

CHAPTER 5: TENANT SELECTION

5-1. SIZE OF UNIT NEEDED

a. POLICY

- (1) HUD does not specify the number of persons who may live in public housing units of various sizes.
- (2) The PHA must set reasonable occupancy standards which will assist as many people as possible without overcrowding the unit or the project and which will minimize vacancies.
- (3) In setting the occupancy standards, the PHA must comply with all reasonable State or local restrictions regarding the maximum number of occupants permitted to occupy a dwelling.
- (4) In assigning families to public housing, a PHA may allow families to occupy units of sufficient size so that persons of opposite sex (other than spouses), persons of different generations, and unrelated adults may have separate bedrooms. Where the PHA permits families to occupy units of sufficient size to enable persons in these categories to have separate bedrooms, the PHA should permit such families to choose whether to opt for the larger or smaller units at the time of application. PHAs may also choose to allow such families to be placed on waiting lists for both the larger and smaller units. A PHA is free to allow families large enough units to enable persons in these categories to have separate bedrooms, without also having to allow families to occupy units of sufficient size for persons of the same sex, persons of the same generation, or related adults to have separate bedrooms.
- (5) PHAs may have different standards for different projects but such standards must not result in or perpetuate patterns of occupancy which would be inconsistent with Title VI of the Civil Rights Act of 1964 or the Fair Housing Act.
- (6) For the purpose of determining unit size, PHAs are required to include, as members of the household, all children anticipated to reside in a dwelling unit. Examples include children expected to be born to pregnant women, children who are in the process of being adopted by an adult, or children whose custody is being obtained by an adult. The PHA should also include children who are temporarily absent from the home due to placement

in foster care when considering family composition and family size.

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b. DISCUSSION

- (1) In establishing occupancy standards, PHAs may provide for the assignment of units so that:
 - (a) No more than two persons would be required to occupy a bedroom.
 - (b) Persons of different generations, persons of the opposite sex (other than spouses) and unrelated adults would not be required to share a bedroom.
 - (c) Husband and wife share the same bedroom.
 - (d) Children of the same sex share a bedroom.
 - (e) Children, with the possible exception of infants, would not be required to share a bedroom with persons of different generations, including their parents.
- * (2) These guidelines result in the following range of persons per bedroom:

NUMBER OF BED OF PERSONS	NUMBER	
	MINIMUM	MAXIMUM
0	1	1
1	1	2
2	2	4
3	3	6
4	5	8
5	7	10

*

For example, if the PHA has adopted these standards, households with three people generally should not receive apartments with more than three bedrooms. Nor should such households be required to live in apartments with fewer than two bedrooms. A household of three persons should be permitted to live in an apartment with fewer than two bedrooms if the household so desires, unless there is a state or local occupancy law forbidding occupancy of the unit by three or more persons or unless the PHA maintains an

occupancy policy forbidding occupancy of the unit by three persons, and such an occupancy Policy is reasonable under the circumstances.

- * (3) If, because of a physical or mental handicap of a household member or a person associated with that household, a family may need a unit that is larger than the unit size suggested by the guidelines in paragraph 5-1b (2), it may be an unlawful failure to make reasonable accommodation to deny such a family the opportunity to apply for and obtain such a unit.

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- * (4) PHAs should consider the size of the unit and the size of the bedrooms as well as the number of bedrooms.
- (5) PHAs with many efficiencies but few one-bedroom units may want to reserve the one-bedroom units for two-person families.
- (6) PHAs may adopt occupancy standards which permit a lower level of occupancy in certain projects in order to help market units in hard-to-rent projects, i.e., projects with high vacancy rates or an absence of larger families on the waiting lists. For example, a PHA may allow two-person families to obtain three-bedroom units in such projects in order to help market units. This does not mean, however, that families with more than two persons may be forbidden from occupying two-bedroom units in such projects subject to reasonable occupancy limits adopted consistent with this section.
- (7) Foster children are normally included in determining unit size.
- (8) A live-in care attendant who is not a member of the family should not be required to share a bedroom with another member of the household.
- (9) A person of a different generation, such as a grandmother, should not be required to share a bedroom with her children or her grandchildren.
- (10) A PHA may provide space for a child who is away at school but who lives with the family during school recesses. A PHA would usually not provide space for a family member who will be absent most of the time, such as a member who is away in the

military. A family may need a unit that is large enough to accommodate a member of the family or a person associated with that household who has a physical or mental handicap. Failure to provide reasonable accommodations to such a family may be unlawful. It may also be unlawful to deny such a family the opportunity to apply for and obtain such a unit.

- (11) To avoid vacancies, a PHA may provide a family with a unit that is larger than suggested by the guidelines in paragraph 5.1 b 2, with the provision that the family will move to a smaller unit when another family needs the unit and a suitable smaller unit is available. Any such provision must be in the lease.

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5-2. TYPE OF UNIT, TYPE OF PROJECT NEEDED

a. POLICY - Type of Unit Needed

Without incurring vacancies, PHAs must make every reasonable effort to provide units which are specially designed for the handicapped to families with physically handicapped members who require such units.

b. POLICY - Type of Project Needed

- (1) PHAs must give elderly families a preference in admission to projects for the elderly.
- (2) PHAs may not set a minimum age (like 50 or 55) for the admission of handicapped or disabled persons to projects for the elderly.
- (3) PHAs may not exclude elderly families with children from projects for the elderly having units of the appropriate size.
- (4) PHAs may not give either elderly families or non-elderly families a preference for admission to general occupancy projects. An elderly family which wants to or needs to be admitted to a general occupancy project must be considered on the same basis as any other family.

c. DISCUSSION - Type of Unit Needed

- (1) Specially designed units are sometimes referred to as accessible or barrier-free units. They may have ramps, grab bars, lower counters, special facilities, etc., for those with mobility

problems. Sometimes they are equipped for the hearing impaired or those with other kinds of handicaps.

- (2) Families which meet the HUD definition of handicapped or disabled often do not require specially designed units. For example, a person who is mentally handicapped would not need a unit designed for a person with a mobility impairment and should not be offered such a unit.
- (3) Some families that do not meet the HUD definition of handicapped or disabled may need a specially designed unit. For example, a family in which the child or grandparent uses a wheelchair may need and be provided a specially designed unit even though the head and spouse (the parents) are not handicapped or disabled.

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- (4) If a unit can be adapted to either handicapped or more general usage, the PHA can decide whether to target it for handicapped applicants or consider it like any other unit.
- (5) To avoid vacancies, if there is no applicant that requires a specially designed unit of a particular size, the PHA may want to:
 - (a) slightly overhouse an applicant needing a specially designed but smaller unit (e.g., admitting a family needing a specially designed two-bedroom unit to a specially designed three-bedroom unit); or
 - (b) house an applicant needing that size unit but not requiring special features (e.g., admitting a family needing a regular three-bedroom unit to a specially designed three-bedroom unit).

In either case the PHA should include a provision in the lease requiring the family to move if someone needing that size specially designed unit applies and there is an appropriate unit available for the family originally admitted.

d. DISCUSSION - Type of Project Needed

- (1) PHAs should consider the suitability of a project in relation to the family's needs. If appropriate size units exist in both a general occupancy project and a project for the elderly, elderly families with children and young handicapped or

disabled persons may be better housed in the general occupancy project. For example, the general occupancy project might have other children their age, a playground, etc. The general occupancy project might also be more conducive to mainstreaming a young handicapped or disabled person.

- (2) In introducing younger persons into an elderly population, the PHA should consider orientation for both groups to help overcome any apprehension that might otherwise occur.
- (3) When there are not enough elderly applicants, nonelderly applicants may be offered appropriate units in projects for the elderly.

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5-3. BROAD RANGE OF INCOME

a. POLICY

- (1) PHAs must have policies which will assure that each of their projects will include families with a broad range of income generally representative of the range of income of lower income families in the PHA's jurisdiction.
- (2) The PHA must examine the income levels of:
 - (a) all lower income families in the PHA's jurisdiction (using census or other reliable data);
 - (b) tenants in occupancy in each project; and
 - (c) applicants on the waiting list.

Using this information, the PHA must determine what steps to take to attain occupancy by families with a broad range of income in each project.

- (3) In developing a strategy for achieving a broad range of income, PHAs may not adopt policies which would totally preclude the admission of families in the lowest income range.
- (4) PHAs may not allow vacancies to occur while awaiting higher income tenants when lower income tenants are available.
- (5) PHAs must not develop income distribution policies

which would result in disparate treatment of different racial or ethnic groups.

b. DISCUSSION

(1) Federal Requirement

- (a) Achieving a broad range of income is a Federal requirement. PHAs must be sure that the pursuit of local objectives does not prevent them from attaining this goal.
- (b) The statute and HUD regulations do not define "a reasonable period of time" for attaining a broad range of income. The PHA must move towards the goal while continuing to serve qualified applicants from all income levels.

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- (c) The broad range of income requirement applies to all public housing projects, including scattered site projects.
- (d) Although rental income will usually increase as a result, the broad range of income requirement is not intended to make projects self-sufficient or avoid the need for operating subsidy.

(2) Tenant Selection Preference

- (a) The policies a PHA develops to attain a broad range of income often include a tenant selection preference for applicants with incomes within certain ranges. However, such a preference is not necessary if the objective can be achieved by other means, such as getting a more representative income mix among those on the waiting list. Outreach can be very important in this regard.
- (b) When it is necessary to achieve a broad range of income through a tenant selection preference, income range does not always have to be the highest preference. A lot depends on the extent to which the incomes of the lower income population in each project fail to reflect the incomes of the lower income population in the PHA's jurisdiction, and the extent to which the incomes of applicants on the waiting list are unable to compensate for the disparity. If the incomes in all of the

PHA's projects and on the waiting list are only slightly off target, the PHA might be able to achieve a broad range of income by making income range a relatively low consideration in the tenant selection process.

- (c) PHAs usually have to select applicants from different income ranges for some projects than for others, depending on how the project's current income mix varies from the income mix objective the PHA is trying to attain. The greatest effort should often be focused on changing the occupancy patterns in projects where the very lowest income families are concentrated. However, the PHA need not always select applicants from the higher income ranges for these projects. It is usually better to set up a system where for every so many applicants admitted from a higher income range an applicant from a lower income range is admitted.
- (d) PHAs which have achieved a broad range of income in all of their projects should develop procedures to maintain this mix in filling future vacancies.

(3) Keeping Ranges Simple

- (a) PHAs should be careful not to have too many income ranges. Usually it is sufficient to have three ranges.
- (b) PHAs may use different income ranges for:
 - o different unit sizes or different family sizes;
 - o projects for the elderly - than they use for general occupancy projects;
 - o homeownership projects - than they use for rental projects; and
 - o projects that cannot admit families with incomes over the very low income limit - than they use for projects that can.

However, the PHA should consider the difficulty of administering a system which is

fragmented in too many ways. The system usually works best if it is kept simple.

(4) Relationship with Income Limits

- (a) For projects which can admit all lower income families, PHAs may give a preference to applicants with income within any range that is below the lower income limit. For projects which can admit only very low income families, PHAs may give a preference to applicants within any range that is below the very low income limit.
- (b) PHAs which are interested in admitting higher income applicants to projects which reached DOFA on or after October 1, 1981, should be aware that commitment to achieving a broad range of income is a basis for requesting an exception to admit lower income families which are not very low income. PHAs should not request an exception, however, unless they already have higher income applicants on their waiting list or are reasonably sure that they can attract them.
- (c) PHAs may give a preference based on income range to applicants that are to be admitted under an approved exception.

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(5) Lowest Income Families

- (a) PHAs may not close their waiting list to applicants within a certain income range, such as the lowest income range, while keeping it open for applicants in other ranges. However, PHAs may want to recommend other housing programs, such as Section 8 Existing or housing vouchers, to families whose incomes are within a range that makes it unlikely that they will be admitted to public housing for a long time.
- (b) The broad range of income requirement in no way condones denying admission based on income source.

c. REFERENCES

U.S. Housing Act of 1937, Section 6(c)(4)(A)

24 CFR 960.205(c)

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5-4. SELECTION PREFERENCES

a. POLICY - General

- (1) PHAs may (but are not required to) adopt selection preferences related to local program objectives.
- (2) PHAs may not adopt selection preferences which will prevent the PHA from attaining a broad range of income in each of its projects.
- (3) PHAs may not have a selection preference based on the source of the family's income (e.g., for working families before families on welfare).
- (4) Unless specifically required in a HUD-approved compliance agreement or a court order, a PHA may not use selection preferences based on an applicant's race, color, religion, sex, or national origin. In particular, with respect to preferences based on an applicant's sex, PHAs may not give a preference to households headed by males over households headed by females.
- (5) If the PHA gives a selection preference to applicants who are displaced, an applicant may not qualify for that preference if the displacement was due to the applicant having refused to accept a transfer to another dwelling unit in accordance with a court decree or a HUD-approved desegregation plan.
- (6) A PHA may not open its waiting list only to applicants who would qualify for a particular selection preference. A PHA may not close its waiting list only to applicants who would not qualify for a particular selection preference.

b. POLICY - Residency

- (1) PHAs may give a preference to applicants who live or work or have been notified that they are hired to work in the PHA's jurisdiction.
- (2) PHAs may have a requirement that applicants live or work or have been notified that they are hired to work in the PHA's jurisdiction.
- (3) Any residency preference or requirement must apply jurisdiction-wide. It may not apply only within a particular subjurisdiction. (See also paragraph 5-6.

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- (a) Residency preferences or requirements may not be based on where an applicant lives or works within the PHA's jurisdiction.
 - (b) Residency preferences or requirements may not be based on where the housing an applicant may be offered is located within the PHA's jurisdiction or the identity of such housing.
 - (c) A PHA may not have a residency preference or requirement for some projects but no residency preference or requirement for others.
 - (d) A PHA may not have a residency preference for some projects and a residency requirement for others.
- (4) Residency preferences or requirements may not be based on how long the applicant has lived or worked in the jurisdiction.
 - (5) A PHA may not limit what "working in the jurisdiction" means to apply only to permanent, full-time employees.
 - (6) A PHA with a residency preference may not keep a unit vacant while awaiting a resident if there is a suitable non-resident on the waiting list.
 - (7) HUD has the option of prohibiting PHAs from using a residency preference or requirement in any case where HUD determines that it would be inconsistent with the Department's responsibility to further fair housing.

c. DISCUSSION - General

- (1) In filling a particular vacancy, tenant selection preferences allow a PHA to meet local objectives in choosing among applicants who need the same size and type of unit in the same type of project (e.g., to choose among those applicants needing a two-bedroom unit specially designed for the handicapped in a general occupancy project).
- (2) The size and type of unit and type of project needed are always more important considerations than the selection preferences a PHA may have. If there is only one applicant who needs a particular

size and type of unit in a particular type of project, selection preferences would not play a role in deciding who is offered the unit.

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- (3) Any tenant selection preference serves to override date and time of application as a factor in admission. The more tenant selection preferences a PHA has, the less effect date and time of application has in determining who is offered the available unit. However, date and time would be the final determination if there were two applicants, each needing the same size and type of unit in the same type of project and each having the same tenant selection preferences or preferences of equal weight.
- (4) In addition to a preference based on income range- (discussed in paragraph 5-3), some selection preferences which PHAs may adopt include, but are not limited to, preferences for applicants who are:
 - (a) without housing or have a similar emergency need;
 - (b) involuntarily displaced;
 - (c) living in substandard housing;
 - (d) paying a large portion of their income for rent;
 - (e) active-duty military or veterans;
 - (f) families of active-duty military or veterans;
or
 - (g) residents of the PHA's jurisdiction.
- (5) PHAs may give a preference to families with children for general occupancy projects as long as elderly families with children are given the same preference as nonelderly families with children.
- (6) PHAs may give a preference based on a certain period of time (e.g., 2 years) on the waiting list. This can help make date and time of application a more important consideration in the tenant selection process if the PHA has several selection preferences.

- (7) A PHA may establish a policy that an applicant who goes to the bottom of the waiting list due to refusing the offer or offers a PHA has made loses the benefit of all the PHA's tenant selection preferences for a specific period of time.

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d. DISCUSSION - RESIDENCY

- (1) Even without a residency preference or requirement a PHA will usually get the vast majority of its applicants from people who live or work within its jurisdiction. Therefore, a residency preference or requirement may have little practical effect.
- (2) A residency preference has an advantage over a residency requirement in permitting a PHA to get additional applicants from areas outside the PHA's jurisdiction while still giving a higher consideration to applicants who live or work within the PHA's jurisdiction.
- (3) A residency requirement may be appropriate if a PHA has such a large number and variety of applicants that it cannot hope to serve even those who live or work within its jurisdiction and the PHA wants to avoid the time and expense of processing unnecessary applications.
- (4) A residency requirement is not appropriate if a PHA is having difficulty filling vacancies. A residency preference may not be appropriate if a PHA is having difficulty filling vacancies and the residency preference is discouraging people from outside the PHA's jurisdiction from applying.
- (5) A residency preference or requirement allows a PHA to serve first those in need who live in the PHA's jurisdiction. Such a provision may also restrict the opportunities of those who want to live in the PHA's housing but who are not residents. When the PHA determines that it restricts the housing opportunities of a particular racial or ethnic group, the PHA should amend its policies and discontinue using such a preference or requirement.

e. REFERENCES

24 CFR 960.203, 960.204

Federal civil rights laws listed in paragraph 1-3(c).

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5-5. RANKING PREFERENCES

a. POLICY

- (1) PHAs which adopt tenant selection preferences must rank those preferences according to the importance the PHA wants them to have in determining who will be offered an available unit.
- (2) PHAs may rank selection preferences according to an absolute hierarchy, often called a branch system, or a modified hierarchy, often called a point system.
- (3) Unless required to do so by a compliance agreement or court order, PHAs may not establish a ranking system based on quotas, i.e., admit only so many applicants who have a particular selection preference (such as applicants who have an emergency housing need), then consider only applicants not having that selection preference.

b. DISCUSSION

- (1) PHAs have a responsibility to serve a socially and economically diverse portion of the eligible population. If the PHA determines that a very high selection preference precludes the admission of applicants not having that preference, the PHA may want to modify its tenant selection policy to give that preference a relatively lower position in its ranking system.
- (2) In an absolute hierarchy or branch system, each preference always outweighs all the preferences that are lower. Therefore, the highest preference would always outweigh the cumulative effect of all the lower ones.

For example, a PHA might rank its preferences as follows:

- 1) Resident
- 2) Income range project needs
- 3) Involuntarily displaced or living in substandard housing
- 4) Veteran

In this example:

- (a) A resident would be selected over a nonresident even if the nonresident had

income in the needed range, was involuntarily displaced, and was a veteran--and the resident did not qualify for any of these preferences.

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- (b) A resident with the income range needed would be selected over a resident with a different income range even if the latter was involuntarily displaced and a veteran and the former was not.
- 3) In a modified hierarchy or point system, the cumulative effect of lower preferences may outweigh a higher preference.

For example, a PHA might rank its preferences as follows:

- 1) 100 points - Resident
- 2) 70 points - Income range project needs
- 3) 50 points - Involuntarily displaced or living in substandard housing
- 4) 40 points - Veteran

In this example:

- (a) A nonresident would be selected over a resident if the nonresident had income within the range the project needed, was involuntarily displaced, and was a veteran (70 + 50 + 40 = 160 points) and the resident did not qualify for any of the other preferences (100 points).
- (b) If the resident was a veteran (100 + 40 = 140 points) and the nonresident had an income within the needed range, was involuntarily displaced, but was not a veteran (70 + 50 = 120 points), the resident would be offered the unit.
- (4) PHAs may want to give two or more selection preferences equal weight. In the previous examples, the PHA gave the same weight to being involuntarily displaced as to living in substandard housing.

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5-6. ORGANIZING THE WAITING LIST

a. POLICY

- (1) PHAs must organize their waiting lists in a way which will let them easily identify which applicants need which type of project and size and type of unit, and the priority each applicant has for admission based on the tenant selection preferences the PHA has adopted and the date and time the application was made.
- (2) No PHA may solicit a statement from an applicant regarding his or her desire to live in a particular project or group of projects unless this practice has specific approval from the Assistant Secretary for FHEO.
- (3) All waiting lists must be community-wide in scope. A PHA with more than one community within its jurisdiction may establish separate waiting lists for each community, provided that:
 - (a) any such arrangement is approved by HUD Headquarters;
 - (b) it would not result in or perpetuate patterns of occupancy that would be inconsistent with Title VI of the Civil Rights Act of 1964 or Title VIII of the Civil Rights Act of 1968;
 - (c) the communities have similar types of projects and sizes and types of units;
 - (d) there are no separate community residency preferences or requirements; and
 - (e) it would not prevent the PHA from achieving or maintaining a broad range of income in each of its projects.
- (4) A PHA which has HUD Headquarters approval to have separate waiting lists for separate communities within its jurisdiction must not restrict applicants to the list covering their community. Rather they must have the opportunity to apply and be considered on any or all of the PHA's lists which are open to new applicants.
- (5) A PHA may have one waiting list for projects for the elderly and another for general occupancy projects provided the PHA permits an elderly family to be listed on either or both if unit size and type are appropriate.

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- (6) PHAs which have designated certain units for occupants who require the support of a social service agency in order to establish a tenancy, may have a separate waiting list for those units. (See Paragraph 6-1, Agreement with Social Service Agency.)

b. DISCUSSION

- (1) PHAs with many applicants may want to create several sublists to help them to more easily identify who should be offered an available unit.
 - (a) Sublists may be organized according to the type of project and size and type of unit required. (These sublists may be further organized by tenant selection preferences or by date and time of application.)
 - (b) PHAs giving a very high preference for income range may want to establish sublists on that basis. These sublists could be further organized by type of project and size and type of unit required.
- (2) PHAs with few applicants may want to have a single waiting list organized only by date and time of application or other convenient order. A short list of applicants can be readily searched to fill an available unit.
- (3) PHAs which have computer capabilities may find a single list to be sufficient even if there are a large number of applicants.
- (4) A PHA may maintain its community-wide waiting list in whatever form it believes to be most useful provided the list meets the PHA's needs and can be easily audited by HUD. For example, some PHAs use a card file system instead of or in addition to an actual list of applicant names.

c. PROCEDURES - Requesting separate waiting lists

A PHA which has more than one community within its jurisdiction can request HUD approval to establish separate waiting lists by submitting its plan and the rationale for it to the local HUD office.

d. HUD RESPONSIBILITIES - Approval or separate waiting lists

The local HUD FHEO office will review the PHA's plan in consultation with public housing staff. The local FHED

office will then forward the plan and the recommendations to its Regional counterpart. Regional FHEO will review the package

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and submit it along with its own recommendations to the Assistant Secretary for FHEO for final action.

e. REFERENCES

Federal civil rights laws listed at paragraph 1-3(c)

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5-7. SELECTING APPLICANTS FROM THE WAITING LIST

a. POLICY

- (1) In filling an actual or expected vacancy, the PHA must offer the dwelling to an applicant needing that size and type of unit in that type of project, with the PHA making the offer in sequence, until someone accepts it, in the order of the applicants' priority, based on the PHA's tenant selection preferences and the date and time of application.
- (2) The PHA must adopt procedures which will limit the duration of a vacancy due to turnover to the minimum amount of time necessary.
- (3) Each PHA must follow its tenant selection plan, which has been duly adopted and approved by HUD, and which describes whether an applicant is permitted one offer or up to three offers before dropping to the bottom of the waiting list.
- (4) Unless otherwise approved by HUD, the number of offers an applicant can be given must be according to one of the following two plans:

(a) A 1 offer plan, (Plan A)

This plan is not based on the distribution of vacancies in the PHA's projects.

The applicant is offered a suitable unit. If the applicant refuses it, the applicant's name goes to the bottom of the waiting list.

(b) A 2-3 offer plan, (Plan B)

This plan is based on the distribution of vacancies in the PHA's projects.

The PHA determines how many locations within its jurisdiction have available units of suitable size and type in the appropriate type of project. If a suitable unit is available in:

- o 3 or more locations, the applicant must be offered a suitable unit in the location with the highest number of vacancies. If the offer is rejected, the applicant must be offered a suitable unit in the location with the second highest number of vacancies. If that offer is rejected, the applicant

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must be offered a suitable unit in the location with the third highest number of vacancies. If that offer is rejected, the applicant's name must be put at the bottom of the waiting list.

- o 2 locations, the applicant must be offered a suitable unit in the location with the higher number of vacancies. If the offer is rejected, the applicant must be offered a suitable unit at the other location. If that offer is rejected, the applicant's name must be moved to the bottom of the waiting list.
 - o 1 location, the applicant must be offered a suitable unit in that location. If the offer is rejected, the applicant must be offered the next suitable unit that becomes available, whether it is at the same location as the first offer or at another location. If the applicant rejects the second offer, the applicant's name must be put at the bottom of the waiting list.
- (5) Under any tenant selection plan, the PHA must maintain a record of the units offered, including location, date, and circumstances of each offer, and each rejection or acceptance. The PHA must note the reason for any rejection.

b. DISCUSSION

- (1) Only under a tenant selection plan not based on the distribution of vacancies is an applicant given only one offer before the applicant's name goes to the bottom of the waiting list.
- (2) If a PHA adopts a tenant selection plan that is based on the distribution of vacancies, the PHA must offer an applicant at least two suitable units before putting the applicant's name on the bottom of the waiting list. However, the first offer must be rejected before the second offer can be made. If there is only one suitable unit available and the offer is rejected, the applicant maintains the same position on the waiting list until another suitable unit is offered.
- (3) Since the availability of units of a particular size and type will usually vary within a PHA, a PHA which has adopted a plan based on the distribution of vacancies may have to make three offers to some applicants but only two offers to others.

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- (4) A PHA may determine that "the bottom of the waiting list" means denying the applicant the benefit of all the PHA's tenant selection preferences, including any preference based on income range, for a specific period of time, and establishing a new date and time of application based on when the final offer of a suitable unit was rejected. This would prevent the applicant from quickly recycling to the top of the waiting list.
- (5) An applicant who asked to be removed from the waiting list after rejecting all the PHA's offers could reapply to the same PHA, but could be denied the benefit of all of that PHA's tenant selection preferences, including any preference based on income range, for a specific period of time.
- (6) For purposes of this discussion, an applicant would not be considered to have been offered a unit if:
 - (a) the unit is not of the proper size and type and the applicant would be able to reside there only temporarily (e.g., a specially designed unit that is awaiting a handicapped applicant needing such a unit.)
 - (b) the unit contains lead-based paint, and

accepting the offer could result in subjecting the applicant's children under seven years of age to lead-based paint poisoning.

- (c) the applicant is unable to move at the time of the offer and presents clear evidence which substantiates this to the PHA's satisfaction. Examples:
 - o a doctor verifies that the applicant has just undergone major surgery and needs a period to recuperate;
 - o a court verifies that the applicant is serving on a jury which has been sequestered.
- (d) accepting the offer would result in undue hardship to the applicant not related to consideration of race, color, national origin, or language, such as making employment or day care facilities inaccessible, and the applicant presents clear evidence which substantiates this to the PHA's satisfaction.

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- (7) A "location" (site) is not always the same as a project.
 - (a) A location may have more than one project.

HUD defines a site as any common geographic area undivided by natural or manmade barriers (such as rivers, highways, railroads or other major obstructions) that block or impede normal pedestrian traffic.
 - (b) Individual dwelling units in a scattered site project may be grouped and identified as one location if they are within a block of each other.
- (8) The "highest number of vacancies" means:
 - (a) vacancies in units of all sizes and types, not just the size and type the applicant needs. For example, if Location A has 5 vacancies, one of which is suitable to the applicant, and Location B has 3 vacancies, all of which are suitable to the applicant, a

PHA with a plan that requires the offers to come from the location with the highest number of vacancies would have to offer the applicant the unit in Location A first.

- (b) the actual number of vacancies, not the number of vacancies as a percentage of all units in that location. For example, if Location X has 100 units, 15 of which are vacant, and Location Y has 20 units, 10 of which are vacant, a PHA which has a tenant selection plan based on the distribution of vacancies would have to offer the applicant the unit in Location X first.

c. HUD RESPONSIBILITY

The Assistant Secretary for Fair Housing and Equal Opportunity must approve any change in a tenant selection plan which, in design or effect, is not racially neutral. This would include approving any change from a I offer plan to a 2-3 offer plan, or vice-versa, which is related to complying with Title VI of the 1964 Civil Rights Act.

d. REFERENCES

Title VI of the Civil Rights Act of 1964

24 CFR 1.4(b)(2)(ii)

24 CFR 960-203