Services shall not exceed the applicable Fair Market Rent except that such Fair Market Rent may be exceeded by up to 10 percent if the PHA certifies that such higher rent meets the test of reasonableness in paragraph (d)(1)(ii), specifies the factor(s) on which the certification is based, and HUD approves. Upon request by the PHA, the Fair Market Rent may be exceeded by up to 20 percent in a designated area, where the Assistant Secretary for Housing-Production and Mortgage Credit determines that special circumstances, such as prevailing rents for modest housing, in a designated area, warrant such higher rents or determines that such higher rents are necessary to the implementation of a Local Housing Assistance Plan.

(ii) In addition, the PHA shall determine and so certify that the Contract Rent does not exceed a rent that is reasonable in relation to the location, quality, amenities, facilities, and management and maintenance services of the dwelling unit.

(2) *Subsequent Adjustments.* Contract Rents shall be adjusted as provided in paragraphs (d)(2)(i) and (ii) upon request to the PHA by the Owner, provided that such request is accompanied by a certification signed by the Owner and the Family that the unit is in Decent, Safe, and Sanitary condition and that the Owner is otherwise in compliance with the terms of the Lease.

(i) An adjustment as of any anniversary date of the Lease not to exceed the percentage of change in the applicable published Fair Market Rent (with appropriate reduction in the adjustment where utilities are paid directly by the Family), provided that the Owner has the legal right to terminate the tenancy as of such anniversary date.

(ii) A special adjustment, subject to HUD approval, effective as of the date when the Owner has the legal right to terminate the tenancy, to reflect increases in the actual and necessary expenses of owning and maintaining the unit which have resulted from substantial general increases in real property taxes, utility rates, or similar costs (i.e., assessments, and utilities not covered by regulated rates), but only if and to the extent that the Owner clearly demonstrates that such general increases have caused increases in the Owner's operating costs which are not adequately compensated for by the annual adjustments provided for in paragraph (d)(2)(i). The Owner shall submit financial statements to the PHA which clearly support the increase.

(iii) Notwithstanding any other provisions of this Part, adjustments as provided in this paragraph (d)(2) shall not result in material differences between the rents charged for assisted and comparable unassisted units, as determined by the PHA (and approved by HUD, in

the case of adjustments under paragraph (d) (2) (ii)).

(e) *Term of ACC.* The term of the ACC shall be for five years, as provided in Appendix I.

(f) *Term of Lease and of Housing Assistance Payments Contract.* The Lease shall be for not less than one year nor more than three years but may contain a provision permitting termination upon 30 days advance written notice by either party. The term of the Contract shall be for the term of the Lease, provided that if a Family continues in occupancy after the expiration of the term on the same terms and conditions as the original Lease (or changes thereto which have been approved by the PHA and incorporated in the Contract where appropriate), the Contract shall continue in effect for the duration of such tenancy subject to the limitations in the next sentence. The specified Contract and Lease term, including specified renewal options, if any, and any continuation of tenancy beyond the Lease term shall in no case exceed three years or extend beyond the term of the ACC pertaining to the Contract and the Lease. This limitation shall not preclude the execution of a new Lease and Contract for the dwelling unit.

(g) *Housing Quality Standards.* Housing used in this program shall meet the Performance Requirements set forth in this paragraph (g). In addition, the housing must meet the Acceptability Criteria (set forth in this paragraph (g)) except for such variations as are proposed by the PHA and approved by HUD. Local climatic or geological conditions or local codes are examples which may justify such variations.

(1) *Sanitary Facilities—(i) Performance Requirement.* The dwelling unit shall include its own sanitary facilities which are in proper operating condition, can be used in privacy, and are adequate for personal cleanliness and the disposal of human waste.

(ii) *Acceptability Criteria.* A flush toilet in a separate, private room, a fixed basin with hot and cold running water, and a shower or tub with hot and cold running water shall be present in the dwelling unit, all in proper operating condition. These facilities shall utilize an approved public or private disposal system.

(2) *Food Preparation and Refuse Disposal—(i) Performance Requirement.* The dwelling unit shall contain suitable space and equipment to store, prepare, and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary.

(ii) *Acceptability Criteria.* A cooking stove or range, a refrigerator of appropriate size for the unit, and a kitchen sink with hot and cold running water shall be present in proper operating condition within the unit. The sink shall drain into an approved public or private system. Adequate space for the storage, preparation and serving of food shall be provided. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including

facilities for temporary storage where necessary (e.g., garbage cans).

(3) *Space and Security—(i) Performance Requirement.* The dwelling unit shall afford the Family adequate space and security.

(ii) *Acceptability Criteria.* A living room, kitchen area, and bathroom shall be present; and the dwelling unit shall contain at least one sleeping room or living/sleeping room of appropriate size for each two persons. Exterior doors and windows accessible from outside the unit shall be lockable.

(4) *Thermal Environment—(i) Performance Requirement.* The dwelling unit shall have and be capable of maintaining a thermal environment healthy for the human body.

(ii) *Acceptability Criteria.* The dwelling unit shall contain safe heating and/or cooling facilities which are in proper operating condition and can provide adequate heat and/or cooling to each room in the dwelling unit appropriate for the climate to assure a healthy living environment. Unvented room heaters which burn gas, oil or kerosene are unacceptable.

(5) *Illumination and Electricity—(i) Performance Requirement.* Each room shall have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. Sufficient electrical sources shall be provided to permit use of essential electrical appliances while assuring safety from fire.

(ii) *Acceptability Criteria.* Living and sleeping rooms shall include at least one window. A ceiling or wall type light fixture shall be present and working in the bathroom and kitchen area. At least two electric outlets, one of which may be an overhead light, shall be present and operable in the living area, kitchen area, and each bedroom area.

(6) *Structure and Materials—(i) Performance Requirement.* The dwelling unit shall be structurally sound so as not to pose any threat to the health and safety of the occupants and so as to protect the occupants from the environment.

(ii) *Acceptability Criteria.* Ceilings, walls and floors shall not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling or noticeable movement under walking stress, missing parts or other serious damage. The roof structure shall be firm and the roof shall be weathertight. The exterior wall structure and exterior wall surface shall not have any serious defects such as serious leaning, buckling, sagging, cracks or holes, loose siding, or other serious damage. The condition and equipment of interior and exterior stairways, halls, porches, walkways, etc., shall be such as not to present a danger of tripping or falling. Elevators shall be maintained in safe and operating condition.

(7) *Interior Air Quality—(i) Performance Requirement.* The dwelling unit shall be free of pollutants in the air at levels which threaten the health of the occupants.

(ii) *Acceptability Criteria.* The dwelling unit shall be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful air pollutants. Air circulation shall be adequate throughout the unit. Bathroom areas shall have at least one openable window or other adequate exhaust ventilation.

(8) *Water Supply—(i) Performance Requirement.* The water supply shall be free from contamination.

(ii) *Acceptability Criteria.* The unit shall be served by an approved public or private sanitary water supply.

(9) *Lead Based Paint—(i) Performance Requirement.*

(A) The dwelling unit shall be in compliance with HUD Lead Based Paint regulations, 24 CFR Part 35, issued pursuant to the Lead Based Paint Poisoning Prevention Act, 42 U.S.C. 4801, and the Owner shall provide a certification that the dwelling has been treated in accordance with such HUD regulations.

(B) If the property was constructed prior to 1950, the Owner shall provide a certification that the Family upon occupancy will receive the notice required by HUD Lead Based Paint regulations and procedures regarding the hazards of lead based paint poisoning, the symptoms and treatment of lead poisoning and the precautions to be taken against lead poisoning and a certification that records showing receipt of such notice by each tenant will be maintained for at least three years.

(ii) *Acceptability Criteria.* Same as Performance Requirement.

(10) *Access—(i) Performance Requirement.* The dwelling unit shall be useable and capable of being maintained without unauthorized use of other private properties, and the building shall provide an alternate means of egress in case of fire.

(ii) *Acceptability Criteria.* The dwelling unit shall be useable and capable of being maintained without unauthorized use of other private properties. The building shall provide an alternate means of egress in case of fire (such as fire stairs or egress through windows).

(11) *Site and Neighborhood—(i) Performance Requirement.* The site and neighborhood shall be reasonably free from disturbing noises and reverberations and other hazards to the health, safety, and general welfare of the occupants.

(ii) *Acceptability Criteria.* The site and neighborhood shall not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks, steps, instability, flooding, poor drainage, septic tank back-ups, sewage hazards or mudslides; abnormal air pollution, smoke or dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; vermin or rodent infestation; or fire hazards.

(12) *Sanitary Condition—(i) Performance Requirement.* The unit and its equipment shall be in sanitary condition.

(ii) *Acceptability Criteria.* The unit and its equipment shall be free of vermin and rodent infestation.

RULES AND REGULATIONS

(13) *Congregate Housing.* The foregoing standards shall apply except for the requirement that food preparation and serving facilities be included within the dwelling unit. All units shall contain a refrigerator of appropriate size. The central dining facility (and kitchen facility, if any) shall contain suitable space and equipment to store, prepare and serve food in a sanitary manner, and there shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).

(h) *Types of Housing.*

(1) Any type of Existing Housing may be utilized under this Part except as set forth below.

(2) No section 8 assistance may be provided with respect to any Owner-occupied unit; however, cooperatives are considered rental housing for this purpose.

(3) Congregate Housing may be utilized or eligible elderly, handicapped, disabled or displaced families and individuals. The Fair Market Rent for Congregate Housing shall be the same as for 0- and 1-bedroom units (as appropriate) of the same structure type, and the Contract Rent shall not include the cost of providing and serving food.

(4) Existing FHA insured, section 202 direct loan, Farmers Home Administration insured or direct loan, or VA guaranteed properties, or properties held by the Secretary or properties sold by the Secretary on which he has taken back a purchase money mortgage, may be utilized under this Part; provided, however, that in any section 221(d)(3) below market interest rate (BMIR), section 202, or section 236 project, (i) units receiving assistance under section 23 and/or rent supplement programs may continue to receive such assistance; and (ii) units not receiving such assistance may receive section 8 assistance only after approval by the Assistant Secretary for Housing Production and Mortgage Credit and the Assistant Secretary for Housing Management on a case by case basis, and in such cases the number of units assisted under section 8 (together with any section 23 and/or rent supplement units), will generally be limited to 20 percent of the units in each such project. The housing assistance payment shall be the amount by which the rent payable by the Eligible Family is less than the subsidized rent (which subsidy shall not be reduced by the section 8 payment). In no event may any occupant receive the benefit of more than one of the following: rent supplement, section 23 housing assistance, or section 8 housing assistance.

(1) *Equal Opportunity Requirements.* Participation in this program requires compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063 and all rules, regulations, and requirements issued pursuant thereto. The PHA shall comply with section 3 of the Housing and Urban Development Act of

1968 and all applicable rules, regulations, and requirements.

(j) *Security and Utility Deposits.* (1) An Owner may require Families to pay a security deposit in an amount equal to the amount payable by the Family toward one month's Gross Rent. If a Family vacates the unit, the Owner may utilize the deposit as reimbursement for any unpaid rent or other amount owed under the Lease. If the Family has provided a security deposit, and it is insufficient for such reimbursement, the Owner may claim reimbursement from the PHA, not to exceed an amount equal to the remainder of one month's Contract Rent. If a family vacates the unit owing no rent or other amount under the Lease, or if such amount is less than the amount of the security deposit, the Owner shall refund the full amount or the unused balance, as the case may be, to the Family.

(2) In those jurisdictions where interest is payable by the Owner on security deposits, the refunded amount shall include the amount of interest payable. The Owner must comply with all State and local laws regarding interest payments on security deposits.

(3) Families shall be expected to obtain the funds to pay security and utility deposits, if required, from their own resources and/or other private or public sources.

(k) *Establishment of Income Limit Schedules.* HUD will establish schedules of income limits for defining Lower-Income Families and Very Low-Income Families.

(1) *30 Percent of Assisted Families To Be Very Low-Income Families.* Each PHA shall so administer its Existing Housing program under this Part, including the issuance of a sufficient number of Certificates to Very Low-Income Families, so that at least 30 percent of the Families for whom Leases are approved by the PHA are Very Low-Income Families; *Provided, however,* That in connection with periodic reexamination of Family income, the PHA shall ascertain whether at least 30 percent of all the assisted Families are Very Low-Income Families; and where the percentage is lower than 30 percent, the PHA shall thereafter use its best efforts in connection with subsequent issuance of Certificates of Family Participation to achieve at least a 30 percent level.

(m) *Establishment of Amount of Housing Assistance Payments.* The amount of Housing Assistance Payment on Behalf of an Eligible Family, to be determined in accordance with schedules and criteria established by HUD, will equal the difference between (1) no less than 15 percent nor more than 25 percent of the Family's gross income and (2) the Gross Rent, taking into consideration the income of the Family, the number of minor children in the household, and the extent of medical or other unusual expenses incurred by the Family, except that, in the case of a large Very Low-Income Family or a very large Lower-Income Family or a Family with

exceptional medical or other expenses, the amount of the housing assistance payment shall be the difference between 15 percent of the Family's gross income and the Gross Rent. The term large Family means a Family which includes six or more minors (other than the head of the Family or spouse). The term very large Family means a Family which includes eight or more minors (other than the head of the Family or spouse). The amount of the housing assistance payment shall be adjusted, where appropriate, to reflect the shopping incentive credit pursuant to paragraph (n) of this section.

(n) *Shopping Incentive-Family Credit for Savings of Government Assistance Payments.* (1) As an incentive to Families to find the most economical housing suitable to their needs and approvable under this Part, if a Family selects a unit (other than a unit receiving the benefit of Federal, State or local subsidy) for which the Owner's proposed Contract Rent plus any applicable Allowance is below the applicable Fair Market Rent, the Family will be given credit (Shopping Incentive Credit) by a reduction in its required monthly Gross Family Contribution.

(2) The amount of the monthly Shopping Incentive Credit shall be the dollar amount equal to that percentage of the Gross Family Contribution which the Rent Saving is of the Fair Market Rent. The Rent Saving is the amount by which the Fair Market Rent (1) exceeds the approved Contract Rent (plus any applicable Allowance), or (ii) exceeds the initially proposed Contract Rent (plus any applicable Allowance), if that be higher than the approved Contract Rent (plus any applicable Allowance).

(o) *Responsibilities of the PHA.* In administering its ACC with HUD, the PHA (subject to review or audit by HUD) shall be responsible for the following:

(1) Publication and dissemination of information concerning the availability and nature of housing assistance for Lower-Income Families;

(2) Public invitation of Owners to make dwelling units available for leasing by Eligible Families and development of working relationships and contacts with landlords and appropriate associations and groups;

(3) Receipt and review of applications for Certificates of Family Participation and maintenance of a waiting list in accordance with this part;

(4) Issuance of Certificates of Family Participation to Eligible Families;

(5) Notification of families determined to be ineligible;

(6) Provision to each Certificate holder of basic information on applicable housing quality standards and inspection procedures, search for and selection of housing, landlord and tenant responsibilities, and basic program rules including the operation of the "shopping incentive;"

(7) Determination of amounts of Gross Family Contributions and credits, if any, pursuant to section 1275.103(n);

(8) Determination of amounts of housing assistance payments;

(9) Review of and action on Requests for Lease Approval;

(10) Making of housing assistance payments;

(11) Reexaminations of Family income, composition, and extent of exceptional medical or other unusual expenses, and redeterminations, as appropriate, of the amount of Family contribution and amount of housing assistance payment in accordance with HUD-established schedules and criteria;

(12) Redeterminations of amount of Family contribution and amount of housing assistance payment in accordance with HUD-established schedules and criteria as a result of an adjustment by the PHA of any applicable Allowance for Utilities and Other Services;

(13) Inspections prior to leasing and inspections at least annually to determine that the units are maintained in Decent, Safe, and Sanitary condition, and notifications to Owners and Families of PHA determinations;

(14) Authorization of evictions (see section 1275.207(o));

(15) Administration and enforcement of contracts with Owners and taking of appropriate actions in case of noncompliance or default; and

(16) Compliance by the PHA with equal opportunity requirements.

(p) *Responsibility of the Family.* A Family receiving housing assistance under this program shall be responsible for fulfilling all its obligations under the Certificate of Family Participation issued to it by the PHA and under the Lease with the Owner.

(q) *Responsibilities of the Owner.* The Owner shall be responsible (subject to review or audit by the PHA or HUD) for performing all of his obligations under the Contract and Lease. The Owner's responsibilities shall include but not be limited to:

(1) Performance of all management and renting functions;

(2) Payment for utilities and services (unless paid directly by the Family);

(3) Performance of all ordinary and extraordinary maintenance;

(4) Collection of Family rents;

(5) Preparation and furnishing of information required under the Contract; and

(6) Compliance by the Owner with equal opportunity requirements. Any owner may contract with any private or public entity to perform such services for a fee, provided that such contract shall not shift any of the owner's responsibilities or obligations, and provided further that no such contract may be entered into with an entity which is responsible for administration of the contract.

(r) *Single ACC.* (1) All of the Existing Housing units administered by a PHA under the Housing Assistance Payments Program shall be assigned a single project number and shall be administered under a single ACC Part I.

(2) In the event that a PHA applies for additional Existing Housing units, the units, if approved, shall be incorporated into a revised Part I of the ACC

which shall cover the PHA's entire Housing Assistance Payments Program for Existing Housing. The revised Part I shall be for a new term for the aggregate number of units starting with the date of execution of the revised ACC Part I. When the PHA applies for additional units, it shall specify the number of years for which the aggregate number of units is needed and shall demonstrate such need. On the basis of such showing, HUD shall determine whether the new term for the aggregate number of units shall be five years or such lesser number of years as HUD may find to be justified. The maximum annual contribution of the revised project shall be the sum of (i) the maximum annual contribution for the project prior to the revision, plus (ii) the amount approved for the additional units which shall be computed on the basis of the current Fair Market Rents.

§ 1275.104 Direct HUD administration of programs under this part.

(a) If, after publishing an invitation in accordance with § 1275.203, no application is received by HUD, by the deadline date, for operation of an Existing Housing program in the area, or if the only applications received are not approvable, the HUD field office shall make such further inquiry, including advice and offer of assistance, as in its judgment may result in the submission of an approvable application by a PHA.

(b) If, on the basis of such further inquiry and all other pertinent information available to the HUD field office, HUD determines that there is no PHA organized or that there is no PHA able and willing to implement the provisions of this part for an area, HUD may, pursuant to section 8(b)(1) of the Act, enter into Contracts with owners and perform the functions otherwise assigned to PHAs under this part with respect to such area.

§ 1275.105 Recently completed housing.

(a) Until December 31, 1975, for any area in which HUD determines that new construction or substantial rehabilitation is justified (see 24 CFR 1273.103(a) and 1277.103(a), respectively) but that there are one or more projects of newly constructed or substantially rehabilitated housing completed subsequent to December 31, 1972 ("Recently Completed Housing"), with substantial vacancies of extended duration, HUD may, for a specified maximum number of units:

(1) Establish Fair Market Rents for such Recently Completed Housing at 75 percent of the Fair Market Rents for new construction then in effect; and

(2) Authorize the PHA to publicize the availability of such Fair Market Rents for the specified number of units of Recently Completed Housing, invite Owners of such projects to qualify their units as Recently Completed Housing, and inform holders of Certificates of Family Participation of the locations of such Housing and of the applicable Fair Market Rents.

(b) All provisions of this part, not specifically modified by this section,

shall be applicable to housing under this section.

Subpart B—Project Development and Operation

§ 1275.201 Allocations of contract authority to field offices.

HUD will allocate to field offices contract authority for the Section 8 Housing Assistance Payments Program for metropolitan areas and for non-metropolitan areas in conformance with section 213(d) of the HCD Act.

§ 1275.202 Program mix (new construction, substantial rehabilitation, existing housing).

Each field office shall, after considering the contents of Local Housing Assistance Plans and any other pertinent information which it has or which is brought to its attention, in relation to the factors set forth in section 213(d) of the HCD Act, determine the number and types of units to be advertised for new construction and for substantial rehabilitation, and to be made available for existing housing.

§ 1275.203 Invitations for existing housing program applications.

(a) *Publication.* The HUD filed office shall initiate implementation of its program with respect to Existing Housing by publishing invitations for Existing Housing program applications in accordance with a schedule established by the field office. Such publications shall be at least once a week on the same day or days of each of two consecutive weeks in a newspaper(s) of general circulation serving the area(s) for which the applications are desired. In addition HUD shall promptly notify minority media, minority organizations involved in housing and community development, and fair housing groups. To the extent feasible, HUD may also notify appropriate PHAs the chief executive officer of the appropriate unit(s) of general local government, trade journals and other non-minority media. Copies of each invitation shall be available in the HUD field office.

(b) *Contents of Invitation.* The invitation shall indicate: (1) That applications may be submitted by public housing agencies (i.e., any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing), (2) the maximum number of units, (3) the geographic area, (4) the deadline for submission of applications (which shall be at least 30 but not more than 60 calendar days after the date of the first publication in the newspaper of general circulation), (5) the fact that application and other forms and copies of program regulations may be obtained from the field office, (6) the fact that if no application is received by the deadline date, HUD may determine to carry out the Existing Housing program directly, pursuant to section 8(b)(1) of the Act, and (7) such

other basic information as the field office may specify.

§ 1275.204 Submission of application.

The application for an Existing Housing program shall be submitted by a PHA to the HUD field office. Advice and assistance in the preparation of the application are available from the HUD field office. The application shall be in the form prescribed by HUD and shall require the applicant to:

(a) Indicate the types of Existing Housing (e.g., elevator, nonelevator) likely to be utilized in the proposed program and whether authorization for the use of Recently Completed Housing is desired (see § 1275.105).

(b) Indicate the total number of units expected to be utilized by unit size (i.e., one bedroom units, two bedroom units, etc.) and the approximate number of units to be for occupancy by elderly, handicapped, or disabled.

(c) Demonstrate that the program requested in paragraph (b) of this section is consistent with the applicable Local Housing Assistance Plan, or, in the absence of such a Plan, that the proposed program is responsive to the condition of the housing stock in the community and the housing assistance needs of Lower-Income Families (including the elderly, handicapped, and disabled, large Families and those displaced or to be displaced) residing in or expected to reside in the community.

(d) Demonstrate that the applicant qualifies as a "public housing agency" and is legally qualified and authorized to participate in the proposed section 8 Existing Housing program for the area in which the Existing Housing program is to be carried out and include in such demonstration (1) the relevant enabling legislation, (2) any rules and regulations adopted or to be adopted by the agency to govern its operations, and (3) a supporting opinion from the agency counsel.

(e) Submit an equal opportunity housing plan which shall set forth the PHA's policies and procedures for encouraging the participation of Owners of units in areas other than low-income or minority concentrated areas, for advertising, and for making known to families who might be eligible for assistance the opportunity for applying for Certificates of Family Participation and the PHA's policies and procedures (including preferences and priorities, if any) for issuance of such Certificates. Such plan shall be in conformance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968 and Executive Order 11063 and shall include policies, if any, for carrying out its responsibilities for rehousing displaced Families.

(f) Submit a statement that the housing quality standards to be used in the operation of the program will be as set forth in § 1275.103(g) or that variations in the Acceptability Criteria are proposed. In the latter case, each proposed variation shall be specified and justified.

(g) Submit the proposed schedule of Allowances for Utilities and Other Serv-

ices with a justification of the amounts proposed.

(h) Propose a schedule specifying the number of units to be leased by the end of each three-month period, for purposes of § 1275.206(c).

§ 1275.205 Evaluation of application.

(a) *Initial Screening.* Promptly after receipt of an application, the HUD field office will check whether or not the application is complete. If an application is incomplete, the PHA will be so notified and will be given until the deadline date or, if necessary, a reasonable time thereafter, within which to complete the application.

(b) *Notice to Unit of General Local Government.* Within 10 days of receipt of each completed application by the HUD field office, the field office will forward, under cover of a letter in the prescribed form, a copy of such application to the chief executive officer (or such designee as such officer may designate in writing to the HUD field office) of the unit of general local government in which the proposed Existing Housing program is to be carried out. The cover letter will invite a response within 30 days.

(c) *Evaluation of Applications.* HUD may begin its evaluation immediately upon receipt of the application, but no final decision of approval or disapproval of the application may be made until after the deadline for receipt of applications or the end of the opportunity for response referred to in paragraph (b) of this section, whichever is later. Each application will be evaluated by HUD on the basis of all pertinent factors under this Part, including comments, if any, received during the comment period from the unit of general local government. If there are two or more approvable applications for a program for a particular area, HUD shall determine on what basis to distribute the units among such applicants, or if it determines that such distribution is not feasible, HUD shall determine which application shall be approved.

(d) *Disapproval, Conditional Approval, or Approval of Applications.* If an application is disapproved, HUD shall notify the applicant by letter indicating in detail the reasons for disapproval. If an application can be approved only if certain changes are made, HUD shall notify the applicant by letter stating that the application can be approved if the PHA adopts, within a reasonable time as determined by HUD, the changes required by HUD. If an application is approved, the applicant shall be sent a Notification of Application Approval, utilizing the prescribed form. This Notification will state, among other things, that authorization for preparation of an ACC has been requested, and that, upon receipt of such authorization, an ACC will be prepared and forwarded to the PHA for execution by it.

§ 1275.206 Annual contributions contract.

(a) *Transmittal of ACC.* After the HUD field office has prepared the ACC,

shown as Appendix I, the ACC shall be transmitted to the PHA for execution by the PHA. The letter of transmittal shall advise the PHA that after the ACC has been executed by the PHA, it shall be returned to HUD together with the PHA's estimates of its financial requirements on the prescribed forms.

(b) *Execution of ACC by HUD.* After receipt of the PHA-executed ACC and the accompanying financial estimates, HUD shall review the estimates and, if approved, shall execute the ACC. HUD then shall transmit a fully executed copy of the ACC together with a leasing schedule in accordance with paragraph (c) of this section.

(c) *Expeditious Leasing.* The ACC shall include a provision relating to expeditious leasing of units under the program. HUD will review the PHA-proposed schedule specifying the number of units that are expected to be leased by the end of each three-month period, and will make such changes as it may deem appropriate. In its transmittal of the ACC to the PHA, HUD will include the HUD-approved schedule. This schedule will be established so as to implement HUD policy that all units in a section 8 Existing Housing program of 100 units or more must be leased by Eligible Families within 12 months. In the case of smaller programs, a shorter time period may be established by HUD. Failure of the PHA to demonstrate a good faith effort to adhere to this schedule will be considered a basis for reduction by HUD of the number of units and amount of HUD's annual contributions commitment.

§ 1275.207 Project operation.

(a) *Public Notice to Lower-Income Families; Waiting List.* (1) Promptly after receiving the executed ACC, and thereafter as may be necessary, the PHA shall make known to the public through publication in a newspaper of general circulation as well as through minority media and other suitable means, the availability and nature of housing assistance for lower-income families (including assistance with respect to units already occupied by the families) and the notice shall inform such families where they may apply for Certificates of Family Participation.

(i) The notice shall also state that occupants of housing assisted under the Act (including leased housing and housing occupied with assistance under the Section 23 Housing Assistance Payments Program), applicants on waiting lists for any such housing, and holders of Certificates of Family Participation for such housing must apply specifically if they wish to be considered for a Certificate of Family Participation under this Part. In addition, the notice shall state that such applicants for Certificates will not lose their place on the public housing waiting list.

(ii) Such notice shall be made in accordance with the PHA's HUD-approved equal opportunity housing plan and with the HUD guidelines for fair housing requiring the use of the equal housing opportunity logotype, statement, and slogan, emphasizing outreach to families not otherwise expected to apply. The

PHA shall send to the appropriate HUD field office a statement of the methods used and a copy of the published notice and other material.

(2) The PHA shall establish and maintain a waiting list for applicants for Certificates of Family Participation under this Part. If an applicant is determined by the PHA to be eligible but the PHA has determined pursuant to § 1275.-207(c) (3) that it cannot issue any more Certificates, the PHA shall place such Family on this waiting list and notify the Family of this fact, and of the approximate date that a Certificate may be issued, insofar as such date can reasonably be determined.

(3) If the number of Families on the PHA's waiting list for Certificates of Family Participation is such that there is no reasonable prospect that additional applicants could be issued Certificates within the next year, the PHA may determine to suspend the taking of further applications, and in such case the PHA shall not be required to take the actions specified in paragraph (a) (1) of this section. Any such determination by the PHA shall be publicly announced in the same manner as provided in paragraph (a) (1) of this section and shall be effective as of the date stated in such announcement.

(b) *Activities to Encourage Participation by Owners and Others.* (1) The PHA shall invite Owners, through publication in a newspaper of general circulation as well as through minority media and other suitable means, to make dwelling units available for leasing by Eligible Families, and in doing so, the PHA shall encourage the participation of Owners of units in areas other than low-income or minority concentrated areas. Such invitation shall be made in accordance with the PHA's HUD-approved equal opportunity housing plan, and with the HUD advertising guidelines for fair housing requiring the use of the equal housing opportunity logotype, statement, and slogan. The PHA shall publicize the needs of the program in such ways as to reach a maximum number of Owners and real estate brokers.

(2) The PHA shall also (i) request the field office to furnish it with a list of Secretary-held properties available for rent, to be included in the Certificate Holder's Packets, (ii) develop working relationships with local Owners and real estate broker associations, (iii) establish contact with civic, charitable, or neighborhood organizations which have an interest in housing for low-income families, and public agencies concerned with obtaining housing for displaced, and (iv) explain fully the provisions of the program, including equal opportunity requirements, to real estate, landlord, and other groups the members of which have dealings with low-income families or are interested in housing such families.

(3) The PHA shall send to the appropriate HUD field office a statement of the methods used in its activities under this paragraph (b) and a copy of the published notice and other material.

(c) *Initial Determination of Family Eligibility.*

(1) The PHA shall be responsible for determining eligibility in accordance with schedules and criteria established by HUD, and for selecting Families for participation in accordance with the PHA's HUD-approved equal opportunity Part. If an Owner is the initial point of housing plan and the provisions of this contact by an applicant who does not have a Certificate of Family Participation, he shall refer such applicant to the PHA.

(2) Every applicant for a Certificate shall complete and sign the form of application prescribed by HUD.

(3) The PHA shall maintain a system to assure that it will be able to honor all outstanding Certificates of Family Participation within its ACC authorization.

(4) PHA records on applicant and certified Families shall be maintained so as to provide HUD with racial, gender, and ethnic data.

(d) *Issuance of Certificate of Family Participation, and Certificate Holder's Packet.* If an applicant is determined by the PHA to be eligible and is selected for participation, he shall be given a Certificate of Family Participation (see Appendix III) signed by the PHA. At the same time, the Family shall be given two Certificate Holder's Packets, each of which shall include:

(1) Request for Lease Approval (see Appendix IV);

(2) Agency Determination with Respect to the Request for Lease Approval (see Appendix V);

(3) Required Lease Provisions and Prohibited Lease Provisions (see Appendices VI and VII);

(4) Booklet, *Watch Out for Lead Paint Poisoning*, issued by the U.S. Department of Health, Education, and Welfare and identified as DHEW Publication No. (HSM) 73-5101;

(5) The PHA's statement of housing quality standards and the forms for inspection of housing units and certification of compliance with those standards (see Appendices VIII and IX).

(6) *Your Housing Rights* (HUD-177-EO(2)) and *Fair Housing U.S.A.* (HUD-63-EO(6)), both issued by the U.S. Department of Housing and Urban Development; and Equal Opportunity complaint form HUD-903.

(7) Housing Assistance Payments Contract (see Appendix II);

(8) A list of Secretary-held properties available for rent and information concerning Recently Completed Housing, if any;

(9) Information as to the Gross Family Contribution, the Fair Market Rents appropriate for the Family size and composition, and the benefit of the shopping incentive credit for rents below the Fair Market Rent;

(10) The PHA's schedule of Allowances for Utilities and Other Services;

(11) Such other items as the PHA may determine should be included.

(e) *Briefing of Certificate Holders.* When a Family initially receives its Certificate of Family Participation, a full explanation of the following shall be pro-

vided to assist the Family in finding a suitable unit and to apprise the Family of its responsibilities and the responsibilities of the Owner (this may be done either in group or individual sessions; and adequate opportunity shall be provided for Families to raise questions and to discuss the information provided):

(1) Family and Owner responsibilities under the Lease and Contract;

(2) How to find a suitable unit;

(3) Applicable housing quality standards and procedures for joint Family-Owner inspection and for individual certification of compliance with those standards;

(4) Significant aspects of the applicable State and local laws; and

(5) Significant aspects of Federal, State and local fair housing laws.

(f) *Expiration and Extension of Certificate.*

(1) The Certificate of Family Participation shall expire at the end of 60 days unless within that time the Family submits a Request for Lease Approval (Appendix IV).

(2) If a Request for Lease Approval is submitted before expiration of the original Certificate but the Request is disapproved, the PHA shall determine whether sufficient time remains under the Certificate to give the Family a reasonable opportunity to find another unit. If the remaining time is determined to be insufficient, the PHA shall issue a new Certificate to the Family.

(3) If a Certificate expires or is about to expire (other than on the occasion of disapproval of a Request for Lease Approval described in paragraph (f) (2) or extension pursuant to paragraph (g) (1) of this section), a Family may submit the Certificate to the PHA with a request for an extension. The PHA shall review with the Family the efforts it has made to find a suitable dwelling unit and the problems it has encountered and shall determine what advice or assistance might be helpful. If the PHA believes that there is a reasonable possibility that the Family may, with the additional advice or assistance, if any, find a suitable unit, the PHA may grant one or more extensions not to exceed a total of 60 days; provided, however, that further extensions may be granted if the PHA specifically determines that the Family's failure to find a suitable unit is not due to the fault or lack of diligence of the Family. A determination by the PHA that no further extensions should be granted shall not preclude the Family from filing a new application for another Certificate.

(g) *Continued Participation When Assisted Family Moves.*

(1) If an assisted Family notifies the PHA that it wishes to obtain another Certificate of Family Participation for the purpose of finding another dwelling unit, or that it has found another unit to which it wishes to move, the PHA shall (unless it does not have sufficient ACC authority for continued assistance to the Family) issue another Certificate or process a Request for Lease Approval, as the case may be, if the PHA determines

that the Owner is not entitled to payment pursuant to § 1275.103(j) on account of nonpayment of rent or other amount owed under the Lease, or that the Family has satisfied any such liability.

(2) If a Family wishes to move to another jurisdiction and qualifies under paragraph (g)(1) of this section, the Family may obtain housing assistance in the jurisdiction to which it is moving, provided, That the Family obtains a Certificate of Family Participation from the appropriate PHA. The appropriate PHA shall give the Family the same consideration as any other applicants, except that the PHA shall not deny the Family a Certificate on the ground that its income is above the income limits for admission in that jurisdiction.

(h) *Families Determined by the PHA to be Ineligible.* If an applicant is determined by the PHA to be ineligible on the basis of income or family composition, or for any other reasons, the PHA shall notify the applicant by letter of the determination and the reasons therefor and the letter shall state that the applicant has the right within a reasonable time (specified in the letter) to request an informal hearing. If, after conducting such an informal hearing, the PHA determines that the applicant is ineligible, it shall so notify the applicant in writing. The procedures of this paragraph do not preclude the applicant from exercising its other rights if it believes it is being discriminated against on the basis of race, color, creed, religion, sex, or national origin. The PHA shall retain for three years a copy of the application, the notification letters, the applicant's response if any, the record of any informal hearing, and a statement of final disposition.

(i) *Request for Lease Approval*—(1) *Submission of Request to PHA.* When a Family has found a unit it wants and the Owner is willing to lease, the Family shall submit to the PHA a Request for Lease Approval signed by the Owner of the unit and the Family, together with the Family's Inspection Report and the Owner's Inspection Report. At the same time, the Family shall submit a copy of the proposed lease, which shall contain all required provisions shown in Appendix VI and shall be complete except for execution and entry of the portion of monthly rental which the Family shall be obligated to pay to the Owner.

(2) *Amount of Rent to Owner.*

(1) The PHA shall determine whether the requested rent is approvable in accordance with Sec. 1275.103(d)(1). If the Family is to pay directly for any of the utilities or services, the PHA shall determine the amount of the Allowance on account thereof. Inasmuch as the Fair Market Rents are established for a geographic area within which the rents for modest Decent, Safe, and Sanitary housing may vary substantially, the PHA shall make an analysis to determine the reasonable rent for the particular unit. If the requested Contract Rent plus any applicable Allowance is at or below the reasonable rent and at or below the Fair Market Rent, it may be approved.

(ii) If the otherwise approvable Contract Rent to Owner plus the applicable Allowance, if any, is higher than the applicable Fair Market Rent, and if the PHA determines that such higher rent is justified, it shall request HUD approval in accordance with Section 1275.103(d)(1).

(3) *"Shopping Incentive" Credit.* If the Family is entitled to a "shopping incentive" credit pursuant to Sec. 1275.103(n), the amount of the rent payable by the Family to the Owner shall be reduced by the amount of the credit.

(4) *Decent, Safe, and Sanitary Condition of Unit.*

(i) Before approving a Lease, the PHA shall inspect the unit for compliance with the PHA's housing quality standards as established in accordance with Sec. 1275.103(g), or cause it to be so inspected, as promptly as possible after the date on which the Owner indicates that the unit will be ready for inspection.

(ii) If there are defects or deficiencies which must be corrected in order for the unit to be Decent, Safe, and Sanitary, the Owner shall be advised by the PHA of the work required to be done. Before a Contract is executed, the unit must be reinspected to ascertain that the necessary work has been performed and that the unit is Decent, Safe, and Sanitary.

(iii) A report for every inspection and reinspection under this subparagraph (4) shall be prepared and maintained in the files of the PHA. Each such report shall specify (A) any defects or deficiencies which must be corrected in order for the unit to be Decent, Safe, and Sanitary, and (B) any other defects or deficiencies, a record of which shall be maintained for use in the event of a subsequent claim by the Owner that they were caused during the period of occupancy by the Family.

(5) *Oversized Unit.* No otherwise acceptable unit shall be disapproved on the ground that it is too large for the Family, provided that the rent to Owner plus any Allowance does not exceed the Fair Market Rent for the smaller size unit as stated in the Family's Certificate.

(6) *Lease Requirements*—(1) *Term of Lease.* The PHA shall determine that the term of Lease is consistent with § 1275.103(f).

(ii) *Required Provisions.* The Lease shall contain the required provisions specified in Appendix VI and in Part I of the Housing Assistance Payments Contract.

(iii) *Prohibited Provisions.* The Lease shall not contain any clause which falls within the classifications listed in Appendix VII.

(7) *Approval of Lease and Execution of Related Documents.* If the PHA determines that a unit which an Eligible Family wishes to lease is in Decent, Safe, and Sanitary condition, that the rent is approvable, and that the proposed lease complies with the requirements of this Part, the PHA shall approve the lease, and shall notify the Owner and the Family of its determination utilizing Appendix V. The Contract and Lease shall thereafter be executed by the appropriate parties.

(8) *Disapproval of Lease.* If the PHA determines that the lease cannot be approved for any reason, including the condition of the unit, the PHA shall so notify the Owner and the Family using Appendix V. A copy of this notification shall be maintained in the PHA's files together with the original Request for Lease Approval and the inspection report(s) relating to the unit.

(j) *Maintenance, Operation, and Inspections.*

(1) *Maintenance and Operation.* The Owner shall provide all the services, maintenance and utilities which he agrees to provide under the Contract, subject to abatement of housing assistance payments or other applicable remedies if he fails to meet these obligations.

(2) *Periodic Inspection.* In addition to the initial inspection provided under paragraph (1)(4)(i) of this section, the PHA will inspect or cause to be inspected each dwelling unit leased to an Eligible Family at least annually and at such other times as the PHA may deem to be necessary to assure that the Owner is meeting his obligations to maintain the unit in Decent, Safe, and Sanitary condition and to provide the agreed upon utilities and other services. The PHA will take into account complaints and any other information coming to its attention in scheduling inspections. All complaints by Families concerning compliance by the Owner with the PHA's housing quality standards shall be retained in the PHA's files for three years.

(k) *Units Not Decent, Safe, and Sanitary.* If the PHA notifies the Owner that he has failed to maintain a dwelling unit in Decent, Safe, and Sanitary condition and the Owner fails to take corrective action within the time prescribed in the notice, the PHA may exercise any of its rights or remedies under the Contract, including abatement of housing assistance payments (even if the Family continues in occupancy) and termination of the Contract. If the Family wishes to be rehoused in another dwelling unit with section 8 assistance and the PHA determines to terminate the Housing Assistance Payments Contract, the PHA shall issue to the Family another Certificate of Family Participation.

(l) *Reexamination of Family Income, Composition, and Extent of Exceptional Medical or Other Unusual Expenses.* Reexamination of Family income, composition, and the extent of medical or other unusual expenses incurred by the Family shall be made by the PHA at least annually (except that such reviews may be made at intervals no longer than two years in the case of elderly Families), and appropriate redeterminations shall be made by the PHA of the amount of Family contribution and the amount of the housing assistance payment, all in accordance with schedules and criteria established by HUD.

(m) *Overcrowded Unit.* If the PHA determines that a dwelling unit is not Decent, Safe, and Sanitary by reason of increase in Family size, the Family and the PHA shall try to find an acceptable unit as soon as possible. If an acceptable unit is found that is available for oc-

cupancy by the Family, and the Lease with the first Owner can be terminated in accordance with its terms, the Contract with the first Owner shall be terminated and housing assistance payments shall be made available to the Family for occupancy in the acceptable unit. Housing assistance payments will not be terminated unless the Family rejects without good reason the offer of a unit which the PHA judges to be acceptable.

(n) *Adjustment of Allowance for Utilities and Other Services.* The PHA shall determine, as part of its annual inspection and at such other times as it deems appropriate, whether an adjustment is required in the Allowance for Utilities and Other Services applicable to the dwelling unit on grounds of changes in utility rates or other change of general applicability. If the PHA determines that an adjustment should be made, the PHA shall prescribe the amount of the adjustment and make a corresponding adjustment in the amount of rent to be paid by the affected Family and the amount of housing assistance payment and notify the Owner accordingly.

(o) *Eviction.* The Owner shall not evict any Family unless the Owner complies with the requirements of local law, if any, and of this paragraph. The Owner shall give the Family a written notice of the proposed eviction, stating the grounds and advising the Family that it has 10 days (or such greater number, if any, that may be required by local law) within which to respond to the Owner. The Owner must obtain the PHA's authorization for an eviction; accordingly, a copy of the notice shall be furnished simultaneously to the PHA, and the notice shall also state that the Family may, within the same period, present its objections to the PHA in writing or in person. The PHA shall forthwith examine the grounds for eviction and shall authorize the eviction unless it finds the grounds to be insufficient under the Lease. The PHA shall notify the Owner and the Family of its determination within 20 days of the date of the notice to the Family, whether or not the Family has presented objections to the PHA. If the Owner has not received a response from the PHA within 20 days, he shall telephone the PHA and shall be informed by the PHA whether a notice of determination has been mailed. If the PHA informs the Owner that no notice has been mailed within the 20 day period, the PHA shall be deemed to have authorized the eviction.

(p) *Inapplicability of Low-Rent Public Housing Model Lease and Grievance Procedures.* Model lease and grievance procedures established by HUD for PHA-owned low-rent public housing are not applicable to the Section 8 Housing Assistance Payments Program under this Part.

§ 1275.208 HUD review of contract compliance.

HUD will review project operations at such intervals as it deems necessary to ensure that the Owner and the PHA are in full compliance with the terms and

conditions of the Contract and the ACC. Equal Opportunity review may be conducted with the scheduled HUD review or at any time deemed appropriate by HUD.

§ 1275.209 PHA reporting requirements. [Reserved]

APPENDIX I

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM MASTER SECTION 8 ANNUAL CONTRIBUTIONS CONTRACTS #-----

This Annual Contributions Contract (ACC) is entered into on the ___ day of _____, 19 __, (the date of execution by the Government) by and between the United States of America (herein called the "Government"), pursuant to the United States Housing Act of 1937 (42 U.S.C. 1437, *et seq.*), which Act as amended to the date of this ACC is herein called the "Act," and the Department of Housing and Urban Development Act (42 U.S.C. 3531), and _____ (herein called the "PHA"), which is a "public housing agency" as defined in the Act. In consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

0.1. *Project or Projects.* The PHA is undertaking to provide Decent, Safe, and Sanitary housing for Families (as defined in Section 2.1) pursuant to section 8 of the Act by means of Housing Assistance Payments Contracts ("Contracts") with Owners (as defined in Section 2.1). Such undertaking may involve an agreement for the use of housing to be constructed ("New Construction"), an agreement for the use of existing housing to be substantially rehabilitated ("Substantial Rehabilitation"), or the use of existing housing without substantial rehabilitation ("Existing Housing"). In each instance, the numbers and sizes of dwelling units with respect to which a certain maximum Annual Contributions commitment is made shall constitute a Project hereunder and shall be identified by a stated Project number.

0.2. *Part I and Part II of this Annual Contributions Contract.*

(a) Certain provisions of this ACC, principally those which are specifically applicable to a designated Project, are contained in Part I. Separate forms of Part I are used for different types of Projects (i.e., New Construction, Substantial Rehabilitation, and Existing Housing). A separate Part I, on the applicable form thereof, has been executed with respect to each Project hereunder, and each such Part I, so executed, constitutes a part of this ACC.

(b) The remaining provisions of this ACC, which are applicable to all Projects hereunder, are contained in Part II, which, although not separately executed, constitutes a part of this ACC.

0.3. *Fiscal Year.* Except for the first Fiscal Year of each Project, there shall be one Fiscal Year for all Projects hereunder. Such established Fiscal Year shall be the 12-month period ending _____ of each calendar year. The first Fiscal Year for each Project shall be as provided in the Part I applicable to such Project.

0.4. *Schedule of Projects.* Attached to this Master Section 8 ACC, as Attachment A, is a list identifying each ACC Part I and ACC Part I amendment by project number, date, and ACC List number and date.

PHA _____
By _____
Date _____
THE GOVERNMENT
By _____
Date _____

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM ANNUAL CONTRIBUTIONS CONTRACT

PART I

EXISTING HOUSING PROJECT No. -----

Effective Date -----

[Date of execution by the Government of this ACC Part I]

ACC List Number and Date -----

1.1. *The Project.* The PHA proposes to enter into Housing Assistance Payments Contracts ("Contracts") with respect to the following numbers and sizes of existing dwelling units:

Size of Unit Number of Units

The PHA, to the maximum extent feasible, shall enter into Contracts in accordance with the numbers and sizes of units specified above. The PHA shall not enter into any Contract or take any other action which will result in a claim for a total Annual Contribution in respect to the Project in excess of the maximum amounts stated in Section 1.4(a).

1.2. *Authorization of Actions by PHA.* In order to carry out the Project, the PHA is authorized to (a) enter into Housing Assistance Payments Contracts, (b) make housing assistance payments on behalf of Families, and (c) take all other necessary actions all in accordance with the forms, conditions and requirements prescribed or approved by the Government; Provided, however, that neither the PHA nor the Government shall assume any obligation beyond that provided in Contracts, in the form approved by the Government.

1.3. *Term of ACC, Lease and Contract.*

(a) The term of this ACC shall be five years.
(b) The term of each Lease shall be for not less than one year nor more than three years, but the Lease may contain a provision permitting termination upon 30 days advance written notice by either party. The term of each Contract shall be for the term of the Lease, provided that if a Family continues in occupancy after the expiration of the term on the same terms and conditions as the original Lease, the Contract shall continue in effect for the duration of such tenancy subject to the limitations in the next sentence. The specified Contract and Lease term, including specified renewal options, if any, and any continuation of tenancy beyond the Lease term shall in no case exceed three years or extend beyond the term of this ACC. This limitation shall not preclude the execution of a new Lease and Contract for the dwelling units.

1.4. *Annual Contributions.*

(a) Notwithstanding any other provisions of this ACC (other than paragraph (c) of this Section) or any provisions of any other contract between the Government and the PHA, the Government shall not be obligated to make any Annual Contributions or any other payment in excess of:

- (1) \$----- for housing assistance payments under Contracts; or
- (2) \$----- for other Project Expenditures; or
- (3) A total of \$----- for all Project Expenditures in respect to the Project;

Provided, however, that these amounts shall be reduced commensurate with any reduction in the number of units under any provision of this ACC.

(b) Subject to the maximum dollar limitations in paragraph (a) of this Section, the Government shall pay Annual Contributions to the PHA in respect to the Project in an amount equal to the sum of the following (subject to reduction by the amount of any

Project Receipts other than Annual Contributions, which Receipts shall be available for Project Expenditures):

(1) The amount of housing assistance payments payable during the Fiscal Year (see Section 1.5) by the PHA pursuant to the Contract, as authorized in Section 1.2.

(2) The allowance, in the amount approved by the Government, for preliminary costs of administration.

(3) The allowance, in the amount approved by the Government, for the regular costs of administration.

(c) (1) A project account will be established and maintained by the Government, as a specifically identified and segregated account, in an amount as determined by the Government consistent with its responsibilities under section 8(c)(6) of the Act. To the extent funds are available in said account, the Annual Contribution for any Fiscal Year may exceed the maximum amounts stated in paragraph (a) of this Section by such amount, if any, as may be required for increases reflected in the estimates of required Annual Contributions applicable to such Fiscal Year as approved by the Government in accordance with Section 2.11 below.

(2) The Government will take such additional steps authorized by section 8(c)(6) of the Act as may be necessary to assure availability of funds to cover increases in housing assistance payments on a timely basis as a result of increases in Contract Rents or decreases in Family Incomes.

(d) The Government will make periodic payments on account of the Annual Contributions upon requisition therefor by the PHA in the form prescribed by the Government. Each requisition shall include certifications by the PHA that housing assistance payments have been or will be made only:

(1) In accordance with the provisions of the Contracts.

(2) With respect to units which the PHA has inspected or caused to be inspected, pursuant to Section 2.4 of Part II of this ACC, within one year prior to the making of such housing assistance payments.

(e) Following the end of each Fiscal Year, the PHA shall promptly pay to the Government, unless other disposition is approved by the Government, the amount, if any, by which the total amount of the periodic payments during the Fiscal Year exceeds the total amount of the Annual Contribution payable for such Fiscal Year in accordance with this Section.

1.5. *Fiscal Year.* The Fiscal Year for the Project shall be the Fiscal Year established by Section 0.3 of this ACC; Provided, however, that the first Fiscal Year for the Project shall be the period beginning with the effective date of this ACC Part I and ending on the last day of said established Fiscal Year which is not less than 12 months after such effective date. If the first Fiscal Year exceeds 12 months, the maximum Annual Contribution in Section 1.4(a) may be adjusted by the addition of the pro rata amount applicable to the period of operation in excess of 12 months.

1.6. *Periodic Adjustment of Contract Rents.* Each Contract may provide for periodic adjustment in the rents chargeable by the Owners and commensurate increases in amounts of housing assistance payments in accordance with the applicable Government regulations.

1.7. *Equal Opportunity Housing Plan.* The PHA, in disseminating information concerning the availability and nature of the hous-

ing assistance, inviting Owners to make dwelling units available for leasing by Families, and issuing Certificates of Family Participation, shall comply with its HUD-approved equal opportunity housing plan.

1.8. *Expedition Carrying Out of Project.* The PHA shall proceed expeditiously with the Project. If the PHA fails to proceed expeditiously, the Government, by notice to the PHA, may reduce its obligation hereunder with respect to the Project to the number and size of dwelling units under Contracts with Owners as of the date of receipt of such notice by the PHA, with a corresponding reduction in the maximum amounts of Annual Contributions specified in Section 1.4(a).

1.9. *Prior ACCs Superseded.* This Part I supersedes prior ACC Parts I, if any.

PHA -----
By -----
Date -----
THE GOVERNMENT
By -----
Date -----

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

TERMS AND CONDITIONS

CONSTITUTING PART II OF AN

ANNUAL CONTRIBUTIONS CONTRACT

BETWEEN

PUBLIC HOUSING AGENCY

AND THE

UNITED STATES OF AMERICA

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

2.1. Definitions.

(a) "Families" means Lower-Income Families (including "Very Low-Income Families") and includes Families consisting of a single person in the case of Elderly Families and Displaced Families and includes the remaining member of a tenant family.

(b) "Elderly Families" means Families whose heads (or their spouses), or whose sole members, are persons who are at least 62 years of age or are under a disability as defined in section 223 of the Social Security Act or in section 102(5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1970, or are handicapped. The term Elderly Families includes two or more elderly, disabled, or handicapped individuals living together, or one or more such individuals living together with another person who is determined under regulations of the Secretary of Housing and Urban Development ("Secretary") to be a person essential to their care or well being.

(c) "Displaced Families" means Families displaced by governmental action, or Families whose dwellings have been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

(d) "Lower-Income Families" means Families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income limits higher or lower than 80 percent of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors.

(e) "Very Low-Income Families" means Families whose incomes do not exceed 50 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(f) "Income" means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary.

(g) "Owner" means the person or entity, including a cooperative, with which the Agreement and Contract are entered into.

(h) "Rent" or "rental" mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative.

(i) "Project Receipts" with respect to each Project means the Annual Contributions payable hereunder and all other receipts, if any, accruing to the PHA from, out of, or in connection with such Project.

(j) "Project Expenditures" with respect to each Project means all costs allowable under Section 1.4(b), Part I of this ACC, with respect to such Project.

(k) "Substantial Default" means the occurrence of any of the events listed in Section 2.16.

2.2. *Lower-Income Housing Use; Compliance with Act and Regulations.* The PHA shall use the Annual Contributions solely for the purpose of providing Decent, Safe, and Sanitary dwellings for Families in compliance with all applicable provisions of the Act and all regulations issued pursuant thereto.

2.3. *Eligibility and Amount of Housing Assistance Payments.*

(a) The PHA shall comply with the income limits established by the Government and with the requirements of the Government pursuant to section 8(c)(7) of the Act that at least 30 percent of the Families assisted in all its Projects under its Master Section 8 ACC shall be Very Low-Income Families.

(b) The PHA shall comply or assure compliance with the schedules and criteria established by the Government with respect to the amounts of housing assistance payments made on behalf of Families.

(c) The PHA shall make or cause to be made periodic reexaminations of the income, composition, and extent of exceptional medical or other unusual expenses of Families for whom housing assistance payments are being made, for the purpose of confirming or adjusting, in accordance with the applicable schedules established by the Government, the amount of rent payable by the Family and the amount of housing assistance payment.

(d) The PHA shall determine, as part of its annual inspection and at such other times as it deems appropriate, whether an adjustment is required in the Allowance for Utilities and Other Services applicable to the dwelling unit on grounds of changes of general applicability. If the PHA determines that an adjustment should be made, the PHA shall prescribe the amount of the adjustment and make a corresponding adjustment in the amount of rent to be paid by the affected Family and the amount of Housing Assistance Payment and notify the Owner accordingly.

(e) Prior to the approval of eligibility of a Family and thereafter on the date established for each reexamination of the status of such Family, the PHA shall review or cause to be reviewed a written application, signed by a responsible member of such Family, which application shall set forth all data and information necessary for a determination of the amount, if any, of housing assistance payment which can be made with respect to the Family.

2.4. Inspections.

(a) The PHA shall require, as a condition for the making of housing assistance payments, that the Owner maintain the assisted dwelling units and related facilities in Decent, Safe, and Sanitary condition.

(b) The PHA shall inspect or cause to be inspected dwelling units and related facilities prior to commencement of occupancy by

Families and shall make or cause to be made subsequent inspections at least annually, adequate to assure that Decent, Safe, and Sanitary housing accommodations are being provided and that the agreed-to services are being furnished.

2.5. Nondiscrimination in Housing.

(a) The PHA shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 241; the regulations of the Department of Housing and Urban Development issued thereunder, 24 CFR, Subtitle A, Part 1, Section 1.1, *et seq.*; the requirements of said Department pursuant to said regulations; and Executive Order 11063, to the end that, in accordance with that Act and the regulations and requirements of said Department thereunder, and said Executive Order, no person in the United States shall, on the ground of race, color, creed, religion, or national origin, be excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program or be otherwise subjected to discrimination. The PHA shall, by contractual requirement, covenant, or other binding commitment, assure the same compliance on the part of any subgrantee, contractor, subcontractor, transferee, successor in interest, or other participant in the program or activity, such commitment to include the following clause:

"This provision is included pursuant to the regulations of the Department of Housing and Urban Development, 24 CFR, Subtitle A, Part 1, Section 1.1, *et seq.*; issued under Title VI of the said Civil Rights Act of 1964, and the requirements of said Department pursuant to said regulations; and the obligation of the [contractor or other] to comply therewith inures to the benefit of the United States, the said Department, and the PHA, any of which shall be entitled to invoke any remedies available by law to redress any breach thereof or to compel compliance therewith by the [contractor or other]."

(b) The PHA shall incorporate or cause to be incorporated into all Housing Assistance Payments Contracts a provision requiring compliance with all requirements imposed by Title VIII of the Civil Rights Act of 1968, and any rules and regulations issued pursuant thereto.

(c) The PHA shall not, on account of creed or sex, discriminate in the sale, leasing, rental, or other disposition of housing or related facilities (including land) included in any Project or in the use of occupancy thereof, nor deny to any Family the opportunity to apply for such housing, nor deny to any eligible applicant the opportunity to lease or rent any dwelling in any such housing suitable to its needs. No person shall automatically be excluded from participation in or be denied the benefits of the Housing Assistance Payments Program because of membership in a class such as unmarried mothers, recipients of public assistance, etc.

2.6. Equal Employment Opportunity.

(a) The PHA shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, or national origin. The PHA shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, creed, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(b) (1) The PHA shall incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as

defined in the regulations of the Secretary of Labor at 41 CFR, Chapter 60, which is to be performed pursuant to this contract, the following Equal Opportunity clause:

"Equal Employment Opportunity

During the performance of this contract, the contractor agrees as follows:

(A) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, creed, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the PHA setting forth the provisions of this Equal Opportunity clause.

(B) The contractor will in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, sex, or national origin.

(C) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the PHA advising the said labor union or workers' representative of the contractor's commitments under this Section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(D) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(E) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Government and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(F) In the event of the contractor's non-compliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

(G) The contractor will include the portion of the sentence immediately preceding Paragraph (A) and the provisions of Paragraphs (A) through (G) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the Government may direct as a means of enforcing such provisions including sanctions for noncompliance; Provided, however, that

in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Government, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(2) The PHA agrees that it will assist and cooperate actively with the Government and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the Equal Opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the Government and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the Government in the discharge of the Government's primary responsibility for securing compliance.

(3) The PHA further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the Equal Opportunity clause as may be imposed upon contractors and subcontractors by the Government or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.

2.7. Training, Employment, and Contracting Opportunities for Businesses and Lower Income Persons.

(a) The project assisted under this ACC is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the Project area and contracts for work in connection with the Project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the Project.

(b) Notwithstanding any other provision of this ACC, the PHA shall carry out the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary set forth in 24 CFR, Part 135 (published in 38 Federal Register 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this ACC. The requirements of said regulations include but are not limited to development and implementation of an affirmative action plan for utilizing business concerns located within or owned in substantial part by persons residing in the area of the Project; the making of a good faith effort, as defined by the regulations, to provide training, employment, and business opportunities required by section 3; and incorporation of the "section 3 clause" specified by Section 135.20(b) of the regulations in all contracts for work in connection with the Project. The PHA certifies and agrees that it is under no contractual or other disability which would prevent it from complying with these requirements.

(c) Compliance with the provisions of section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this ACC shall be a condition of the Federal financial assistance provided to the Project, binding upon the PHA, its successors and assigns. Failure to fulfill these requirements shall subject the PHA, its contractors and subcontractors, its successors, and assigns to the sanction specified by this ACC and to such sanctions as are specified by 24 CFR Section 135.135.

(d) The PHA shall incorporate or cause to be incorporated into any contract pursuant

to this contract such clause or clauses as are required by the Government for compliance with its regulations issued pursuant to the Housing and Urban Development Act, as amended. The PHA shall cooperate with the Government in the conducting of compliance reviews pursuant to said Acts and Regulations.

2.8. *Cooperation In Equal Opportunity Compliance Reviews.* The PHA shall cooperate with the Government in the conducting of compliance reviews and complaint investigations pursuant to applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

2.9. *Clean Air Act and Federal Water Pollution Control Act.* The PHA shall incorporate or cause to be incorporated, into any contract for construction or substantial rehabilitation, such clause or clauses as are required by the Government for compliance with the regulations issued by the Environmental Protection Agency pursuant to the Clean Air Act, as amended, the Federal Water Pollution Control Act, as amended, and Executive Order 11738. The PHA shall cooperate with the Government in the conducting of compliance reviews pursuant to said Acts and Regulations.

2.10. *Labor Standards.* The PHA shall incorporate or cause to be incorporated into any contract for construction or substantial rehabilitation of nine or more dwelling units, such clause or clauses as are required by the Government for compliance with its regulations issued pursuant to the Copeland Act, the Davis-Bacon Act, and the Contract Work Hours and Safety Standards Act. The PHA shall cooperate with the Government in the conducting of compliance reviews pursuant to said Acts and Regulations.

2.11. *Estimates of Required Annual Contributions.* The PHA shall from time to time submit to the Government estimates of required annual contributions at such times and in such form as the Government may require. All estimates and any revisions thereof submitted under this Section shall be subject to Government approval.

2.12. *Insurance and Fidelity Bond Coverage.* For purposes of protection against hazards arising out of or in connection with the administrative activities of the PHA in carrying out the Project, the PHA shall carry adequate (a) comprehensive general liability insurance, (b) workmen's compensation coverage (statutory or voluntary), (c) automobile liability insurance against property damage and bodily injury (owned and non-owned), and (d) fidelity bond coverage of its officers, agents, or employees handling cash or authorized to sign checks or certify vouchers.

2.13. *Books of Account and Records; Reports.*

(a) The PHA shall maintain complete and accurate books of account and records, as may be prescribed from time to time by the Government, in connection with the Projects, including records which permit a speedy and effective audit, and will among other things fully disclose the amount and the disposition by the PHA of the Annual Contributions and other Project Receipts, if any.

(b) The books of account and records of the PHA shall be maintained for each Project as separate and distinct from all other Projects and undertakings of the PHA, except as authorized or approved by the Government.

(c) The PHA shall furnish the Government such financial, operating, and statistical reports, records, statements, and documents at such times, in such form, and accompanied by such supporting data, all as may reasonably be required from time to time by the Government.

(d) The Government and the Comptroller General of the United States, or his duly au-

thorized representatives, shall have full and free access to the Projects and to all the books, documents, papers, and records of the PHA that are pertinent to its operations with respect to financial assistance under the Act, including the right to audit, and to make excerpts and transcripts from such books and records.

(e) The PHA shall incorporate or cause to be incorporated in all Contracts the following clauses:

"PHA AND GOVERNMENT ACCESS TO PREMISES AND OWNER'S RECORDS

"(1) The Owner shall furnish such information and reports pertinent to the Contract as reasonably may be required from time to time by the PHA and the Government.

"(2) The Owner shall permit the PHA and the Government or any of their duly authorized representatives, to have access to the premises and, for the purpose of audit and examination, to have access to any books, documents, papers, and records of the Owner that are pertinent to compliance with this Contract, including the verification of information pertinent to the monthly requests to the PHA for housing assistance payments."

(f) Audits required by the Government will be performed or paid for by the Government.

2.14. General Depository Agreement and General Fund.

(a) The PHA shall maintain one or more agreements, which are herein collectively called the "General Depository Agreement," in the form prescribed by the Government, with one or more banks (each of which shall be, and continue to be, a member of the Federal Deposit Insurance Corporation) selected as depository by the PHA. Immediately upon the execution of any General Depository Agreement, the PHA shall furnish to the Government such executed or conformed copies thereof as the Government may require. No such General Depository Agreement shall be terminated except after 30 days notice to the Government.

(b) All monies received by or held for account of the PHA in connection with the Projects shall constitute the General Fund.

(c) The PHA shall, except as otherwise provided in this ACC, deposit promptly with such bank or banks, under the terms of the General Depository Agreement, all monies constituting the General Fund.

(d) The PHA may withdraw monies from the General Fund only for (1) the payment of Project Expenditures, and (2) other purposes specifically approved by the Government. No withdrawals shall be made except in accordance with a voucher or vouchers then on file in the office of the PHA stating in proper detail the purpose for which such withdrawal is made.

(e) If the PHA (1) in the determination of the Government, is in Substantial Default, or (2) makes or has made any fraudulent or willful misrepresentation of any material fact in any of the documents or data submitted to the Government pursuant to this ACC or in any document or data submitted to the Government as a basis for this ACC or as an inducement to the Government to enter into this ACC, the Government shall have the right to require any bank or other depository which holds any monies of the General Fund, to refuse to permit any withdrawals of such monies; Provided, however, that upon the curing of such Default the Government shall promptly rescind such requirement.

2.15. Pooling of Funds under Special Conditions and Revolving Fund.

(a) The PHA may deposit under the terms of the General Depository Agreement monies received or held by the PHA in connection with any other housing project developed or operated by the PHA pursuant to the provi-

sions of any contract for annual contributions, administration, or lease between the PHA and the Government.

(b) The PHA may also deposit under the terms of the General Depository Agreement amounts necessary for current expenditures of any other project or enterprise of the PHA, including any project or enterprise in which the Government has no financial interest; Provided, however, that such deposits shall be lump-sum transfers from the depositories of such other projects or enterprises, and shall in no event be deposits of the direct revenues or receipts of such other projects or enterprises.

(c) If the PHA operates other projects or enterprises in which the Government has no financial interest, it may from time to time, withdraw such amounts as the Government may approve from monies on deposit under the General Depository Agreement for deposit in and disbursement from a revolving fund provided for the payment of items chargeable in part to the Projects and in part to other projects or enterprises of the PHA; Provided, however, that all deposits in such revolving fund shall be lump-sum transfers from the depositories of the related projects or enterprises and shall in no event be deposits of the direct revenues or receipts.

(d) The PHA may establish petty cash or change funds in reasonable amounts, from monies on deposit under the General Depository Agreement.

(e) In no event shall the PHA withdraw from any of the funds or accounts authorized under this Section 2.15 amounts for the Projects or for any other project or enterprise in excess of the amount then on deposit in respect thereto.

2.16. Default.

(a) *Failure or Inability of PHA to Comply with Agreement.* In the event the Government determines that the PHA is in default under the Agreement with the Owner, or if such Agreement is held to be void, voidable or ultra vires, or if the power or right of the PHA to enter into such Agreement is drawn into question in any legal proceedings, or if the PHA asserts or claims that such Agreement is not binding upon the PHA for any such reason, the Government may, after reasonable notice to the PHA, determine that the occurrence of any such event, if the Owner is not in default, constitutes a Substantial Default hereunder as to the Project. In such case, the Government will assume the PHA's rights and obligations under the Agreement and carry out the obligations of the PHA under the Agreement, including the obligation to enter into the Contract.

(b) *Failure or Inability of PHA to Comply with Contract.* In the event of failure of the PHA to comply with the Contract with the Owner, or if such Contract is held to be void, voidable or ultra vires, or if the power or right of the PHA to enter into such Contract is drawn into question in any legal proceeding, or if the PHA asserts or claims that such Contract is not binding upon the PHA for any such reason, the Government may, after reasonable notice to the PHA, determine that the occurrence of any such event, if the Owner is not in default, constitutes a Substantial Default hereunder. In such case, the Government will assume the PHA's rights and obligations under such Contract, and the Government shall, for the duration of such Contract, continue to pay Annual Contributions for the purpose of making housing assistance payments with respect to dwelling units under such Contract, shall perform the obligations and enforce the rights of the PHA, and shall exercise such other powers as the Government may have to cure the Default.

(c) *Other Defaults by the PHA.* If the PHA defaults in the observance or performance of the provisions of Section 2.4; fails to comply with its obligations under any duly is-

sued Certificate of Family Participation in accordance with its terms; fails to comply with the requirements of Sections 2.5, 2.6, 2.7, or 2.8; defaults in the performance or observance of any term, covenant, or condition of this ACC other than the defaults enumerated in this paragraph, and if such defaults have not been remedied within a reasonable time, not to exceed 30 days, after the Government has notified the PHA thereof; or fails to comply with the applicable provisions of the Act and all regulations issued pursuant thereto; the Government may, after reasonable notice to the PHA, determine that the occurrence of any such event, if the Owner is not in default, constitutes a Substantial Default hereunder as to the Project. Upon the occurrence of a Substantial Default with respect to any Project, the PHA shall, if the Government so requires, assign to the Government all of its rights and interests in and to the project, or such part thereof as the Government may specify, and the Government shall continue to pay Annual Contributions with respect to dwelling units covered by Housing Assistance Payments Contracts in accordance with the terms of this ACC until reassigned to the PHA.

(d) *Return of Rights and Obligations to PHA.* All rights and obligations of the PHA assumed by the Government pursuant to this Section 2.16 will be returned as constituted at the time of such return (1) when the Government is satisfied that all defaults have been cured and that the Project will thereafter be administered in accordance with all applicable requirements or (2) when the Housing Assistance Payments Contract is at an end, whichever occurs sooner.

(e) *Rights of Owner.* The provisions of this Section 2.16 are made with, and for the benefit of, the Owner or his assignees who will have been specifically approved by the Government prior to such assignment. To enforce the performance of this provision the Owner and such assignees, as well as the PHA, shall have the right to proceed against the Government by suit at law or in equity.

2.17 *Remedies Not Exclusive and Non-Waivers of Remedies.* Any remedy provided for herein shall not be exclusive or preclude the Owner, PHA and/or the Government from exercising any other remedy available under this ACC or under any provisions of law, nor shall any action taken in the exercise of any remedy be deemed a waiver of any other rights or remedies available to such parties. Failure on the part of any such party to exercise any right or remedy shall not constitute a waiver of that or any other right or remedy, nor operate to deprive the party of the right thereafter to take any remedial action for the same or any subsequent default.

2.18 *Interest of Members, Officers, or Employees of PHA, Members of Local Governing Body, or Other Public Officials.*

(a) Neither the PHA nor any of its contractors or their subcontractors shall enter into any contract, subcontract, or arrangement, in connection with any Project in which any member, officer, or employee of the PHA, or any member of the governing body of the locality in which the Project is situated, or any member of the governing body of the locality in which the PHA was activated, or any other public official of such locality or localities who exercises any responsibilities or functions with respect to the Project during his tenure or for one year thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee of the PHA, or any such governing body member or such other public official of such locality or localities involuntarily acquires or had acquired prior to the beginning of his tenure any such interest, and if

such interest is immediately disclosed to the PHA and such disclosure is entered upon the minutes of the PHA, the PHA, with the prior approval of the Government, may waive the prohibition contained in this subsection; Provided, however, that any such present member, officer, or employee of the PHA shall not participate in any action by the PHA relating to such contract, subcontract, or arrangement.

(b) The PHA shall insert in all contracts entered into in connection with any Project or any property included or planned to be included in any Project, and shall require its contractors to insert in each of its subcontracts, the following provisions:
"No member, officer, or employee of the PHA, no member of the governing body of the locality in which the Project is situated, no member of the governing body of the locality in which the PHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof."

(c) The provisions of the foregoing subsections (a) and (b) of this Section 2.18 shall not be applicable to the General Depository Agreement, or utility service rates for which are fixed or controlled by a governmental agency.

2.19 *Interest of Member of or Delegate to Congress.* No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this ACC or to any benefits which may arise therefrom.

APPENDIX II

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, HOUSING ASSISTANCE PAYMENTS CONTRACT

EXISTING HOUSING PART I

This Housing Assistance Payments Contract ("Contract") is entered into by and between _____, the person or entity having the legal right to lease the unit ("Owner"), and _____ ("PHA"), which is a public housing agency as defined in the United States Housing Act of 1937, 42 U.S.C. 1437, et seq. ("Act"), at section 1437a(6).

The Owner and the PHA agree as follows:
1.1 **FAMILY TO BE HOUSED: PHA ASSISTANCE.**

a. *Family to be Housed.* The Contract Unit is to be leased by the Owner, under a PHA-approved lease ("Lease"), to the following Lower-Income Family ("Family") for use and occupancy by such Family solely as a private dwelling:

(Name of Family)

b. *PHA Assistance and Contract Unit.* In order to enable the Family to lease Decent, Safe, and Sanitary housing pursuant to section 8 of the Act, the PHA agrees to make housing assistance payments on behalf of the Family for the following described dwelling unit ("Contract Unit"):

c. *Term of Contract.* The term of this Contract shall be ___ years [the term of the Lease, not to exceed three years] beginning on _____, 19___, [the effective date of the Lease] and ending _____, 19___; Provided, however, that if the Family continues in occupancy, after the expiration of the term, on the same terms and conditions as the original Lease, the Contract shall continue in effect for the duration of such tenancy, but in no case for a total term of more than

five years.

1.2 **AMOUNT OF CONTRACT RENT AND FAMILY PORTION.**

a. *Amount of Contract Rent.* The lease rental for the unit ("Contract Rent") is \$_____ per month.

b. *Family Portion of Rent.*

(1) The monthly amount the Family is required to pay toward the Contract Rent is \$_____.

(2) If there are any utilities or services payable directly by the Family, the amount in paragraph b(1) was computed as follows:

(i) Monthly amount Family must pay toward Gross Rent \$_____.

(ii) Less: PHA-determined Allowance for utilities and services payable directly by the Family \$_____.

(iii) Amount payable by Family toward Contract Rent \$_____.

(3) If the amount in line (2) (ii) is greater than the amount in line (2) (i), enter the amount of such excess \$_____.

The Owner agrees to pay the Family this monthly amount, on behalf of the PHA, upon receipt of funds from the PHA for that purpose, and the Owner shall furnish the PHA, upon request by it, with evidence of such payment.

(4) The amount set forth in this paragraph b shall be subject to change by reason of changes in the Family income, composition, or extent of exceptional medical or other unusual expenses, or in the Allowance for Utilities and Other Services or in the Contract Rent, as determined by the PHA, effective as of the date stated in a notification of such change by the PHA to the Family and Owner.

c. *PHA Not Obligated for Family Portion of Rent.* Neither the PHA nor the United States of America ("Government") has assumed any obligation whatsoever for the portion of the rent payable by the Family or for the satisfaction of any claim by the Owner against the Family other than in accordance with Section 1.7 of this Contract. The financial obligation of the PHA is limited to making housing assistance payments on behalf of the Family in accordance with this Contract.

1.3 **HOUSING ASSISTANCE PAYMENTS.**

a. *Amount.* The PHA will pay on behalf of the Family a housing assistance payment equal to the difference between the Contract Rent and the portion of said rent payable by the Family.

b. *Conditions for Payment.* Housing assistance payments shall be made by the PHA to the Owner, under the terms and conditions of this Contract and the pertinent Annual Contributions Contract ("ACC"), only for the period during which the Contract Unit is leased or occupied by the Family during the term of the Contract (see section 1.1c), except as provided in paragraphs c and d of this section.

c. *Payment for Vacated Unit.*

(1) If the Family vacates its unit in violation of the provisions of the Lease or tenancy agreement, the Owner shall receive housing assistance payments in the amount of 80 percent of the Contract Rent for a vacancy period not exceeding 60 days or the expiration or other termination of the Lease or tenancy agreement, whichever comes first; Provided, however, that if the Owner collects any of the Family's share of the rent for this period in an amount which, when added to the 80 percent payments, results in more than the Contract Rent, such excess shall be payable to the Government or as the Government may direct; and provided further that if the vacancy is the result of action by the Owner, the Owner shall not receive any payment under this paragraph if the action was in violation of the Lease

or the Contract or any applicable law. (See section 1.5.)

(2) The Owner shall not be entitled to any payment under this paragraph c unless he (i) immediately upon learning of the vacancy, has notified the PHA of the vacancy or prospective vacancy, (ii) has taken and continues to take all feasible actions to fill the vacancy including, but not limited to, contacting applicants on his waiting list, requesting the PHA and other appropriate sources to refer applicants, and advertising the availability of the unit, and (iii) has not rejected any applicant except for good cause acceptable to the PHA.

(3) The Owner shall not be entitled to housing assistance payments with respect to vacant units under this paragraph c to the extent he is entitled to payments from other sources (for example, payments for losses of rental income incurred for holding units vacant for relocatees pursuant to Title I of the Housing and Community Development Act of 1974 or payments under Section 1.7).

d. *Owner's Monthly Requests for Payments.*

(1) The Owner shall submit monthly requests to the PHA or as directed by the PHA for housing assistance payments. Each such request shall set forth: (i) the name of the Family and the address and number, if any, of the unit leased by the Family; (ii) the Contract Rent for the unit for which the Owner is claiming payments; (iii) the amount of rent payable by the Family leasing the unit (or, where applicable, the amount to be paid the Family in accordance with Section 1.2b(3)); and (iv) the total amount of housing assistance payments requested by the Owner.

(2) Each of the Owner's monthly requests shall contain a certification by him that to the best of his knowledge and belief (i) the dwelling unit is in Decent, Safe, and Sanitary condition, (ii) all the other facts and data on which the request for funds is based are true and correct, (iii) the amount requested has been calculated in accordance with the provisions of this Contract and is payable under the Contract, and (iv) none of the amount claimed has been previously claimed or paid.

(3) If the Owner has received an excessive payment, the PHA, in addition to any other rights to recovery, may deduct the amount from any subsequent payment or payments.

(4) The Owner's monthly requests for housing assistance payments shall be made subject to penalty under 18 U.S.C. 1001, which provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

1.4 MAINTENANCE, OPERATION AND INSPECTION.

a. *Maintenance and Operation.* The Owner agrees (1) to maintain and operate the Contract Unit and related facilities so as to provide Decent, Safe, and Sanitary housing, and (2) to provide all the services, maintenance and utilities set forth in the Lease. If the PHA determines that the Owner is not meeting any of these obligations, the PHA shall have the right, in addition to its other rights and remedies under this Contract, to abate housing assistance payments in whole or in part.

b. *Inspection.*

(1) Prior to occupancy of the unit by the Family, the Owner and the Family shall inspect the unit and each shall furnish a report and certification of the condition of the unit, on the form prescribed by the PHA. By executing this Contract, the Owner certifies that to the best of his knowledge and

belief and in accordance with the criteria provided in the PHA-prescribed form, the unit is in Decent, Safe, and Sanitary condition on the date of execution.

(2) The PHA shall inspect the Contract Unit and related facilities, or cause them to be inspected, at least annually and at such other times (including prior to initial occupancy of the unit) as the PHA may determine to be necessary to assure that the Owner is meeting his obligation to maintain the unit in Decent, Safe, and Sanitary condition and to provide the agreed upon utilities and other services. The PHA shall take into account complaints by occupants and any other information coming to its attention in scheduling inspections, and shall notify the Owner and the Family of its determinations.

c. *Units Not Decent, Safe, and Sanitary.* If the PHA notifies the Owner that he has failed to maintain the dwelling unit in Decent, Safe, and Sanitary condition and the Owner fails to take corrective action within the time prescribed in the notice, the PHA may exercise any of its rights or remedies under the Contract, including abatement of housing assistance payments (even if the Family continues in occupancy) and termination of the Contract. If the Family wishes to be rehoused in another dwelling unit with Section 8 assistance and the PHA determines to terminate the Contract, the PHA shall issue to the Family another Certificate of Family Participation.

d. *Notification of Abatement.* Any abatement of housing assistance payments shall be effective as provided in written notification to the Owner. The PHA shall promptly notify the Family of any such abatement.

e. *Overcrowded Unit.* If the PHA determines that a Contract Unit is not Decent, Safe, and Sanitary by reason of increase in Family size, the Family and the PHA shall try to find an acceptable unit as soon as possible. If an acceptable unit is found that is available for occupancy by the Family, and the Lease with the first Owner can be terminated in accordance with its terms, the Contract with the first Owner shall be terminated and housing assistance payments shall be made available to the Family for occupancy in the acceptable unit. Housing assistance payments will not be terminated unless the Family rejects without good reason the offer of a unit which the PHA judges to be acceptable.

1.5 *EVICTON.* The Owner shall not evict the Family unless the Owner complies with the requirements of local law, if any, and of this Section. The Owner shall give the Family a written notice of the proposed eviction, stating the grounds and advising the Family that it has 10 days (or such greater number, if any, that may be required by local law) within which to respond to the Owner. The Owner must obtain the PHA's authorization for an eviction; accordingly, a copy of the notice shall be furnished simultaneously to the PHA, and the notice shall also state that the Family may, within the same time period, present its objections to the PHA in writing or in person. The PHA shall forthwith examine the grounds for eviction and shall authorize the eviction unless it finds the grounds to be insufficient under the Lease. The PHA shall notify the Owner and the Family of its determination within 20 days of the date of notice to the Family, whether or not the Family has presented objections to the PHA. If the Owner has not received a response from the PHA within 20 days, he shall telephone the PHA and shall be informed by the PHA whether a notice of determination has been mailed. If the PHA informs the Owner that no notice has been mailed within the 20 day period, the PHA shall be deemed to have authorized the eviction.

1.6 *OWNER-FAMILY LEASE.* The Lease between the Owner (Lessor) and the Family (Lessee) shall contain the following provisions:

"ADDENDUM TO LEASE"

"The following additional Lease provisions are incorporated in full in the Lease between ----- (Lessor) and ----- (Lessee) for the following dwelling unit: ----- In case of any conflict between these and any other provisions of the Lease, these provisions shall prevail.

"a. The total rent shall be \$----- per month.

"b. Of the total rent, \$----- shall be payable by the Public Housing Agency (PHA) as housing assistance payments on behalf of the Lessee and \$----- shall be payable by the Lessee. These amounts shall be subject to change by reason of changes in the Lessee's family income, composition, or extent of exceptional medical or other unusual expenses, or by reason of adjustment by the PHA of any applicable Allowance for Utilities and Other Services. Any such change shall be determined in accordance with HUD-established schedules and criteria and shall be effective as of the date stated in a notification to the Lessee.

"c. The Lessor shall provide the following utilities: [Specify]

"d. The Lessor shall provide maintenance and services as follows:

(1) The Lessor shall maintain the dwelling unit and all equipment provided therewith, as well as common areas, facilities and equipment provided for the use and benefit of the Lessee, in compliance with the Housing Quality Standards on the basis of which this Lease was approved by the Public Housing Agency, and the Lessor shall respond in a reasonable time to calls by the Lessee for services consistent with said obligation. Where applicable (as in case of multiunit buildings), such maintenance with respect to common areas, facilities and equipment shall include cleaning; maintenance of lighting and equipment; maintenance of grounds, lawns and shrubs; and removal of snow and ice. Where security equipment and services are to be provided by Lessor they are as follows: [Specify, or state "None"].

(2) Extermination services shall be provided by Lessor as conditions may require. If such service is to be provided on a scheduled basis, the schedule is as follows: [Specify, or state "No schedule"].

(3) Repainting shall be provided by Lessor as conditions may require. If such service is to be provided on a scheduled basis, the schedule is as follows: [Specify, or state "No schedule"].

"e. The Lessor shall not evict the Lessee unless the Lessor complies with the requirements of local law, if any, and of this provision. The Lessor shall give the Lessee a written notice of the proposed eviction, stating the grounds and advising the Lessee that he has 10 days (or such greater number, if any, that may be required by local law) within which to respond to the Lessor. Because the Lessor must obtain the PHA's authorization for an eviction, a copy of the notice shall be furnished simultaneously to the PHA, and the notice shall also state that the Lessee may, within the same time period, present his objections to the PHA in writing or in person. The PHA shall forthwith examine the grounds for eviction and shall authorize the eviction unless it finds the grounds to be insufficient under the Lease. The PHA shall notify the Lessor and the Lessee of its determination within 20 days of the date of notice to the Lessee, whether or not the Lessee has presented objections to the PHA. If the Owner has not received a response from the PHA within 20 days, he shall telephone the PHA and shall be informed by the PHA

whether a notice of determination has been mailed. If the PHA informs the Owner that no notice has been mailed within the 20 day period, the PHA shall be deemed to have authorized the eviction.

"f. The Lessor shall not discriminate against the Lessee in the provision of services, or in any other manner, on the grounds of race, color, creed, religion, sex, or national origin.

"g. This Lease has been signed by the parties on the condition that the PHA will promptly execute a Housing Assistance Payments Contract with the Lessor. Accordingly, this Lease shall not become effective unless the PHA has executed such Contract by the first day of occupancy specified in the Lease.

"Lessor -----
 By -----
 Date -----
 Lessee -----
 Date -----"

1.7 SECURITY DEPOSITS. [This section is applicable only if the Owner has required the Family to pay a security deposit.]

a. The Family has paid the Owner a security deposit in an amount equal to the amount payable by the Family toward one month's Gross Rent. If the Family vacates the unit, the Owner may utilize the deposit as reimbursement for any unpaid rent or other amount owed under the Lease. If the amount of the security deposit is insufficient for such reimbursement, the Owner may claim reimbursement from the PHA, not to exceed an amount equal to the remainder of one month's Contract Rent. If the Family vacates the unit owing no rent or other amount under the Lease, or if such amount is less than the amount of the security deposit, the Owner shall refund the full amount or the unused balance, as the case may be, to the Family.

b. In those jurisdictions where interest is payable by the Owner on security deposits, the refunded amount shall include the amount of interest payable. The Owner must comply with all State and local laws regarding interest payments on security deposits.

1.8 RENT ADJUSTMENTS.

a. Contract Rents shall be adjusted as provided in paragraphs a (1) and (2) of this Section upon request to the PHA by the Owner, provided that such request is accompanied by a certification signed by the Owner and the Family that the unit is in Decent, Safe, and Sanitary condition and that the Owner is otherwise in compliance with the terms of the Lease.

(1) An adjustment as of any anniversary date of the Lease not to exceed the percentage of charge in the applicable published Fair Market Rent (with appropriate reduction in the adjustment where utilities are paid directly by the Family), provided that the Owner has the legal right to terminate the tenancy as of such anniversary date.

(2) A special adjustment, subject to Government approval, effective as of the date when the Owner has the legal right to terminate the tenancy, to reflect increases in the actual and necessary expenses of owning and maintaining the unit which have resulted from substantial general increases in real property taxes, utility rates, or similar costs (i.e., assessments, and utilities not covered by regulated rates), but only if and to the extent that the Owner clearly demonstrates that such general increases have caused increases in the Owner's operating costs which are not adequately compensated for by the annual adjustments provided for in paragraph a(1). The Owner shall submit financial statements which clearly support the increase.

b. Notwithstanding any other provisions of this Contract, adjustments as provided in paragraph a shall not result in material differences between the rents charged for assisted and comparable unassisted units, as determined by the PHA (and approved by the Government, in case of adjustments under paragraph a(2)).

1.9. ENTIRE AGREEMENT. This Contract, including Part II hereof, contains the entire agreement between the parties hereto, and neither party is bound by any representations or agreements of any kind except as contained herein. No changes in this Contract shall be made except in writing signed by both the Owner and the PHA.

1.10 OWNER'S WARRANTY OF LEGAL CAPACITY. The Owner warrants that he has the legal right to execute this Contract and to lease the dwelling unit covered by this Contract.

PHA ----- OWNER -----
 By ----- By -----
 (Official Title) (Official Title)
 Date ----- Date -----

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM; EXISTING HOUSING

HOUSING ASSISTANCE PAYMENTS CONTRACT

PART II

2.1 Nondiscrimination in Housing.

a. Neither the Owner nor the PHA shall, in the selection or approval of Families, in the provision of services, or in any other manner, discriminate against any person on the grounds of race, color, creed, religion, sex, or national origin. No person shall be automatically excluded from participation in or be denied the benefits of the Housing Assistance Payments Program because of membership in a class such as unmarried mothers, recipients of public assistance, etc.

b. The Owner shall comply with all requirements imposed by Title VIII of the Civil Rights Act of 1968, and any rules and regulations pursuant thereto.

c. The Owner shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 241; the regulations of the Department of Housing and Urban Development issued thereunder, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq; the requirements of said Department pursuant to said regulations; and Executive Order 11063 to the end that, in accordance with that Act, the regulations and requirements of said Department thereunder, and said Executive Order, no person in the United States shall, on the ground of race, color, creed, religion or national origin, be excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program, or be otherwise subjected to discrimination. This provision is included pursuant to the regulations of the Department of Housing and Urban Development, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq, issued under Title VI of the said Civil Rights Act of 1964, and the requirements of said Department pursuant to said regulations; and the obligation of the Owner to comply therewith inures to the benefit of the Government, the said Department, and the PHA, any of which shall be entitled to invoke any remedies available by law to redress any breach thereof or to compel compliance therewith by the Owner.

2.2 Cooperation in Equal Opportunity Compliance Reviews.

The PHA and the Owner shall cooperate with the Government in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

2.3 Annual Contributions Contract.

a. The PHA has entered into an Annual Contributions Contract dated -----, 19--, with the Government, with respect to Project No. ----- ("ACC"), under which the Government will provide financial assistance to the PHA pursuant to Section 8 of the Act, for the purpose of making housing assistance payments, which ACC shall be provided by the PHA to the Owner upon request.

b. The PHA hereby pledges such annual contributions payable under Section 1.4(b) (1) of Part I of the ACC to the payment of housing assistance payments pursuant to this and other Housing Assistance Payments Contracts entered into as a part of said Project.

2.4 PHA and Government Access to Premises and Owner's Records.

a. The Owner shall furnish such information and reports pertinent to the Contract as reasonably may be required from time to time by the PHA or the Government.

b. The Owner shall permit the PHA or the Government or any of their duly authorized representatives to have access to the premises and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the Owner that are pertinent to compliance with this Contract, including the verification of information pertinent to the monthly requests to the PHA for housing assistance payments.

2.5 Default by the Owner.

a. A Default by the Owner under this Contract shall result if:

(1) The Owner has violated or failed to comply with any provision of, or obligation under, this Contract or of the Owner-Family Lease; or

(2) The Owner has asserted or demonstrated an intention not to perform some or all of his obligations under this Contract or under the Owner-Family Lease.

b. Upon a determination by the PHA that a Default has occurred, the PHA shall notify the Owner of the nature of the Default, of the actions required to be taken on account of the Default (including the curing of the Default by the Owner, the abatement of housing assistance payments in whole or in part, where appropriate, or any combination of actions), and of the time within which the Owner shall respond with a showing that he has taken all the actions required of him. If the Owner fails to respond or take action to the satisfaction of the PHA, the PHA shall take appropriate actions to achieve compliance or to terminate the Contract.

2.6 Remedies Not Exclusive and Non-Waiver of Remedies.

The availability of any remedy under this Contract shall not preclude the exercise of any other remedy under this Contract or under any provisions of law, nor shall any action taken in the exercise of any remedy be deemed a waiver of any other rights or remedies. Failure to exercise any right or remedy shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.

2.7 Disputes.

a. Except as otherwise provided herein, any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement of the PHA and Owner may be submitted by either party to the Department of Housing and Urban Development field office director who shall make a decision and shall mail or otherwise furnish a written copy thereof to the Owner and the PHA.

b. The decision of the field office director shall be final and conclusive unless, within 30 days from the date of receipt of such copy, either party mails or otherwise furnishes to the field office director a written appeal addressed to the Secretary of Housing and Urban Development. The decision of the

RULES AND REGULATIONS

APPENDIX III

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

CERTIFICATE OF FAMILY PARTICIPATION

Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence.

c. This Section does not preclude consideration of questions of law in connection with decisions rendered under paragraphs a and b of this Section; Provided, however, that nothing herein shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

2.8 Interest of Members, Officers, or Employees of PHA, Members of Local Governing Body, or Other Public Officials. No member, officer, or employee of the PHA, no member of the governing body of the locality (city and county) in which the premises are situated, no member of the governing body of the locality in which the PHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the premises, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Contract or in any proceeds or benefits arising from it.

2.9 Interest of Member of or Delegate to Congress. No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Contract or to any benefits which may arise therefrom.

2.10 Nonassignability. a. The Owner agrees that he has not made, and will not make any sale, assignment, or conveyance or transfer in any other form, of this Contract, or any of his interest therein, except with the prior consent of the PHA. An assignment by the Owner to a limited partnership of which the Owner is the sole general partner shall not be considered an assignment herein.

b. The Owner agrees to notify the PHA promptly of any proposed action covered by paragraph a of this Section. The Owner further agrees to request written consent of the PHA in regard thereto.

c. For the purpose of this Section, a transfer of stock in the Owner in whole or in part, by a party holding ten percent or more of the stock of said Owner, or a transfer by more than one stockholder or the Owner of ten percent or more of the stock of said Owner, or any other similarly significant change in the ownership of such stock or in the relative distribution thereof, or with respect to the parties in control of the Owner or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of new or additional stock or classification of stock or otherwise, shall be deemed an assignment, conveyance, or transfer with respect to this Contract. With respect to this provision, the Owner and the party signing this Contract on behalf of said Owner, represent that they have the authority of all of the existing stockholders of the Owner to agree to this provision on behalf of said stockholders and to bind them with respect thereto.

1. Certification. The undersigned Public Housing Agency ("Agency") hereby certifies that the Family headed by ----- is authorized to participate in the Section 8 Housing Assistance Payments Program of this Agency. Under this program, the Agency makes housing assistance payments on behalf of participating Families toward their rents to Owners of Decent, Safe, and Sanitary dwelling units selected by the Families.

2. Dwelling Unit. If the Family finds a dwelling unit meeting its space requirements and otherwise suitable to its needs, which is in Decent, Safe, and Sanitary condition, the Family should submit to the Agency the Request for Lease Approval, together with the required inspection reports and a proposed lease. Prior to approval of the proposed lease, the Agency will inspect the dwelling unit or cause it to be inspected.

3. Lease Rent. The monthly rental provided in the Lease must be determined by the Agency to be reasonable; and generally this rent, plus the allowance approved by the Agency for any utilities payable directly by the Family, may not exceed the Fair Market Rents for a -- bedroom dwelling unit, which are \$----- for elevator buildings and \$----- for non-elevator buildings.

4. Family Portion of Rent. (a) Under the rules and regulations of the Housing Assistance Payments Program, the Family will be obligated to pay \$----- toward the monthly lease rental; however, this amount will be reduced by any Allowance for utilities to be paid directly by the Family, and this reduction will be reflected in the amount payable by the Family as specified in the Lease.

(b) As an incentive to the Family to find the most economical housing suitable to its needs, if the Family selects a dwelling unit (other than a unit receiving the benefit of Federal, State or local subsidy) for which the proposed monthly lease rental plus any applicable allowance is below the applicable Fair Market Rent, the Family will be given credit by a reduction in the amount it must pay toward rent and utilities (Gross Family Contribution). The amount of this credit will be that percentage of the Gross Family Contribution which the Rent Saving is of the Fair Market Rent. The Rent Saving is the amount by which the Fair Market Rent (i) exceeds the monthly lease rental (plus any applicable allowance) approved by the Agency, or (ii) exceeds the initially proposed lease rental (plus any applicable allowance) if that be higher than the approved lease rental (plus any applicable allowance).

(c) The amount which the Family is required to pay toward rent and utilities is subject to change by reason of changes in Family income, composition, and extent of exceptional medical or other unusual expenses and changes in the Allowance for Utilities and Other Services and the Contract Rent.

5. Agency Portion of Rent. Pursuant to a Housing Assistance Payments Contract with an Owner, the Agency will pay to the Owner on behalf of the Family an amount equal to the difference between the Family portion of the rent to the Owner and the monthly lease rental.

6. Agency Approval of Lease. (a) After receipt of a Request for Lease Approval, the Agency will notify the Owner and the Family whether or not the proposed lease is approvable. This notification

will be given within -- working days from the date of availability for inspection as stated in the Request for Lease Approval.

(b) The Agency, upon issuing this Certificate of Family Participation, anticipates that if a lease meeting the requirements of this program is submitted for approval, the Agency will have funds available for a Housing Assistance Payments Contract with the Owner; however, the Agency is under no obligation to the Family, to any Owner or to any other person to approve any submitted lease, nor does the Agency incur any liability by reason of issuing this Certificate.

7. Conditions. The Family agrees to perform all its obligations under the Housing Assistance Payments Program, including the obligations to (a) provide such Family income information and records as may be required in the administration of the program, (b) permit inspection of its dwelling unit at reasonable times after reasonable advance notice, and (c) give at least 30 days notice to the Agency of the Family's intention to vacate the unit.

8. Equal Housing Opportunity. If the Family has reason to believe that, in its search for suitable housing, it has been discriminated against on the basis of race, color, creed, sex, religion, or national origin, it may file a complaint with the HUD Regional Office. Fair Housing Complaint Forms (Form HUD-903) are available from this Agency.

9. Expiration Date. A Request for Lease Approval may be submitted to this Agency no later than ----- (60 days from the date of this Certificate). If a Request is not submitted by such date, this Certificate shall expire unless extended by the Agency in writing.

----- (Name of Family Representative)
(Name of Public Housing Agency)
By ----- (Signature of Family Representative)
(Signature and Title)
(Date) (Date)
(Telephone) (Present Address)

APPENDIX IV

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING REQUEST FOR LEASE APPROVAL

1. Request. The undersigned Owner and Family hereby request the ----- (Name of Public Housing Agency)

to approve the attached lease for the dwelling unit located at ----- for a

(Street Address and Apartment Number, if any) if any)

term of ----- months, beginning -----, 19-- The unit, consisting of ----- bedrooms, is to be leased at \$----- per month. This rent includes maintenance and other services as provided in the lease and the following utilities and appliances:

(Check applicable boxes)
[GAS] [WATER] [REFRIG-ERATOR]
[ELEC-TRICITY] [SEWER] [RANGE] [OTHER]
[HEAT] (Specify)

2. Certifications. THE OWNER, by executing this Request, certifies that:

(a) The most recent rent charged for the above dwelling unit was \$----- per month. The reasons for the difference, if any, be-

tween this amount and the proposed rent are:

(b) This unit is made available, managed, and operated regardless of race, color, religion, creed, sex, or national origin.

(c) He has inspected the dwelling unit, as evidenced by the attached inspection report, and his certification as to the condition of the unit is true to the best of his knowledge and belief.

THE FAMILY, by executing this Request, certifies that it has inspected the dwelling unit, as evidenced by the attached inspection report, and that its certification as to the condition of the unit is true to the best of its knowledge and belief.

3. Dates of Availability for Inspection and Occupancy.

a. The dwelling unit will be available for inspection by the Agency on -----, 19---

b. The dwelling unit will be available for occupancy by the Family on -----, 19---

4. Authority Determination. The Owner and the Family understand that the Agency will notify them as to whether or not the proposed lease is approvable, within the time period specified in paragraph 6 of the Certificate of Family Participation.

Form with fields for Name of Owner or Other Entity Authorized to Lease, Signature, Date, Business Address, Telephone, and Name of Family Representative, Signature, Date, Present Address of Family.

APPENDIX V

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM — EXISTING HOUSING

AGENCY DETERMINATION WITH RESPECT TO REQUEST FOR LEASE APPROVAL

(TO BE SENT TO THE OWNER AND FAMILY)

(Check applicable box)

1. Approval. The Agency hereby approves the proposed lease between ----- (Family) and ----- (Owner) for the dwelling unit located at -----

(Street Address and Apartment No., if any)

(a) Enclosed is the proposed lease, which has been completed by the Agency with respect to the portion of the monthly lease rental which the Family shall be obligated to pay to the Owner. The Lease shall be executed by the Family and the Owner and a copy returned to the Agency.

(b) Also enclosed are two copies of a Housing Assistance Payments Contract completed by the Agency except for execution. The Owner shall sign both copies of the Contract and return them to the Agency. The Agency will execute the Contract by the first day of occupancy specified in the Lease and will immediately return an executed copy to the Owner.

2. Disapproval. The proposed lease and/or the dwelling unit are/is disapproved for the following reasons:

3. Resubmission. If the conditions in Item 2 above are remedied, and a Request for Lease Approval is resubmitted by the Owner and the Family to the Agency by ----- (date), the lease will be approved by the

Agency if it determines that the conditions have been remedied to its satisfaction. (The Certificate of Family Participation issued to the Family shall not expire before said date.)

(Date)

(Name of Public Housing Agency)

By: ----- (Signature and Title)

(Telephone)

APPENDIX VI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM — EXISTING HOUSING

REQUIRED LEASE PROVISIONS

The Lease between the Owner (Lessor) and the Family (Lessee) shall contain the following provisions:

ADDENDUM TO LEASE

The following additional Lease provisions are incorporated in full in the Lease between ----- (Lessor) and ----- (Lessee) for the following dwelling units: ----- In case of any conflict between these and any other provisions of the Lease, these provisions shall prevail.

a. The total rent shall be \$----- per month.

b. Of the total rent, \$----- shall be payable by the Public Housing Agency (PHA) as housing assistance payments on behalf of the Lessee and \$----- shall be payable by the Lessee. These amounts shall be subject to change by reason of changes in the Lessee's family income, composition, or extent of exceptional medical or other unusual expenses, or by reason of adjustment by the PHA of any applicable Allowance for Utilities and Other Services. Any such change shall be determined in accordance with HUD-established schedules and criteria and shall be effective as of the date stated in a notification to the Lessee.

c. The Lessor shall provide the following utilities: [Specify].

d. The Lessor shall provide maintenance and services as follows:

(1) The Lessor shall maintain the dwelling unit and all equipment provided therewith, as well as common areas, facilities and equipment provided for the use and benefit of the Lessee, in compliance with the Housing Quality Standards on the basis of which this Lease was approved by the Public Housing Agency, and the Lessor shall respond in a reasonable time to calls by the Lessee for services consistent with said obligation. Where applicable (as in case of multiunit buildings), such maintenance with respect to common areas, facilities and equipment shall include cleaning; maintenance of lighting and equipment; maintenance of grounds, lawns and shrubs; and removal of snow and ice. Where security equipment and services are to be provided by Lessor they are as follows: [Specify, or state "None"].

(2) Extermination services shall be provided by Lessor as conditions may require. If such service is to be provided on a scheduled basis, the schedule is as follows: [Specify, or state "No schedule"].

(3) Repainting shall be provided by Lessor as conditions may require. If such service is to be provided on a scheduled basis, the schedule is as follows: [Specify, or state "No schedule"].

e. The Lessor shall not evict the Lessee unless the Lessor complies with the requirements of local law, if any, and of this provision. The Lessor shall give the Lessee a written notice of the proposed eviction, stat-

ing the grounds and advising the Lessee that he has 10 days (or such greater number, if any, that may be required by local law) within which to respond to the Lessor. Because the Lessor must obtain the PHA's authorization for an eviction, a copy of the notice shall be furnished simultaneously to the PHA, and the notice shall also state that the Lessee may, within the same time period, present his objections to the PHA in writing or in person. The PHA shall forthwith examine the grounds for eviction and shall authorize the eviction unless it finds the grounds to be insufficient under the Lease. The PHA shall notify the Lessor and the Lessee of its determination within 20 days of the date of the notice to the Lessee, whether or not the Lessee has presented objections to the PHA. If the Owner has not received a response from the PHA within 20 days, he shall telephone the PHA and shall be informed by the PHA whether a notice of determination has been mailed. If the PHA informs the Owner that no notice has been mailed within the 20 day period, the PHA shall be deemed to have authorized the eviction.

f. The Lessor shall not discriminate against the Lessee in the provision of services, or in any other manner, on the grounds of race, color, creed, religion, sex, or national origin.

g. This Lease has been signed by the parties on the condition that the PHA will promptly execute a Housing Assistance Payments Contract with the Lessor. Accordingly, this Lease shall not become effective unless the PHA has executed such Contract by the first day of occupancy specified in the Lease.

Form with fields for Lessor, By, Date, Lessee, Date

APPENDIX VII

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

EXISTING HOUSING

PROHIBITED LEASE PROVISIONS

Lease clauses which fall within the classifications listed below shall not be included in any Lease in this program.

1. Confession of Judgment. Prior consent by tenant to any lawsuit the landlord may bring against him in connection with the Lease and to a judgment in favor of the landlord.

2. Distraint for Rent or Other Charges. Authorization to the landlord to take property of the tenant and hold it as a pledge until the tenant performs any obligation which the landlord has determined the tenant has failed to perform.

3. Exculpatory Clause. Agreement by tenant not to hold the landlord or landlord's agents liable for any acts or omissions whether intentional or negligent on the part of the landlord or the landlord's authorized representative or agents.

4. Waiver of Legal Notice by Tenant Prior to Actions for Eviction or Money Judgments. Agreement by tenant that the landlord may institute suit without any notice to the tenant that the suit has been filed.

5. Waiver of Legal Proceedings. Authorization to the landlord to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or default has occurred, without notice to the tenant or any determination by a court of the rights and liabilities of the parties.

6. Waiver of Jury Trial. Authorization to the landlord's lawyer to appear in court for the tenant and to waive the tenant's right to a trial by jury.

RULES AND REGULATIONS

7. *Waiver of Right to Appeal Judicial Error in Legal Proceedings.* Authorization to the landlord's lawyer to waive the tenant's right to appeal on the ground of judicial error in any suit or the tenant's right to file a suit in equity to prevent the execution of a judgment.

8. *Tenant Chargeable with Cost of Legal Actions Regardless of Outcome.* Agreement by the tenant to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though the court finds in favor of the tenant. (Omission of this clause does not mean that the tenant as a party to a lawsuit may not be obligated to pay attorney's fees or other costs if he loses the suit.)

APPENDIX VIII

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS—EXISTING HOUSING

FAMILY'S DWELLING UNIT INSPECTION REPORT

[A modified form shall be used if local variations from the acceptability criteria have been approved by HUD.]

Address of Unit:----- Apt. No. -----

Name of Family:-----

Telephone:-----

Address:-----

Name of Owner or Other Entity Authorized to Lease:-----

Address:-----

Telephone:-----

INSTRUCTION: Place check mark in appropriate box to indicate whether the item is present, and where applicable, whether the item is in proper operating condition. Fill in other blanks and boxes as indicated.

GENERAL COMPOSITION OF DWELLING UNIT

State number and types of rooms in the dwelling unit:-----

	Item is present	Item is in proper operating condition	Remarks
SANITARY FACILITIES			
Separate, private bathroom.....	<input type="checkbox"/>	XXXX	
Flush toilet.....	<input type="checkbox"/>	<input type="checkbox"/>	
Fixed basin with hot and cold running water.....	<input type="checkbox"/>	<input type="checkbox"/>	
Shower or tub with hot and cold running water.....	<input type="checkbox"/>	<input type="checkbox"/>	
All facilities connected to approved public or private disposal system.....	<input type="checkbox"/>	<input type="checkbox"/>	

FOOD PREPARATION AND REFUSE DISPOSAL			
Cooking stove or range.....	<input type="checkbox"/>	<input type="checkbox"/>	
Refrigerator of appropriate size for the unit.....	<input type="checkbox"/>	<input type="checkbox"/>	
Kitchen sink with hot and cold running water draining into an approved public or private system.....	<input type="checkbox"/>	<input type="checkbox"/>	
Adequate space for storage, preparation and serving of food.....	<input type="checkbox"/>	XXXX	
Adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).....	<input type="checkbox"/>	<input type="checkbox"/>	

	Item is present	Remarks
SPACE AND SECURITY		
Number of persons to occupy unit.....		
Number of living and/or sleeping rooms.....		
One living and/or sleeping room of appropriate size for each two persons.....		<input type="checkbox"/>
Exterior doors and windows accessible from outside are lockable.....		<input type="checkbox"/>

	Item is present	Item is in proper operating condition	Remarks
--	-----------------	---------------------------------------	---------

HEATING AND COOLING SYSTEMS			
Safe heating facilities which can provide adequate heat to each room of unit appropriate for the climate to assure healthy living environment.....	<input type="checkbox"/>	<input type="checkbox"/>	
Venting facilities for room heaters (if any) which burn gas, oil, or kerosene.....	<input type="checkbox"/>	<input type="checkbox"/>	
Safe cooling facilities which can provide adequate cooling to each room of unit appropriate for the climate to assure healthy living environment.....	<input type="checkbox"/>	<input type="checkbox"/>	

LIGHT AND ELECTRICITY			
One window in each living and sleeping room.....	<input type="checkbox"/>	<input type="checkbox"/>	
One ceiling or wall type light fixture in the bathroom.....	<input type="checkbox"/>	<input type="checkbox"/>	
One ceiling or wall type light fixture in the kitchen area.....	<input type="checkbox"/>	<input type="checkbox"/>	
Two electric outlets, one of which may be overhead light, in living area, in kitchen area, and in each bedroom area.....	<input type="checkbox"/>	<input type="checkbox"/>	

	Item is in specified condition	Remarks
Number of electric outlets in:		
Living area		
Kitchen area		
Bedroom area No. 1		
Overhead lights in:		
Living area		
Kitchen area		
Bedroom area No. 1		
Bedroom area No. 2		
Bedroom area No. 3		
Bedroom area No. 4		

RULES AND REGULATIONS

3753

	Item is in specified condition	Remarks
STRUCTURE AND MATERIALS		
Ceilings, walls and floors free from serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling or noticeable movement under walking stress, missing parts or other serious damage.....	<input type="checkbox"/>	
Roof structure firm.....	<input type="checkbox"/>	
Roof weathertight.....	<input type="checkbox"/>	
Exterior wall structure and exterior wall surface free from serious defects such as leaning, buckling, sagging, cracks or holes, loose siding, or other serious damage.....	<input type="checkbox"/>	
Condition and equipment of interior and exterior stairways, halls, porches, walkways, etc., such as not to present a danger of tripping or falling.....	<input type="checkbox"/>	
INTERIOR AIR QUALITY		
Unit free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful pollutants.....	<input type="checkbox"/>	
Adequate air circulation throughout unit.....	<input type="checkbox"/>	
At least one openable window or other adequate exhaust ventilation of bathroom area.....	<input type="checkbox"/>	

	Item is present	Item is in proper operating condition	Remarks
WATER SUPPLY			
Unit served by approved public or private sanitary water supply.....	<input type="checkbox"/>	<input type="checkbox"/>	

	Item is in specified condition	Remarks
ACCESS		
Unit useable and capable of being maintained without unauthorized use of other private properties.....	<input type="checkbox"/>	
Alternate means of egress in case of fire (such as fire stairs or egress through windows).....	<input type="checkbox"/>	

	Item is in specified condition	Remarks
SITE AND NEIGHBORHOOD		
Site and neighborhood free from serious adverse environmental conditions, natural or manmade, such as dangerous walks, steps, instability, flooding, poor drainage, septic tank back-ups, sewage hazard or mudslides; abnormal air pollution, smoke or dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; rodent or vermin infestation; or fire hazards.....	<input type="checkbox"/>	
SANITARY CONDITION		
Unit is free of vermin and rodent infestation.....	<input type="checkbox"/>	

	Item is present	Item is in proper operating condition	Remarks
CONGREGATE HOUSING			
(This group of items is applicable only if unit is located in congregate housing, defined as housing connected with which there is a central dining facility to provide meals for the occupants.)			
Suitable space and equipment in central dining facility to store, prepare and serve food in sanitary manner.....	<input type="checkbox"/>	<input type="checkbox"/>	
Adequate facilities and service in central dining facility for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary, e.g., garbage cans.....	<input type="checkbox"/>	<input type="checkbox"/>	

FAMILY CERTIFICATION

I hereby certify that the foregoing report correctly represents the condition of the above-identified dwelling unit.

Date of inspection....., 19.....

Signature of Family member who conducted the inspection:.....

.....

APPENDIX IX
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING
OWNER'S DWELLING UNIT INSPECTION REPORT

[A modified form shall be used if local variations from the Acceptability Criteria have been approved by HUD]

Name of Family..... Telephone.....

Address.....

.....

RULES AND REGULATIONS

Name of Owner or Other Entity Authorized to Lease

Address

Telephone

INSTRUCTION: Place check mark in appropriate box to indicate presence if the facility or item is present in the dwelling unit, and where applicable, if the facility or item is in proper operating condition. Fill in other blanks and boxes as indicated.

GENERAL COMPOSITION OF DWELLING UNIT

State number and types of rooms in the dwelling unit:

	Item is present	Item is in proper operating condition	Remarks
SANITARY FACILITIES			
Separate, private bathroom.....	<input type="checkbox"/>	XXXX	
Flush toilet.....	<input type="checkbox"/>	<input type="checkbox"/>	
Fixed basin with hot and cold running water.....	<input type="checkbox"/>	<input type="checkbox"/>	
Shower or tub with hot and cold running water.....	<input type="checkbox"/>	<input type="checkbox"/>	
All facilities connected to approved public or private disposal system.....	<input type="checkbox"/>	XXXX	
FOOD PREPARATION AND REFUSE DISPOSAL			
Cooking stove or range.....	<input type="checkbox"/>	<input type="checkbox"/>	
Refrigerator of appropriate size for the unit.....	<input type="checkbox"/>	<input type="checkbox"/>	
Kitchen sink with hot and cold running water draining into an approved public or private system.....	<input type="checkbox"/>	<input type="checkbox"/>	
Adequate space for storage, preparation and serving of food.....	<input type="checkbox"/>	XXXX	
Adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).....	<input type="checkbox"/>	<input type="checkbox"/>	

	Item is present	Remarks
SPACE AND SECURITY		
Number of persons to occupy unit.....		
Number of living and/or sleeping rooms.....		
One living and/or sleeping room of appropriate size for each two persons.....	<input type="checkbox"/>	
Exterior doors and windows accessible from outside are lockable.....	<input type="checkbox"/>	

	Item is present	Item is in proper operating condition	Remarks
HEATING AND COOLING SYSTEMS			
Safe heating facilities which can provide adequate heat to each room of unit appropriate for the climate to assure healthy living environment.....	<input type="checkbox"/>	<input type="checkbox"/>	
Venting facilities for room heaters (if any) which burn gas, oil, or kerosene.....	<input type="checkbox"/>	<input type="checkbox"/>	
Safe cooling facilities which can provide adequate cooling to each room of unit appropriate for the climate to assure healthy living environment.....	<input type="checkbox"/>	<input type="checkbox"/>	

	Item is present	Item is in proper operating condition	Remarks
LIGHT AND ELECTRICITY			
One window in each living and sleeping room.....	<input type="checkbox"/>	<input type="checkbox"/>	
One ceiling or wall type light fixture in the bathroom.....	<input type="checkbox"/>	<input type="checkbox"/>	
One ceiling or wall type light fixture in the kitchen area.....	<input type="checkbox"/>	<input type="checkbox"/>	
Two electric outlets, one of which may be overhead light, in living area, in kitchen area, and in each bedroom area.....	<input type="checkbox"/>	<input type="checkbox"/>	
Number of electric outlets in:			
Living area.....		Bedroom area No. 2.....	
Kitchen area.....		Bedroom area No. 3.....	
Bedroom area No. 1.....		Bedroom area No. 4.....	
Overhead lights in:			
Living area.....		Bedroom area No. 2.....	
Kitchen area.....		Bedroom area No. 3.....	
Bedroom area No. 1.....		Bedroom area No. 4.....	

	Item is in specified condition	Remarks
STRUCTURE AND MATERIALS		
Ceilings, walls and floors free from serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling or noticeable movement under walking stress, missing parts or other serious damage.....	<input type="checkbox"/>	
Roof structure firm.....	<input type="checkbox"/>	
Roof weathertight.....	<input type="checkbox"/>	
Exterior wall structure and exterior wall surface free from serious defects such as leaning, buckling, sagging, cracks or holes, loose siding, or other serious damage.....	<input type="checkbox"/>	
Condition and equipment of interior and exterior stairways, halls, porches, walkways, etc., such as not to present a danger of tripping or falling.....	<input type="checkbox"/>	

	Item is in specified condition	Remarks
INTERIOR AIR QUALITY		
Unit free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful pollutants.....	<input type="checkbox"/>	
Adequate air circulation throughout unit.....	<input type="checkbox"/>	
At least one openable window or other adequate exhaust ventilation of bathroom area.....	<input type="checkbox"/>	

RULES AND REGULATIONS

3755

	Item is present	Item is in proper operating condition	Remarks
WATER SUPPLY			
Unit served by approved public or private sanitary water supply.....	<input type="checkbox"/>	<input type="checkbox"/>	

	Item is in specified condition	Remarks
--	--------------------------------	---------

ACCESS		
Unit useable and capable of being maintained without unauthorized use of other private properties.....	<input type="checkbox"/>	
Alternate means of egress in case of fire (such as fire stairs or agress through windows).....	<input type="checkbox"/>	

SITE AND NEIGHBORHOOD		
Site and neighborhood free from serious adverse environmental conditions, natural or manmade, such as dangerous walks, steps, instability, flooding, poor drainage, septic tank back-ups, sewage hazard or mudslides; abnormal air pollution, smoke or dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; rodent or vermin infestation; or fire hazards.....	<input type="checkbox"/>	

SANITARY CONDITION		
Unit is free of vermin and rodent infestation.....	<input type="checkbox"/>	

	Item is present	Item is in proper operating condition	Remarks
--	-----------------	---------------------------------------	---------

CONGREGATE HOUSING			
This group of items is applicable only if unit is located in congregate housing, defined as housing connected with which there is a central dining facility to provide meals for the occupants.)			
Suitable space and equipment in central dining facility to store, prepare and serve food in sanitary manner.....	<input type="checkbox"/>	<input type="checkbox"/>	
Adequate facilities and services in central dining facility for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary, i.e., garbage cans.....	<input type="checkbox"/>	<input type="checkbox"/>	

- LEAD-BASED PAINT**
- I hereby agree that the dwelling unit shall be in compliance with HUD Lead Based Paint Regulations, 24 CFR, Part 35, issued pursuant to the Lead Based Paint Poisoning Prevention Act, 42 U.S.C. 4801, and the dwelling unit has been treated in accordance with such HUD regulations.
 - If the property was constructed prior to 1950, I hereby certify that this Family upon occupancy will receive the notice required by HUD Lead-Based Paint regulations and procedures regarding the hazards of lead-based paint poisoning, the symptoms and treatment of lead poisoning and the precautions to be taken against lead poisoning and that records showing receipt of such notice by the Family will be maintained for at least three years.

OWNER'S CERTIFICATION

I hereby certify that the foregoing report correctly represents the condition of the above-identified dwelling unit. If this report discloses any deficiencies, I further certify that they will be remedied by the date set forth in the Request for Lease Approval for inspection by the issuing agency.

Date of inspection 19....

Signature of owner

DAVID M. DEWILDE,
*Acting Assistant Secretary for Housing Production
and Mortgage Credit-FHA Commissioner.*

[FR Doc.75-2103 Filed 1-22-75;8:45 a.m.]

Just Released

CODE OF FEDERAL REGULATIONS

(Revised as of January 1, 1974)

Title 43—Public Lands: Interior (Parts 1-999).....	\$3. 95
Title 45—Public Welfare (Parts 100-199).....	5. 30
Title 45—Public Welfare (Parts 200-499).....	3. 15
Title 47—Telecommunication (Part 80-End).....	6. 05

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