

MINUTES OF A REGULAR MEETING OF THE  
 COMMISSIONERS OF THE  
 CITY OF ROANOKE REDEVELOPMENT AND HOUSING AUTHORITY

The Commissioners of the City of Roanoke Redevelopment and Housing Authority met for a regular session on Monday, January 26, 2015, in the offices of the City of Roanoke Redevelopment and Housing Authority, 2624 Salem Turnpike, NW, in the City of Roanoke, Virginia.

I. CALL TO ORDER – ROLL CALL

Chair Witten called the meeting to order at 3:00 p.m. and declared that a quorum was present.

PRESENT: Commissioners Anguiano, Butler, Karnes, Smith, Witten

Commissioner Burruss arrived at 3:24 p.m.

ABSENT: Commissioner Garner

OFFICER PRESENT: Glenda Edwards Goh, Secretary-Treasurer

ALSO PRESENT: Jackie Austin, VP of Finance/CFO; Christina Back, Human Resources and Executive Office Administrator; Kathy Beveridge, Compliance and Quality Assurance Manager; David Bustamante, VP of Housing; Jessica Farmer; Crystal Hall, Community Support Services Director; HCV Manager; Chenita Jackson, Site Manager; Mark Loftis, Legal Counsel; Betty Mace, Executive Assistant; John Prillaman, General Counsel; Lisa Reynolds, Site Manager; Helen Shampine, HCV Director; Joel Shank, VP of Operations; Desi Wynter, Director of Redevelopment and Modernization

Chair Witten welcomed everyone to today's meeting.

## II. REPORTS

### 1. Financial Report

Chair Witten stated that Mrs. Austin provided a Financial Narrative along with the Financial Report and asked if there were any comments or questions. There were none.

### 2. Executive Director's Report

Chair Witten asked for the Executive Director's report.

Mrs. Goh informed the Board that the Joint Resident Council has received its first grant award from the Foundation for the Roanoke Valley in the amount of \$40,000 for residents of public housing who are elderly and who need eyeglasses or dental care. They will be providing a service by helping people obtain eyeglasses and dentures.

Commissioner Smith stated that the Joint Resident Council is seeking assistance from the site managers with the distribution of flyers to all residents of RRHA sites. They will be able to assist approximately 60 people with dentures and approximately 100 with eyeglasses.

Mrs. Goh congratulated the Joint Resident Council on their success in receiving this first major grant which will benefit many people.

Chair Witten asked if the Joint Resident Council has 501(c)(3) status.

Commissioner Smith and Mrs. Goh confirmed that they do have 501(c)(3) status.

Mrs. Goh stated that RRHA is having physical REAC inspections this week at a number of the sites. Scores will not be known right away but she will pass that

information on to the Board after scores are released.

Mrs. Goh stated that Board members may have seen recent media coverage of the opening of the Section 8 application process. June 2010 was the last time RRHA accepted applications for that program and nearly 2,500 applications were received within a two day period. Given that it has been almost five years, Mrs. Goh stated that she anticipates that an even larger number of applications will be received. Mrs. Goh stated that this will be also be the first time accepting online applications with placement on the waiting list determined by lottery, since the Board approved related policy changes in the Administrative Plan. The expectation is that this system will serve people better by removing the need to stand in line to submit applications and not creating pressure to be first in line by using the lottery system to determine waiting list placement.

Mrs. Goh stated that Mr. Bustamante and his staff have met with various community service organization representatives and have shown them the system so that they will be able to assist people with the application process. RRHA will also have people manning the Neighborhood Network Centers and computer labs at four of its sites to assist people and allow computer access to submit applications.

Mrs. Goh stated that the application process will open on February 4 at midnight and will remain open until February 6 at 5:00 p.m., and she will inform the Board regarding the number of applications received. RRHA has 262 people remaining on the waiting list from the 2010 application process and is continuing to issue vouchers as people leave the program. People who apply this time will not be served immediately but will be on the list so that they can be served after RRHA reaches the

bottom of the current waiting list.

Chair Witten inquired if the newly available vouchers were created by attrition as people leave the program and asked how many vouchers there are. He stated that he was interested in terms of dollars versus vouchers.

Mr. Bustamante advised that RRHA was funded at the same level this year as last. Last year's funding was increased over the prior year, which resulted in resuming the issuance of vouchers to people on the waiting list. RRHA is currently issuing vouchers to utilize the additional funding and, once a certain point is reached, RRHA will strive to maintain that level.

Mrs. Goh stated that, if funding remains the same, the projection is that about 1,800 vouchers can be supported on an ongoing basis. She stated that, as of the end of December, there were 1,685 vouchers leased so about 100 vouchers in addition to monthly attrition, which averages about 12 to 15, will be available.

Chair Witten requested confirmation regarding the portability aspect of the program. He questioned if someone gets approved for a voucher here and moves to another part of the state and the agency continues to fund the voucher, whether the file gets transferred to the other authority for administration. Mr. Bustamante advised that it is the option of the receiving authority whether they choose to absorb the voucher or to bill RRHA for the voucher. He stated that most participants who port out currently are being absorbed by the receiving authorities, and RRHA is absorbing incoming voucher participants.

Chair Witten asked whether authorities that choose to bill receive the administrative fee. Mrs. Goh stated that they receive 80% percent of the fee.

### 3. Staff Reports

Chair Witten asked if there were any staff reports. There were none.

4. Committee Reports

Chair Witten asked if there were any committee reports.

Commissioner Karnes stated that the Personnel Committee looked at two policies, overtime and on-call time and compensation for temporary assignments.

5. Commissioner Comments

Chair Witten asked if there were any Commissioner comments. There were none.

6. Residents or other community members to address the Board.

Chair Witten asked if there were any residents or other community members who would like to address the Board. There were none.

III. CONSENT AGENDA

C-1 Minutes of the Regular Meeting of the Board of Commissioners held Monday, December 15, 2015.

RECOMMENDED ACTION: Dispense with the reading thereof and approve as recorded.

C-2 Monthly Operations Report for the month of December 2015.

RECOMMENDED ACTION: File as submitted.

Commissioner Smith introduced a motion to approve the Consent Agenda. The motion was seconded by Vice-Chair Butler and upon roll call the following vote was recorded:

AYES: Commissioners Anguiano, Butler, Karnes, Smith, Witten

NAYS: None

Chair Witten thereupon declared said motion carried as introduced.

IV. REGULAR AGENDA

1. Resolution No. 3824

Mrs. Back asked for approval of Resolution No. 3824, approving a revised Personnel Policy No. 022 regarding the Americans with Disabilities Act. She stated that the original date of this Policy is December 20, 1996, and it was last revised on February 19, 2008. The proposed revision to this policy includes expanding the purpose statement to include EEO language. Definitions were added for reasonable accommodations and undue hardship and the policy was split from procedure. Mrs. Back stated that the proposed revised policy has been reviewed by legal counsel and determined to be in compliance with legal requirements applicable to RRHA. Mrs. Back stated that the Personnel Committee supports and recommends approval for this revised policy to be effective February 1, 2015.

Chair Witten asked if there were any other comments or questions. There were none.

Commissioner Smith introduced Resolution No. 3824 and moved its adoption as introduced:

**RESOLUTION OF THE CITY OF ROANOKE REDEVELOPMENT AND HOUSING AUTHORITY APPROVING A REVISED PERSONNEL POLICY REGARDING THE AMERICANS WITH DISABILITIES ACT**

WHEREAS, the City of Roanoke Redevelopment & Housing Authority (RRHA) has undertaken a review of its personnel policies to ensure they are relevant, meet the needs of the agency and are legally compliant; and

WHEREAS, RRHA has reviewed and is proposing revisions to Personnel Policy No. 022 regarding the Americans with Disabilities Act, dated December 20,

1996, and previously revised on February 19, 2008, to better reflect current requirements and practices; and

WHEREAS, the proposed revised policy has been reviewed by RRHA's legal counsel and determined to be in compliance with legal requirements applicable to RRHA; and

WHEREAS, the Personnel Committee of the RRHA Board of Commissioners supports and recommends approval of this revised policy.

NOW, THEREFORE, BE IT RESOLVED by the Commissioners of the City of Roanoke Redevelopment and Housing Authority that the attached revised Personnel Policy No. 022, Americans with Disabilities Act, is approved effective February 1, 2015.

The motion was seconded by Vice-Chair Butler and upon roll call the following vote was recorded:

AYES: Commissioners Anguiano, Butler, Karnes, Smith, Witten

NAYS: None

Chair Witten thereupon declared said motion carried and Resolution No. 3824 adopted as introduced.

## 2. Resolution No. 3825

Mr. Bustamante asked for approval of Resolution No. 3825, amending Chapter 8 of the Administrative Plan for the Section 8 Housing Choice Voucher Program specifically as it relates to Housing Quality Standards inspections. HUD has given RRHA the opportunity through Section 220 of the 2014 Appropriations Act to conduct HQS inspections biennially instead of annually and RRHA believes this will be beneficial to the program.

Chair Witten asked if there were any other comments or questions. There were none.

Commissioner Smith Introduced Resolution No. 3825 and moved its adoption as

introduced:

RESOLUTION OF THE CITY OF ROANOKE REDEVELOPMENT AND HOUSING AUTHORITY TO APPROVE A REVISED CHAPTER 8 OF THE ADMINISTRATIVE PLAN FOR THE SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

WHEREAS, the Roanoke Redevelopment and Housing Authority's (RRHA) Board of Commissioners and staff are committed to providing safe and affordable housing to eligible individuals and families, including persons with disabilities; and

WHEREAS, the United States Department and Housing and Urban Development (HUD) has authorized Public Housing Agencies (PHA) to administer a Housing Choice Voucher (HCV) program, through the use of the PHA's Administrative Plan; and

WHEREAS, the Administrative Plan must state the PHA's policies on matters for which the PHA has discretion to establish local policies; and

WHEREAS, a PHA is required to revise its Administrative Plan as necessary to remain in compliance with the Department of Housing and Urban Development (HUD) regulations as set forth in 24 CFR 5, 8, 35, 92, 882, 887, 888, 903, 908, 982, 983, 984 and 985; and

WHEREAS, the current Administrative Plan for the RRHA Section 8 HCV Program, dated October 27, 2014, was approved by the RRHA Board of Commissioners by Resolution No. 3818; and

WHEREAS, Section 220 of the 2014 Appropriations Act allows PHAs to comply with the requirement to inspect assisted dwelling units during the term of a housing assistance payment (HAP) contract by inspecting such units not less than biennially instead of annually and to rely upon alternative inspection methods to meet this requirement and authorizes HUD to implement the changes through notice; and

WHEREAS, HUD published a notice in the Federal Register, Vol. 79, No. 122, on Wednesday, June 25, 2014, implementing certain elements of section 220, including authorizing PHAs to inspect assisted units during the term of the housing assistance payment (HAP) contract at least biennially instead of annually; and

WHEREAS, this notice is effective for any unit under a HAP contract where the RRHA has conducted a Housing Quality Standards (HQS) inspection within the 12 months preceding the notice's July 1, 2014 effective date; and

WHEREAS, RRHA has determined that administrative efficiency would be enhanced by revising its Administrative Plan to allow for biennial inspections in the HCV program, in accordance with the requirements established in the HUD notice.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the City of Roanoke Redevelopment and Housing Authority that:

1. The attached Revised Chapter 8, Housing Quality Standards and Rent Reasonableness Determinations, of the Administrative Plan for the RRHA Section 8 Housing Choice Voucher Program is approved.
2. The Executive Director be and hereby is authorized and directed to make minor procedural changes as necessary between annual updates.

The motion was seconded by Commissioner by Karnes and upon roll call the following vote was recorded:

AYES: Commissioners Anguiano, Butler, Karnes, Smith, Witten

NAYS: None

Chair Witten thereupon declared said motion carried and Resolution No. 3825 adopted as introduced.

3. Resolution No. 3826

Mr. Wynter asked for approval of Resolution No. 3826, authorizing RRHA to submit an application for a Choice Neighborhoods Implementation Grant. The Grant allows the Housing Authority to apply to HUD for up to \$30,000,000. This is the initial phase of implementation of the Transformation Plan developed using the Choice Neighborhoods Planning Grant received two years ago. RRHA will serve as the co-applicant, and the City of Roanoke will serve as the lead applicant. The Council of Community Services will be the people entity; the City will be the neighborhood entity; and RRHA will be housing entity implementing the Transformation Plan. This resolution authorizes submission of the Grant application as well as authorizing the Executive Director and Board Chair to execute documents and provide required certifications and agreements.

Mrs. Goh stated that RRHA is pleased that the City has agreed to join RRHA as lead applicant since they have greater experience in neighborhood revitalization and the partnership will make the application significantly stronger.

Commissioner Karnes inquired as to the role of the Council of Community Services. Mr. Wynter and Mrs. Goh explained that the Council of Community Services completed the needs assessment and wrote the people portion of the Transformation Plan and, for the application, they will be developing the portion addressing implementation of the people strategies to meet Plan goals.

Chair Witten asked if there were any other comments or questions. There were none.

Commissioner Smith introduced Resolution No. 3826 and moved its adoption as introduced:

**RESOLUTION OF THE CITY OF ROANOKE REDEVELOPMENT AND HOUSING AUTHORITY AUTHORIZING THE SUBMISSION OF A CHOICE NEIGHBORHOODS IMPLEMENTATION GRANT APPLICATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

WHEREAS, the Board of Commissioners of the Roanoke Redevelopment and Housing Authority (RRHA) approved a Strategic Plan October 2014 – September 2019 by Resolution Number 3812 on September 22, 2014 which included goals to develop public housing that is not distinguishable from other housing in neighborhoods throughout the City of Roanoke, to improve housing availability and quality, with emphasis on housing and programs for families of moderate income, and to foster creation of a culture where community is desired in its housing programs; and

WHEREAS, on November 6, 2014, the U.S. Department of Housing and Urban Development (HUD) issued a Notice of Funding Availability for Choice Neighborhoods Implementation Grants; and

WHEREAS, Choice Neighborhoods Implementation Grant applications must present a plan to revitalize a severely distressed public and/or HUD-assisted multifamily housing project located in a distressed neighborhood into a viable, mixed-income community; and

WHEREAS, RRHA has identified the Loudon-Melrose / Shenandoah West neighborhood, in which both the Melrose Towers and Lansdowne Park public housing developments are located, as meeting the criteria for a Choice Neighborhoods Implementation Grant application; and

WHEREAS, RRHA has developed, with residents and other stakeholders in the Loudon-Melrose / Shenandoah West neighborhood, a Transformation Plan for the neighborhood, addressing housing, people, and neighborhood needs and goals; and

WHEREAS, a Choice Neighborhoods Implementation Grant would provide resources for implementation of the Transformation Plan for redevelopment of Lansdowne Park and improvements in the Loudon-Melrose / Shenandoah West neighborhood; and

WHEREAS, the City of Roanoke will serve as Lead Applicant and RRHA will serve as Co-Applicant for the Choice Neighborhoods Implementation Grant application; and

WHEREAS, HUD requires RRHA to provide certain certifications and agreements in connection with the Choice Neighborhoods Implementation Grant application.

NOW, THEREFORE, BE IT RESOLVED by the Commissioners of the City of Roanoke Redevelopment and Housing Authority that:

1. Submission of a Choice Neighborhoods Implementation Grant application for funding to implement the Transformation Plan for the Loudon-Melrose and Shenandoah West neighborhoods, including redevelopment of the Lansdowne Park public housing development, is approved; and
2. The Executive Director is authorized to execute documents and provide required certifications and agreements, including the attached HUD Form 53240, Choice Neighborhoods Application Certifications - Implementation Grants, for submission of a Choice Neighborhoods Implementation Grant application to the U.S. Department of Housing and Urban Development; and
3. The Board Chair is authorized to execute documents and provide required certifications and agreements, including the attached HUD Form 53240, Choice Neighborhoods Application Certifications – Implementation Grants, on behalf of the Board of Commissioners, for submission of a Choice Neighborhoods Implementation Grant application.

The motion was seconded by Vice-Chair Butler and upon roll call the following

vote was recorded:

AYES: Commissioners Anguiano, Butler, Karnes, Smith, Witten

NAYS: None

Chair Witten thereupon declared said motion carried and Resolution No. 3826 adopted as introduced.

4. Resolution No. 3827

Mr. Wynter asked for approval of Resolution No. 3827, authorizing RRHA to negotiate and execute option agreements for acquisition of certain properties in conjunction with the Choice Neighborhoods Implementation Grant application. He explained that RRHA is required to have site control when the application is submitted, and this resolution gives RRHA the authority to execute option agreements for certain properties. The resolution authorizes the Executive Director or her designee to negotiate and execute option agreements with owners.

Mrs. Goh stated that these would strictly be for voluntary acquisition options. Many of the properties are vacant lots while others have dwellings on them. There is one multifamily parcel on the list, which is owned by the Virginia Housing Development Authority.

Vice-Chair Butler asked if all of these properties must be secured prior to moving forward.

Mrs. Goh responded that in order to demonstrate the necessary site control for the required one for one replacement, RRHA will need options on the multifamily parcel and 20 of the other parcels.

Chair Witten asked if there were any other comments or questions. There

were none.

Commissioner Smith introduced Resolution No. 3827 and moved its adoption as introduced:

RESOLUTION OF THE CITY OF ROANOKE REDEVELOPMENT AND HOUSING AUTHORITY AUTHORIZING NEGOTIATION AND EXECUTION OF OPTION AGREEMENTS FOR ACQUISITION OF CERTAIN PROPERTIES IN CONJUNCTION WITH THE CHOICE NEIGHBORHOODS IMPLEMENTATION GRANT APPLICATION

WHEREAS, the City of Roanoke Redevelopment and Housing Authority (RRHA) has developed, with residents and other stakeholders in the Loudon-Melrose / Shenandoah West neighborhood, a Transformation Plan for the neighborhood, addressing housing, people, and neighborhood needs and goals; and

WHEREAS, on November 6, 2014, the U.S. Department of Housing and Urban Development (HUD) issued a Notice of Funding Availability for Choice Neighborhoods Implementation Grants; and

WHEREAS, Choice Neighborhoods Implementation Grant applications must present a plan to revitalize a severely distressed public and/or HUD-assisted multifamily housing project located in a distressed neighborhood into a viable, mixed-income community; and

WHEREAS, RRHA plans to submit a Choice Neighborhoods Implementation Grant application by the submission deadline of February 9, 2015; and

WHEREAS, RRHA's application must address one-for-one replacement of all Public Housing units that would be demolished at Lansdowne Park, as well as foster development of mixed-income neighborhoods; and

WHEREAS, RRHA has identified several potential sites for replacement housing and has contacted owners of these parcels regarding possible acquisition of the properties; and

WHEREAS, RRHA must demonstrate site control of any property proposed for replacement housing in order to meet HUD's requirements for the Choice Neighborhoods Implementation Grant application.

NOW, THEREFORE, BE IT RESOLVED by the Commissioners of the City of Roanoke Redevelopment and Housing Authority that:

1. The Executive Director or her designee is authorized to negotiate and execute acquisition option agreements with owners of the following properties

(collectively, the “Properties”):

a) Vacant Parcels

2420601 - 0 Centre Avenue NW  
2420602 - 0 Centre Avenue NW  
2420603 – 2772 Centre Avenue NW  
2420604 – 2776 Centre Avenue NW  
2420605 – 0 Centre Avenue NW  
2420606 – 0 Centre Avenue NW  
2420607 – 0 Centre Avenue NW  
2420608 – 0 Centre Avenue NW  
2420609 – 0 Centre Avenue NW  
2420610 – 0 Centre Avenue NW  
2420612 – 0 Centre Avenue NW  
2420613 – 0 Centre Avenue NW  
2420614 – 0 Centre Avenue NW  
2420615 – 0 Centre Avenue NW  
2420618 – 0 Centre Avenue NW  
2420705 - 0 Centre Avenue NW

b) Parcels with dwellings – single family

2420611 – 2742 Centre Avenue NW  
2420616 – 2720 Centre Avenue NW  
2420617 – 2716 Centre Avenue NW  
2420619 – 2706 Centre Avenue NW  
2420620 – 2702 Centre Avenue NW  
2420701 – 2554 Centre Avenue NW  
2420702 – 2550 Centre Avenue NW  
2420703 – 2544 Centre Avenue NW  
2420706 – 2532 Centre Avenue NW  
2420708 – 2522 Centre Avenue NW  
4210713 – 114 17th Street SE

c) Vacant parcel – multifamily development

6030101 - 4301 Old Spanish Trail NW

2. The total amount authorized for negotiated options on the Properties is \$30,000.

3. Approval of the Board of Commissioners will be required prior to RRHA exercising an option to purchase any of the Properties.

The motion was seconded by Vice-Chair Butler and upon roll call the following vote was recorded:

AYES: Commissioners Anguiano, Butler, Karnes, Smith, Witten

NAYS: None

Chair Witten thereupon declared said motion carried and Resolution No. 3827 adopted as introduced.

5. Resolution No. 3828

Mr. Shank asked for approval of Resolution No. 3828 awarding a contract for re-roofing a warehouse for Villages at Lincoln, which has developed a leak that is deteriorating the metal decking underneath the roofing. He stated that RRHA received three responsive bids to the bid invitation from Simpson Unlimited, Inc., Roofing Solutions, Inc. and John T. Morgan Roofing and Sheet Metal Co., Inc., which submitted the low bid. The low bid was in line with the RS Means cost data estimate. This project will be funded from Public Housing operating reserves in the sum of \$183,611.

Chair Witten asked if there were any other comments or questions. There were none.

Commissioner Karnes introduced Resolution No. 3828 and moved its adoption as introduced:

**RESOLUTION OF THE CITY OF ROANOKE REDEVELOPMENT AND HOUSING AUTHORITY AWARDING A CONTRACT FOR RE-ROOFING A WAREHOUSE FOR VILLAGES AT LINCOLN, AMP 202, USING PUBLIC HOUSING OPERATING RESERVE FUNDS**

WHEREAS, the City of Roanoke Redevelopment and Housing Authority (RRHA) receives Operating Funds from the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, Section 9(e) of the United States Housing Act of 1937, 42 U.S.C. 1437g, as amended, defines maintenance of public housing as an eligible use of Operating Funds; and

WHEREAS, the HUD recommended minimum operating reserve level for PHAs with 250 or more units is four months of formula expenses or \$100,000, whichever is greater; and

WHEREAS, re-roofing of a warehouse for public housing, Villages at Lincoln, AMP 202, is necessary due to unforeseeable roof leaks and deterioration of metal roof decking; and

WHEREAS, Villages At Lincoln, AMP 202, has sufficient excess operating reserves to fund re-roofing of a warehouse; and

WHEREAS, RRHA needs a qualified contractor for re-roofing a warehouse; and

WHEREAS, RRHA issued an Invitation for Bid on December 7, 2014, with bids being due on January 8, 2015; and

WHEREAS, RRHA received three (3) responsive bids to the invitation which were opened for consideration, such bids being as follow:

<u>Bidder</u>	Total Bid Amount
Simpson Unlimited, Inc.	\$273,180
Roofing Solutions, Inc.	\$193,000
John T. Morgan Roofing and Sheet Metal Co, Inc.	\$183,611

WHEREAS, HUD regulations at 24 CFR 135.1 state that “section 3 of the Housing and Urban Development Act of 1968 (12 U. S. C. 1701u) (section 3) directs that employment and other economic opportunities generated by certain HUD financial assistance shall to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to .... Business concerns which provide economic opportunities to low- and very low-income persons.”; and

WHEREAS, none of the bids received by RRHA in this procurement was submitted by a Self-certified Section 3 Business Concern, therefore evaluation of HUD’s allowable preference was not a factor in evaluation of contract award; and

WHEREAS, the lowest responsive bid in this procurement was submitted by John T. Morgan Roofing and Sheet Metal Co., Inc., with a bid amount of \$183,611; and

WHEREAS, the amount of the bid submitted by John T. Morgan Roofing and Sheet Metal Co., Inc. was determined to be fair and reasonable for the work specified when compared to the amount of the independent cost estimate, based on independent cost estimate submitted by Hughes Associates, Architects & Engineers, Project Architect, and RS Means Cost Data, for the project; and

WHEREAS, review, evaluation, and confirmation of bid documentation has been completed, and John T. Morgan Roofing and Sheet Metal Co., Inc. has been found to be capable and in all other respects acceptable to RRHA; and

WHEREAS, the Vice President of Operations recommends an award to John T. Morgan Roofing and Sheet Metal Co., Inc.; and

WHEREAS, the Executive Director has determined that this procurement complies with RRHA's Procurement Policy and that it is in the best interests of RRHA to accept such bid and execute an appropriate contract.

NOW, THEREFORE, BE IT RESOLVED by the Commissioners of the City of Roanoke Redevelopment and Housing Authority that:

(1) The bid submitted by John T. Morgan Roofing and Sheet Metal Co., Inc. be and hereby is accepted.

(2) The Executive Director be and hereby is authorized and directed to execute a standard contract for construction, which by reference is inclusive of all plans, specifications, addenda and related project documents, between John T. Morgan Roofing and Sheet Metal Co., Inc. and RRHA for the fixed price of \$183,611.

(3) The use of Public Housing Operating Reserves in the amount of \$183,611 is authorized for this contract.

(4) The Executive Director be and hereby is authorized to take such other actions as may be necessary to fulfill the intent of this Resolution.

The motion was seconded by Vice-Chair Butler and upon roll call the following vote was recorded:

AYES: Commissioners Anguiano, Burruss, Butler, Karnes, Smith, Witten

NAYS: None

Chair Witten thereupon declared said motion carried and Resolution No. 3828 adopted as introduced.

6. Resolution No. 3829

Mrs. Goh asked for approval of Resolution No. 3829, amending RRHA Bylaws to insert Article III, Section 5, Electronic Communication Policy. Mrs. Goh stated that the question was raised last month regarding whether the Board would want to consider adopting a policy that would allow participation by individual Commissioners in Board meetings by telephone under certain circumstances that are now allowed by the Virginia Code. Mr. Prillaman, RRHS General Counsel, drafted a change to the Bylaws that would add a section to incorporate an Electronic Communication Policy, allowing participation by electronic means within the parameters established in the Virginia Code. The required 7 days notice was given to the Commissioners and Nick Conte, the Board's Legal Counsel, has reviewed and is in agreement that the Bylaws change meets the requirements of the Code.

Chair Witten asked if there were any other comments or questions. There were none.

Commissioner Smith introduced Resolution No. 3829 and moved its adoption as introduced:

**RESOLUTION OF THE CITY OF ROANOKE REDEVELOPMENT AND HOUSING AUTHORITY AMENDING ITS BYLAWS TO INSERT ARTICLE III, SECTION 5, ELECTRONIC COMMUNICATION POLICY**

WHEREAS, the Board of Commissioners of the City of Roanoke Redevelopment and Housing Authority (the Board) has adopted Bylaws, which were last amended November 17, 2008; and

WHEREAS, Va. Code Ann. § 2.2-3708.1 provides for participation in meetings through electronic means from a remote location under certain circumstances; and

WHEREAS, the Board desires to amend the City of Roanoke Redevelopment and Housing Authority (RRHA) Bylaws to adopt an Electronic Communication Policy; and

WHEREAS, the RRHA Board has been given at least seven (7) days written notice of the proposed amendment, as required by Article V of said Bylaws.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the City of Roanoke Redevelopment and Housing Authority that the attached amended Bylaws are hereby adopted.

The motion was seconded by Commissioner Burruss and upon roll call the following vote was recorded:

AYES: Commissioners Anguiano, Burruss, Butler, Karnes, Smith, Witten

NAYS: None

Chair Witten thereupon declared said motion carried and Resolution No. 3829 adopted as introduced.

#### 7. Executive Session

Commissioner Smith moved that the Commissioners enter into Executive Session for the purpose of discussion of specific personnel matters of the RRHA in accordance with Virginia Code Section 2.2-3711 (A)(1).

The motion was seconded by Vice-Chair Butler and upon roll call the following vote was recorded:

AYES: Commissioners Anguiano, Burruss, Butler, Karnes, Smith, Witten

NAYS: None

The Board of Commissioners entered into Executive Session at 3:28 p.m.

The Board reconvened into open session at 3:43 p.m.

Vice-Chair Butler introduced a motion stating that the members of the Board of Commissioners hereby certify to the best of their knowledge that only public business matters lawfully exempted from open meeting requirements and only such public

business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered by the Board in the immediately preceding Executive Session.

The motion was seconded by Commissioner Karnes and upon roll call the following vote was recorded:

AYES: Commissioners Anguiano, Burruss, Butler, Karnes, Smith, Witten

NAYS: None

V. **ADJOURNMENT**

There being no further business to come before the Board, Vice-Chair Butler moved that the meeting be adjourned.

The motion was seconded by Commissioner Anguiano and upon roll call the following vote was recorded:

AYES: Commissioners Anguiano, Burruss, Butler, Karnes, Smith, Witten

NAYS: None

Chair Witten declared the meeting adjourned at 3:45 p.m.

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Timothy Witten, Chair

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Glenda Edwards Goh, Secretary-Treasurer

Policy No. 022  
Date: December 20, 1996  
Revised: 02/19/08  
Revised: 02/01/2015

## **AMERICANS WITH DISABILITIES ACT**

### **I. PURPOSE**

To provide guidance for compliance with the Americans with Disabilities Act while ensuring equal opportunity in employment for qualified persons with disabilities.

### **II. SCOPE**

This policy applies to all employees and applicants of RRHA.

### **III. DEFINITIONS**

Disability: An individual is "disabled" if he or she meets at least any one of the following tests:

- He or she has a physical or mental impairment that substantially limits one or more of his/her major life activities;
- He or she has a record of such an impairment; or
- He or she is regarded as having such an impairment (regardless of whether the person is in fact disabled).

Reasonable Accommodation: A modification or adjustment to a job, work environment, or process that enables a qualified individual with a disability to enjoy an equal employment opportunity without imposing an undue hardship upon RRHA.

Undue Hardship: An action requiring significant difficulty or expense when considered in light of factors such as RRHA's size, financial resources, and the nature and/or structure of its operation.

### **IV. POLICY**

Title I of the Americans with Disabilities Act prohibits discrimination in any terms or conditions of employment for qualified individuals with a disability. RRHA will comply with the provisions of the Americans with Disabilities Act, as amended, which protects qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, benefits, classification and other aspects of employment on the basis of disability.

The Board of Commissioners has established this policy and delegates responsibility for establishing or modifying procedures for implementation of the policy to the Executive Director. Current procedures are detailed below.

### **V. PROCEDURES**

RRHA will allow and assist all such employees to continue work as long as they are able to perform their job satisfactorily, with or without reasonable accommodation, and do not pose a direct threat of safety to themselves and others. RRHA is not required to lower production or quality standards to accommodate a disabled employee.

Qualified employees or prospective employees with disabilities may request accommodations in order to perform essential functions of their job or gain access to the hiring process. Such requests should be made to the Human Resources Office.

RRHA will provide reasonable accommodation for known physical or mental limitations of an otherwise qualified applicant or employee with a disability unless the accommodation would impose an undue hardship on business operations.

Policy No. 022  
Date: December 20, 1996  
Revised: 02/19/08

### **AMERICANS WITH DISABILITIES ACT**

#### **I. PURPOSE**

To comply with the Americans with Disabilities Act.

#### **II. SCOPE**

This policy applies to all employees and applicants of RRHA.

#### **III. DEFINITION**

Disability. An individual is "disabled" if he or she meets at least any one of the following tests:

1. He or she has a physical or mental impairment that substantially limits one or more of his/her major life activities;
2. He or she has a record of such an impairment; or
3. He or she is regarded as having such an impairment (regardless of whether the person is in fact disabled).

#### **IV. POLICY**

- A. It is the policy of RRHA to comply with the provisions of the Americans with Disabilities Act, as amended, which protects qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, benefits, classification and other aspects of employment on the basis of disability.
- B. It is our policy to allow and assist all such employees to continue work as long as they are able to perform their job satisfactorily, with or without reasonable accommodation, and do not pose a direct threat of safety to themselves and others.
- C. Qualified employees or prospective employees with disabilities may request accommodations in order to perform essential functions of their job or gain access to the hiring process. Such requests should be made to the Hiring Manager, the Human Resources Office, or the employee's manager or supervisor.
- D. RRHA will reasonably accommodate the known physical or mental limitation of an otherwise qualified applicant or employee with a disability unless the accommodation would impose an undue hardship on its business operation.

Approved by the Board of Commissioners: (03/17/08)

## Chapter 8

### HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507]

#### INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the RRHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and RRHA's -established requirements. All units must pass an HQS inspection prior to the approval of a lease and at least annually during the term of the contract.

HUD also requires the RRHA to determine that rents for units under the program are reasonable when compared to comparable unassisted units in the market.

This chapter explains HUD and RRHA requirements related to housing quality and rent reasonableness as follows:

Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.

Part II. The Inspection Process. This part describes the types of inspections the RRHA will make and the steps that will be taken when units do not meet HQS.

Part III. Rent Reasonableness Determinations. This part discusses the policies the RRHA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

## **PART I: PHYSICAL STANDARDS**

### **8.I.A. GENERAL HUD REQUIREMENTS**

#### **HUD Performance and Acceptability Standards**

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

A summary of HUD performance criteria is provided in Attachment 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

#### **Tenant Preference Items**

HUD requires the RRHA to enforce minimum HQS but also requires that certain judgments about acceptability be left to the family. For example, the RRHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable. Attachment 8-2 summarizes those items that are considered tenant preferences.

### **Modifications to Provide Accessibility**

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained.[24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

#### RRHA Policy

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to the RRHA for review.

### **8.I.B. ADDITIONAL LOCAL REQUIREMENTS**

The RRHA may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to the HQS. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

#### **Thermal Environment [HCV GB p.10-7]**

The RRHA must define a "healthy living environment" for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

#### RRHA Policy

The heating system must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and May 1.

## **Clarifications of HUD Requirements**

### RRHA Policy

As permitted by HUD, the RRHA has adopted the following specific requirements that elaborate on HUD standards.

#### ***Walls***

In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced and painted.

#### ***Windows***

Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.

Windows must be weather-stripped as needed to ensure a weather-tight seal. Window screens must be in good condition (applies only if screens are present). If the windows are designed to be opened, they must be operable.

#### ***Doors***

All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold. Double-keyed cylinder dead bolt locks are prohibited from all doors that open and exit to the exterior.

All interior doors must have no holes, have all trim intact, and be open able without the use of a key.

#### ***Floors***

All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be re-secured and made level. If they cannot be leveled, they must be replaced.

All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.

All floors should have some type of baseshoe, trim, or sealing for a "finished look." Vinyl baseshoe is permitted.

#### ***Sinks***

All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

All sinks must have functioning stoppers.

#### ***Toilets***

All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

***Security***

If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system

***Appliances***

The range and oven should be clean so they do not constitute a fire hazard

***Bedrooms***

Bedrooms in basements or attics are not allowed unless they meet local code requirements and must have adequate ventilation and emergency exit capability.

Minimum bedroom ceiling height is 7'6" or local code, whichever is greater. Sloping ceilings may not slope to lower than five feet in the 70 square foot area.

**8.I.C. LIFE THREATENING CONDITIONS [24 CFR 982.404(a)]**

HUD requires the RRHA to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of RRHA notification.

**RRHA Policy**

The following are considered life-threatening conditions:

Any condition that jeopardizes the security of the unit

Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling

Natural or LP gas or fuel oil leaks

Any electrical problem or condition that could result in shock or fire. Ungrounded outlets in a 2 wire electrical system not protected by GFCI will be a 30-day fail item. Replacement of an improperly operating GFCI receptacle will be a 30-day fail item.

Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.

Utilities not in service, including no running hot water  
Conditions that present the imminent possibility of injury  
Obstacles that prevent safe entrance or exit from the unit  
Absence of a functioning toilet in the unit

Inoperable smoke detectors

For those 24 hour failures falling on a Friday or day preceding Federal holidays the landlord is required to make the repairs within 24 hours and the RRHA will accept landlord certification that

the repair was made within 24 hours. This conditional acceptance is contingent upon inspection approval performed on the first business day after the initial failed inspection.

If an owner fails to correct life-threatening conditions as required by the RRHA, the RRHA will enforce the HQS in accordance with HUD requirements. See 8-II-G.

If a family fails to correct a family caused life-threatening condition as required by the RRHA, the RRHA will enforce the family obligations. See 8-II.H.

The owner will be required to repair an inoperable smoke detector unless the RRHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

#### **8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]**

##### **Family Responsibilities**

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain appliances owned by the family
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that results in a breach of the HQS. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

##### **Owner Responsibilities**

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

#### **8-I-E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225]**

If the RRHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an environmental intervention blood lead level, the RRHA must complete a risk assessment of the dwelling unit. The risk assessment must be completed in accordance with program requirements, and the result of the risk assessment must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the risk assessment report from the RRHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of HQS and the RRHA will take action in accordance with Section 8-II.G.

RRHA reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

### **8-I-F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.401, 24 CFR 982.403]**

A dwelling unit must:

- Provide adequate space and security for the family
- Have at least one bedroom or living/sleeping room for each two persons
- A unit that does not meet these HQS space standards is defined as overcrowded.
- A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space [HCV GB p. 10-6]. A bedroom or living/sleeping room must have at least:
- One window
- Two electrical outlets in proper operating condition (permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets)

If the RRHA determines that a unit is overcrowded because of an increase in family size or a change in family composition, the RRHA must issue the family a new voucher, and the family and RRHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the RRHA must terminate the HAP contract in accordance with its terms.

## **PART II: THE INSPECTION PROCESS**

### **8-II.A. OVERVIEW [24 CFR 982.405]**

#### **Types of Inspections**

The RRHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections.* The RRHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection before the effective date of the HAP Contract.
- *Annual/Biennial Inspections.* HUD requires the RRHA to inspect each unit under lease at least ~~annually~~ biennially to confirm that the unit still meets HQS. The RRHA reserves its right to inspect a unit more frequently if circumstances warrant. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- *Quality Control Inspections.* HUD requires that a sample of units be re-inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the HQS.

### **Inspection of RRHA-owned Units [24 CFR 982.352(b)]**

The RRHA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a RRHA -owned unit. A RRHA -owned unit is defined as a unit that is owned by the RRHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the RRHA). The independent agency must communicate the results of each inspection to the family and the RRHA. The independent agency must be approved by HUD, and may be the unit of general local government for the RRHA jurisdiction (unless the RRHA is itself the unit of general local government or an agency of such government).

### **Inspection Costs**

The RRHA may not charge the family or owner for unit inspections or re-inspections [24 CFR 982.405(e)]. In the case of inspections of RRHA -owned units, the RRHA may compensate the independent agency from ongoing administrative fee for inspections performed. The RRHA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

### **Notice and Scheduling**

The family must allow the RRHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

#### RRHA Policy

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 7:00 p.m. Generally inspections will be conducted on business days only. In the case of a life-threatening emergency, the RRHA will give as much notice as possible, given the nature of the emergency.

RRHA reserves the right to conduct a full inspection anytime an inspector is present in an assisted unit. Anytime an inspector is present in an assisted unit, the inspector has the right to conduct a full inspection.—If new life-threatening items are discovered during the time of a re- inspection, the new items must be noted and the owner and/or tenant must be notified to correct the deficiencies.

### **Attendance at Inspections by Owner and Family**

#### RRHA Policy

When a family occupies the unit at the time of inspection an adult family member must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, the RRHA will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted, but is not required.

## **8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]**

### **Timing of Initial Inspections**

HUD requires the unit to pass HQS before the effective date of the lease and HAP Contract. HUD requires PHA s with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). For PHA s with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

#### RRHA Policy

The RRHA will complete the initial inspection, determine whether the unit satisfies HQS, notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA).

### **Inspection Results and Re-inspections**

#### RRHA Policy

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the RRHA for good cause. The RRHA will re-inspect the unit within 5 business days of the date the owner notifies the RRHA that the required corrections have been made.

If a unit constructed prior to 1978 fails inspection due to chipped, peeling, or flaking paint and the unit is occupied by any child under age 6, the timeframe for correction of the deficiency will be ~~10-30~~ days. If requested, RRHA will make reasonable efforts to assist the family with finding-locating immediate alternative temporary living accommodations. If the deficiency is not corrected upon re- inspection within ~~10-30~~ days, the family will be authorized to move. This only applies to participants during annual and/or special inspections.

If the time period for correcting the deficiencies (or any RRHA -approved extension) has elapsed, or the unit fails HQS at the time of the re-inspection, the RRHA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. The RRHA may agree to conduct a second re-inspection, for good cause, at the request of the family and owner.

Following a failed re-inspection, the family may submit a new Request for Tenancy Approval after the owner has made repairs, if they have been unable to locate another suitable unit.

### **Utilities**

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

#### RRHA Policy

If utility service is not available for testing at the time of the initial inspection, the RRHA will not conduct an initial inspection of a unit until the utilities are connected.

### **Appliances**

#### RRHA Policy

If the family is responsible for supplying the stove and/or refrigerator, the RRHA will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The RRHA will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 10 days of the HAP contract approval.

### **8.II.C. ANNUAL/ Biennial HQS INSPECTIONS [24 CFR**

#### **982.405(a)] Scheduling the Inspection**

The PHA conducts an inspection in accordance with Housing Quality Standards at least biennially as required by regulations. In general this occurs 60 to 120 days prior to the anniversary date of the last annual/biennial inspection. Special inspections may be scheduled between anniversary dates. Each unit under HAP contract must have an annual inspection no more than 12 months of the last full inspection.

#### RRHA Policy

If an adult family member cannot be present on the scheduled date, the family should request that the RRHA reschedule the inspection. The RRHA and family will agree on a new inspection date that generally should take place within 5 business days of the originally-scheduled date. The RRHA may schedule an inspection more than 5 business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, the RRHA will automatically schedule a second inspection. If the family misses two scheduled inspections without RRHA approval, the RRHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

### **8-II.D. SPECIAL INSPECTIONS [HCV GB p. 10-30]**

The RRHA will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit.

#### RRHA Policy

During a special inspection, the RRHA generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the annual inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled the RRHA may elect to conduct a full annual inspection.

### **8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b), HCV GB p. 10-32]**

HUD requires a RRHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include (1) each type of inspection (initial, annual, and special), (2) inspections completed by each inspector, and (3) units from a cross-section of neighborhoods.

## **8.II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT**

### **Notification of Corrective Actions**

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the RRHA will determine (1) whether or not the failure is a life threatening condition and (2) whether the family or owner is responsible.

#### RRHA Policy

When life-threatening conditions are identified, the RRHA will immediately notify both parties by telephone, facsimile, or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the RRHA's notice.

When failures that are not life threatening are identified, the RRHA will send the owner and the family a written notification of the inspection results within 5 business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally not more than 30 days will be allowed for the correction.

The notice of inspection results will inform the owner that if life-threatening conditions are not corrected within 24 hours, and non-life threatening conditions are not corrected within the specified time frame (or any RRHA-approved extension), the owner's HAP will be abated in accordance with RRHA Policy (see 8-II.G.). Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any RRHA -approved extension, if applicable) the family's assistance will be terminated in accordance with RRHA Policy (see Chapter 12).

### **Extensions**

For conditions that are life-threatening, the RRHA cannot grant an extension to the 24 hour corrective action period. For conditions that are not life-threatening, the RRHA may grant an exception to the required time frames for correcting the violation, if the RRHA determines that an extension is appropriate [24 CFR 982.404].

#### RRHA Policy

Extensions will be granted in cases where the RRHA has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

A repair cannot be completed because required parts or services are not available. A repair cannot be completed because of weather conditions.

A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case by case basis, but will not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

### **Re-inspections**

#### RRHA Policy

The RRHA will conduct a re-inspection immediately following the end of the corrective period, or any RRHA approved extension. For conditions that are not life-threatening, RRHA may accept verification from the owner that the required corrections have been made. Such verification must be provided to RRHA by the landlord in writing evidenced by a photo and must be delivered either by certified mail or email by the end of the corrective action period. If a photo evidencing the repair(s) is not included or cannot be provided the unit will be scheduled for a re-inspection.

If the deficiencies have not been corrected by the time of the re-inspection, the RRHA will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with RRHA policies. If the RRHA is unable to gain entry to the unit in order to conduct the scheduled re-inspection, the RRHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

### **8.II.G. ENFORCING OWNER COMPLIANCE**

If the owner fails to maintain the dwelling unit in accordance with HQS, the RRHA must take prompt and vigorous action to enforce the owner obligations.

#### **HAP Abatement**

If an owner fails to correct HQS deficiencies by the time specified by the RRHA, HUD requires the RRHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

#### RRHA Policy

The RRHA will make all HAP abatements effective the first of the month following the expiration of the RRHA specified correction period (including any extension). The RRHA will inspect abated units within 5 business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

#### **HAP Contract Termination**

The RRHA must decide how long any abatement period will continue before the HAP contract will be terminated. The RRHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The RRHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

## RRHA Policy

The maximum length of time that a HAP may be abated is 90 days. However, if the owner completes corrections and notifies the RRHA before the termination date of the HAP contract, the RRHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

Reasonable notice of HAP contract termination by the RRHA is 30 days.

### **8.II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]**

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the RRHA (and any extensions), the RRHA will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

## **PART III: RENT REASONABLENESS [24 CFR 982.507]**

### **8-III.A. OVERVIEW**

No HAP contract can be approved until the RRHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

### **RRHA-owned Units [24 CFR 982.352(b)]**

In cases where an HCV family is receiving assistance in a RRHA -owned unit, the RRHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A RRHA -owned unit is defined as a unit that is owned by the RRHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the RRHA). The independent agency must communicate the results of the rent reasonableness determination to the family and the RRHA. The independent agency must be approved by HUD, and may be the unit of general local government for the RRHA jurisdiction (unless the RRHA is itself the unit of general local government or an agency of such government).

### **8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED**

#### **Owner-initiated Rent Determinations**

The RRHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The RRHA (or independent agency in the case of RRHA -owned units) will assist the family with the negotiations upon request. At initial occupancy the RRHA must determine whether the proposed rent is reasonable before a

HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

#### RRHA Policy

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the RRHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises the RRHA will consider unit size and length of tenancy in the other units.

The RRHA will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified in writing if the requested increase cannot be approved.

All rents adjustments will be effective the first of the month following 60 days after the RRHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

#### **RRHA - and HUD-Initiated Rent Reasonableness Determinations**

HUD requires the RRHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 5 percent decrease in the Fair Market Rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the RRHA to make a determination at any other time. The RRHA may decide that a new determination of rent reasonableness is needed at any time.

#### RRHA Policy

In addition to the instances described above, the RRHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the RRHA determines that the initial rent reasonableness determination was in error or (2) the RRHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

### **8-III.C. HOW COMPARABILITY IS ESTABLISHED**

#### **Factors to Consider**

HUD requires RRHA to take into consideration the factors listed below when determining rent comparability. The RRHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made.
- Amenities, services, and utilities included in the rent

### **Units that Must Not be Used as Comparable**

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

*Note:* Notice PIH 2011-46, issued August 17, 2011, provides further guidance on the issue of what constitutes an assisted unit.

### **Rents Charged for Other Units on the Premises**

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the RRHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the RRHA information regarding rents charged for other units on the premises.

## **8-III.D. RRHA RENT REASONABLENESS METHODOLOGY**

### **How Market Data is Collected**

#### RRHA Policy

The RRHA will collect and maintain data on market rents in the RRHA's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis.

### **How Rents are Determined**

#### RRHA Policy

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The RRHA will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the RRHA may make adjustments to the range of prices to account for these differences.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).

Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference – not its construction costs (e.g., it might cost \$20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rental units are presumed to have functioning roofs).

When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of \$500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows:  $\$500 \times 11 \text{ months} = \$5500 / 12 \text{ months} = \text{actual monthly rent of } \$488$ .

The RRHA will notify the owner of the rent the RRHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The RRHA will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 5 business days of the RRHA's request for information or the owner's request to submit information.

<b>EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS</b>
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Note: This document provides an overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

### **Sanitary Facilities**

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

### **Food Preparation and Refuse Disposal**

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

### **Space and Security**

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

### **Thermal Environment**

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

### **Illumination and Electricity**

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

### **Structure and Materials**

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

### **Interior Air Quality**

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one open able window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

### **Water Supply**

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

### **Lead-Based Paint**

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by the RRHA
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance ask each family to report deteriorated paint.

For units occupied by environmental intervention blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by the RRHA ). If lead hazards are identified during the risk assessment, the owner must complete hazard reduction activities.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

### **Access**

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

### **Site and Neighborhood**

The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the occupants.

### **Sanitary Condition**

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

### **Smoke Detectors**

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 or successor standards).

### **Hazards and Health/Safety**

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

<p><b>EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY</b></p>
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Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities.* The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal.* The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- *Space and Security.* The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.

- *Energy conservation items.* The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
  - *Illumination and Electricity.* The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.
- (6) *Structure and Materials.* Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.
- (7) *Indoor Air.* Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.
- (8) *Sanitary Conditions.* The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.
- (9) *Neighborhood conditions.* Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standa

the United States (FRUS) series such as by providing prompt access to and, when possible, declassification of information deemed appropriate for inclusion in the FRUS.

#### §9.16 Safeguarding.

Specific controls on the use, processing, storage, reproduction, and transmittal of classified information within the Department to provide protection for such information and to prevent access by unauthorized persons are contained in Volume 12 of the Department's Foreign Affairs Manual.

Dated: May 29, 2014.

**Margaret P. Grafeld,**

*Deputy Assistant Secretary, Department of State.*

[FR Doc. 2014-14879 Filed 6-24-14; 8:45 am]

BILLING CODE 4710-24-P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Parts 5, 943, and 982

[Docket No. FR-5778-N-01]

#### HUD Implementation of Fiscal Year 2014 Appropriations Provisions on Public Housing Agency Consortia, Biennial Inspections, Extremely Low-Income Definition, and Utility Allowances

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner and Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice of statutory changes.

**SUMMARY:** Section 243 of the Department of Housing and Urban Development Appropriations Act, 2014 (2014 Appropriations Act) authorizes HUD to implement certain statutory changes to the United States Housing Act of 1937 made by the 2014 Appropriations Act through notice followed by notice and comment rulemaking. This notice establishes the terms and conditions by which HUD will implement changes to the statutory definition of a “public housing agency” (PHA), the frequency of housing inspections, the statutory definition of “extremely low-income,” and utility allowances for tenant-paid utilities.

**DATES:** *Effective Date:* July 1, 2014.

**FOR FURTHER INFORMATION CONTACT:** For Public Housing and Voucher program questions, contact Michael Dennis, Director of the Office of Housing Voucher Programs, Department of Housing and Urban Development, 451 7th Street SW., Room 4228, Washington,

DC 20410; telephone number 202-402-4059 (this is not a toll-free number). For questions regarding the multifamily programs, contact Claire Brolin, 451 7th Street SW., Suite 6138, Washington, DC 20410 at 202-402-6634 (this is not a toll-free number). Persons with hearing or speech impairments may access either of these numbers through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The general provisions of the 2014 Appropriations Act<sup>1</sup> include five statutory changes to the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) (1937 Act) that are designed to reduce administrative burdens on PHAs, enable PHAs to better target assistance to families in need of such assistance, and reduce Federal costs.<sup>2</sup> Expediting the implementation of these provisions through notice will help PHAs to benefit from the changes in the law sooner than if implementation was accomplished solely through public rulemaking. The only statutory change that is applicable to multifamily project-based section 8 programs is the added definition of “extremely low-income” in section 238. For all other statutory changes, the changes provided in this notice apply only to the public housing and section 8 voucher programs.

Section 212 of the 2014 Appropriations Act amends the definition of a PHA to include a consortium of such entities.

Section 220 allows PHAs to comply with the requirement to inspect assisted dwelling units during the term of a housing assistance payment (HAP) contract by conducting biennial housing quality inspections instead of annual inspections. PHAs are also able to utilize alternative inspection methods to demonstrate that housing meets the housing quality requirements under the voucher program.

Section 238 creates a statutory definition of “extremely low-income families,” which is defined as very low-income families whose incomes do not exceed the higher of the Federal poverty level or 30 percent of Area Median Income.

Section 242 establishes a cap on the utility allowance for families leasing

<sup>1</sup> HUD's 2014 Appropriations Act is Title II of Division L of Public Law 113-76, 128 Stat. 5, approved January 17, 2014. See Public Law 113-76 at 128 Stat. 604.

<sup>2</sup> The five general provisions are sections 210, 212, 220, 238, and 242. This notice addresses sections 212, 220, 238, and 242. Section 210, which pertains to flat rents is addressed separately in PIH Notice 2014-12, available at <http://portal.hud.gov/hudportal/documents/huddoc?id=14-12pihn.pdf>.

oversized units. The cap is set at an amount based on family size rather than the size of the unit leased, with the ability to set a higher amount to provide a reasonable accommodation to the family of a person with disabilities, harmonizing the utility allowance standard with the payment standard requirement.

In order to allow PHAs to receive, as quickly as possible, the benefit of the reduced burden that these provisions are designed to achieve, the 2014 Appropriations Act authorizes HUD to implement the changes through notice, provided that HUD follows with notice and comment rulemaking within six months of the issuance of the notice.

##### II. Implementation Requirements

###### A. PHA Consortia

Section 212 of the 2014 Appropriations Act amends the definition of “public housing agency” at subparagraph (A) of section 3(b)(6) of the 1937 Act (42 U.S.C. 1437a(b)(6)(A)) to include in its general definition “a consortium of such entities or bodies as approved by the Secretary.” PHAs may follow 24 CFR part 943 to form, participate in, and utilize consortia. PHAs may request a waiver of any current provision related to consortium organization, elements of the agreement, the relationship between HUD and the consortium, and the responsibilities of the consortium.

The Secretary will not approve any consortium of PHAs for administration of multifamily project-based section 8 program contracts.

###### B. Biennial Inspections

Section 220 of the 2014 Appropriations Act allows PHAs to comply with the requirement to inspect assisted dwelling units during the term of a HAP contract by inspecting such units not less than biennially instead of annually and to rely upon alternative inspection methods to meet this requirement. However, a PHA may not use the alternative inspection method in lieu of the initial unit or any interim inspection. PHAs are still required to conduct an initial inspection, prior to entering into a HAP contract, and interim inspections, if a family or government official notifies the PHA of a unit's failure to comply with housing quality standards, in accordance with the housing quality standards (HQS) of the HCV program.

###### 1. In General

In order to bring relief to PHAs and owners as expeditiously as possible, HUD is implementing certain elements

of section 220 through this notice in a somewhat limited fashion. HUD recognizes that fuller implementation of these elements (e.g., the use of alternative inspection methodologies and the treatment of mixed-finance properties) may necessitate additional complexity and certain trade-offs, and that HUD will greatly benefit from stakeholder input on how best to effectuate these statutory changes through the rulemaking process.

Section 220 will be immediately effective for any unit under HAP contract where the PHA has conducted an HQS inspection within the 12 months preceding the effective date of this notice. If a PHA has conducted an HQS inspection in that time period, the PHA will not be required to re-inspect until the lapse of 24 months following their last inspection. If the most recent inspection occurred prior to the 12 months preceding the effective date of this notice, then the PHA is required to conduct an annual HQS inspection for that unit and is afforded no relief from that annual inspection responsibility as a result of the change in the law. However, once that unit has been inspected, the PHA will then have the option to wait up until two years before the next inspection is required.

This notice does not require a PHA to wait two years from the last inspection before conducting an inspection. If a PHA desires to make inspections on a more frequent basis, it may do so.

Currently, HUD's Section 8 Management Assessment Program (SEMAP) evaluates PHAs on the frequency with which they conduct inspections. HUD will score PHAs based on their compliance with the statutory requirement that they conduct inspections at least biennially.

## 2. Alternative Inspections

A PHA may comply with the biennial inspection requirement through reliance upon an inspection conducted for another housing assistance program. If a PHA relies on an alternative inspection to fulfill the biennial inspection requirement for a particular unit, then the PHA must identify the alternative standard in its administrative plan. Such a change may be a significant amendment to the plan, in which case the PHA must follow its PHA plan amendment and public notice requirements before utilizing the alternative inspection method.

Compliance with the biennial inspection requirement may be met by reliance upon an inspection of housing assisted under the HOME Investment Partnerships (HOME) program (under Title II of the Cranston-Gonzalez

National Affordable Housing Act, 42 U.S.C. 12701 note) or housing financed via the Treasury Department's Low-Income Housing Tax Credit program (LIHTC), taking into account the standards employed by those programs. A PHA may also comply with the biennial inspection requirement by relying upon an inspection performed by HUD, for example an inspection performed by HUD's Real Estate Assessment Center. A PHA is permitted to rely upon inspections conducted for the HOME or LIHTC program or performed by HUD with no action other than amending its administrative plan.

If a PHA wishes to rely upon an inspection conducted to a standard other than a standard listed above, then it must first submit to its local HUD Field Office a certification affirming, under penalty of perjury, that the standard "provides the same or greater protection to occupants of dwelling units meeting such standard or requirement" as would HQS. Once this certification has been submitted, the PHA must amend its administrative plan to formalize its adoption of the standard. A PHA that has chosen to rely upon an alternative inspection method must monitor any changes to the standards and requirements applicable to such method so that the PHA is made aware of any weakening of the method that would cause it to no longer meet or exceed HQS, in which case the PHA may not rely upon such method to comply with the biennial inspection requirement.

The statute makes clear that, in order for an inspection to qualify as an "alternative inspection method," a property inspected pursuant to such method must "meet the standards or requirements regarding housing quality or safety" applicable to properties assisted under the program that employs the alternative inspection method (e.g., HOME, LIHTC). For purposes of this notice, HUD is implementing this statutory element as follows:

- If a property is inspected under an alternative inspection method, and the property receives a "pass" score, then the PHA may rely on that inspection to demonstrate compliance with the biennial inspection requirement.
- If a property is inspected under an alternative inspection method, and the property receives a "fail" score, then the PHA may not rely on that inspection to demonstrate compliance with the biennial inspection requirement.
- If a property is inspected under an alternative inspection method that does not employ a pass/fail determination—for example, in the case of the LIHTC program, where deficiencies are simply

noted—then the PHA must review the list of deficiencies to determine whether any cited deficiency would have resulted in a "fail" score under HQS. If no such deficiency exists, then the PHA may rely on the inspection to demonstrate compliance with the biennial inspection requirements; if such a deficiency does exist, then the PHA may not rely on the inspection to demonstrate such compliance.

Under any circumstance described above in which a PHA is prohibited from relying on an alternative inspection methodology, the PHA must conduct an HQS inspection of any units in the property occupied by voucher program participants and follow HQS procedures to remedy any noted deficiencies. The HQS inspection must take place within a reasonable period of time. HUD will solicit input through rulemaking on circumstances under which a PHA could rely upon corrective actions taken under an alternative inspection method to assure that the property is brought into compliance with the standards or requirements regarding housing quality or safety applicable to the alternative inspection method.

As with all other inspection reports, and as required by 24 CFR 982.158(f)(4), reports for inspections conducted pursuant to an alternative inspection method must be retained for at least three years.

## 3. Interim Inspections

If a family or government official reports a condition that is life-threatening (i.e., the PHA would require the owner to make the repair within no more than 24 hours in accordance with 24 CFR 982.404(a)(3)), then the PHA must inspect the housing unit within 24 hours of when the PHA received the notification. If the reported condition is not life-threatening (i.e., the PHA would require the owner to make the repair within no more than 30 calendar days), then the PHA must inspect the unit within 15 days of when the PHA received the notification. In the event of extraordinary circumstances, such as if a unit is within a Presidentially declared disaster area, HUD may waive the 24-hour or the 15-day inspection requirement until such time as an inspection is feasible.

## 4. Mixed-Finance Properties

Section 220 gives HUD the authority to alter the frequency of inspections for mixed-finance properties assisted with project-based vouchers to facilitate the use of an alternative inspection method. HUD intends to exercise this authority through the rulemaking process as

opposed to this implementation notice. In the interim, a unit under HAP contract must be re-inspected at least biennially, through either the regular inspection process or the alternative inspection method.

#### C. Extremely Low-Income

Section 238 of the 2014 Appropriations Act amends section 3 of the 1937 Act (42 U.S.C. 1437a) to add a definition of extremely low-income (ELI) families. ELI families are defined as very low-income families whose incomes do not exceed the higher of the Federal poverty level or 30 percent of Area Median Income. This provision affects the ELI targeting requirements in section 16 of the 1937 Act (42 U.S.C. 1437n) for the public housing, housing choice voucher (HCV), project-based voucher (PBV), and multifamily project-based section 8 programs. As of the effective date of this notice, compliance with the targeting requirements under each of these programs must take into account the new definition of ELI.

Beginning with the effective date of this notice, a PHA or HUD, if HUD is the contract administrator, shall meet its targeting requirements through a combination of ELI admissions prior to the effective date (using the old definition) and ELI admissions after the effective date (using the new statutory definition). Neither a PHA nor HUD may skip over a family on the waiting list if that family meets the new definition of ELI as enacted by this section.

For the public housing program, not less than 40 percent of the units that become available per PHA fiscal year must be made available for occupancy by ELI families.

For the HCV and PBV programs, compliance with targeting requirements is determined for each of the PHA's fiscal years based on new admissions to both programs (i.e., a single, combined total). Not less than 75 percent of such admissions shall be ELI families.

For the multifamily project-based section 8 programs, the contract administrator (i.e., HUD or a PHA under an Annual Contributions Contract with HUD) must make available for occupancy by ELI families not less than 40 percent of the section 8-assisted dwelling units that become available for occupancy in any fiscal year.

The following example clarifies how a PHA administering the HCV and PBV programs would comply with this provision: A PHA with a fiscal year end of December 31 shall consider admissions to the HCV and PBV programs from January 1 up until the effective date of this notice using the old

definition; from the effective date of this notice through December 31, it shall consider admissions using the new definition. To further illustrate, assume the PHA admitted 50 families into their HCV program between January 1 and the effective date of this notice. Forty families were ELI (under the old definition), 6 families did not meet the old definition of ELI but would have met the new definition of ELI had it been implemented at the time of their admission, and 4 did not meet either definition of ELI. In terms of calculating the ELI targeting requirement for the period of the PHA fiscal year prior to implementation of the change in the ELI definition, only 40 families met the ELI definition with regard to the targeting requirement (not 46). Assume the PHA admitted another 50 families before the end of the PHA fiscal year and 45 of those families met the new definition of ELI. The total number of families that met the ELI requirement for the PHA fiscal year would be 85 (40 plus 45), or 85 percent.

In some communities, the extremely low-income and very low-income levels will be identical for some or all household sizes, in which case PHAs meet their ELI targeting requirements by serving VLI households, since those families meet the new definition of ELI. To reduce the work a PHA or contract administrator must do to determine which standard it should be using, HUD's Office of Policy Development and Research has calculated the new income limits for extremely low-income families, taking the previous sentence into account, and has made the new area income limits available online at <http://www.huduser.org/portal/datasets/il/il14/index.html>.

#### D. Utility Allowances

Section 242 of the 2014 Appropriations Act limits the utility allowance payment for tenant-based vouchers to the family unit size for which the voucher is issued, irrespective of the size of the unit rented by the family, with an exemption for families with a person with disabilities.

Under section 242, the utility allowance for a family shall be the lower of: (1) The utility allowance amount for the family unit size; or (2) the utility allowance amount for the unit size of the unit rented by the family. However, upon the request of a family that includes a person with disabilities, the PHA must approve a utility allowance higher than the applicable amount if such a higher utility allowance is needed as a reasonable accommodation in accordance with HUD's regulations in 24 CFR part 8 to make the program

accessible to and usable by the family member with a disability. This provision applies only to vouchers issued after the effective date of this notice and to current program participants. For current program participants, a PHA must implement the new allowance at the family's next annual reexamination, provided that the PHA is able to provide a family with at least 60 days' notice prior to the reexamination.

Dated: June 12, 2014.

**Carol J. Galante,**

*Assistant Secretary for Housing—Federal Housing Commissioner.*

**Milan Ozdinec,**

*Deputy Assistant Secretary for the Office of Public Housing and Voucher Program.*

[FR Doc. 2014-14915 Filed 6-24-14; 8:45 am]

BILLING CODE 4210-67-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 54

[TD 9671]

RIN 1545-BL97

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

#### 29 CFR Part 2590

RIN 1210-AB61

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### 45 CFR Part 147

[CMS-9952-F2]

RIN 0938-AR77

### Ninety-Day Waiting Period Limitation

**AGENCY:** Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; Centers for Medicare & Medicaid Services, Department of Health and Human Services.

**ACTION:** Final rules.

**SUMMARY:** These final regulations clarify the maximum allowed length of any reasonable and bona fide employment-based orientation period, consistent with the 90-day waiting period limitation set forth in section 2708 of the Public Health Service Act, as added by the Patient Protection and Affordable Care Act (Affordable Care Act), as

**CHOICE NEIGHBORHOODS APPLICATION CERTIFICATIONS –  
IMPLEMENTATION GRANTS**

**The following are certifications to and agreements with the Department of Housing and Urban Development (HUD) required in connection with the Choice Neighborhoods Implementation Grants application and implementation.**

1. The public or assisted housing project targeted in this Choice Neighborhoods grant application meets the definition of severe distress in accordance with Section 24(j)(2) of the United States Housing Act of 1937 (“1937 Act”).
2. The Lead Applicant and Co-Applicant (if any) have not received assistance from the Federal government, State, or unit of local government, or any agency or instrumentality, for the specific activities for which funding is requested in the Choice Neighborhoods application.
3. The Lead Applicant and Co-Applicant (if any) do not have any litigation pending which would preclude timely startup of activities.
4. The Lead Applicant and Co-Applicant (if any) are in full compliance with any desegregation or other court order related to Fair Housing (e.g., Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and Section 504 of the Rehabilitation Act of 1973) that affects the Lead Applicant’s and Co-Applicant’s (if any) public or assisted housing program and that is in effect on the date of application submission.
5. The Lead Applicant and Co-Applicant (if any) have returned any excess advances received during development or modernization, or amounts determined by HUD to constitute excess financing based on a HUD-approved Actual Development Cost Certificate (ADCC) or Actual Modernization Cost Certificate (AMCC), or other HUD contracts, or that HUD has approved a pay-back plan.
6. There are no environmental factors, such as sewer moratoriums, precluding development in the requested locality.
7. In accordance with the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128), the property targeted for acquisition or construction (including rehabilitation) is not located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:
  - (a) The community in which the area is situated is participating in the National Flood Insurance program (see 44 CFR parts 59 through 79), or less than one year has passed since FEMA notification regarding such hazards; and
  - (b) Where the community is participating in the National Flood Insurance Program, flood insurance is obtained as a condition of execution of a Grant Agreement and approval of any subsequent demolition or disposition application.
8. The application does not target properties in the Coastal Barrier Resources System, in accordance with the Coastal Barrier Resources Act (16 U.S.C. 3501).

**If selected for Choice Neighborhoods funding:**

9. The Lead Applicant and Co-Applicant (if any) will ensure compliance with all policies, procedures, and requirements, including the Program Requirements provided in the NOFA, Implementation Grants Section, Section III.C.3, prescribed by HUD for the Choice Neighborhoods Program.

10. The Lead Applicant and Co-Applicant (of any), will ensure that Choice Neighborhoods grant activities are implemented in a timely, efficient, and economical manner. The Lead Applicant and Co-Applicant (of any), will ensure that all FY 2012 Choice Neighborhoods grant funds are expended by the statutory deadline. In accordance with 31 U.S.C. § 1552, all FY 2012 Choice Neighborhoods funds expire on September 30, 2019. Any funds that are not expended by that date will be cancelled and recaptured by the Treasury, and thereafter will not be available for obligation or expenditure for any purpose.

11. The Lead Applicant and Co-Applicant (if any) will ensure assistance from the Federal government, State, or unit of local government, or any agency or instrumentality is not received for the specific activities funded by the Choice Neighborhoods grant. The Lead Applicant and Co-Applicant (if any) has established controls to ensure that any activity funded by the Choice Neighborhoods grant is not also funded by any other HUD program, thereby preventing duplicate funding of any activity.

12. The Lead Applicant and Co-Applicant (if any) will ensure that more assistance is not provided to any housing site or neighborhood under the Choice Neighborhoods grant than is necessary to provide affordable housing and neighborhood transformation after taking into account other governmental assistance provided.

13. The Lead Applicant and Co-Applicant (if any) will ensure that the aggregate amount of the Choice Neighborhoods grant is supplemented with funds from sources other than Choice Neighborhoods in an amount not less than 5 percent of the amount of the Choice Neighborhoods grant in accordance with Section III.B of the Implementation Grants NOFA.

14. In addition to supplemental amounts provided in accordance with Certification 13 above, if the Lead Applicant and Co-Applicant (if any) use more than 5 percent of the Choice Neighborhoods grant for the supportive services component, they will ensure that supplemental funds are provided from sources other than Choice Neighborhoods, dollar for dollar, for the amount over 5 percent of the grant used for the supportive services component. No more than 15 percent of grant funds may be used for supportive services, as defined in the NOFA.

15. The Lead Applicant and Co-Applicant (if any) will ensure that no more than 15 percent of funds will be used for Critical Community Improvements, as described in the NOFA (i.e. activities to promote economic development, such as development or improvement of transit, retail, community financial institutions, public services, facilities, assets or other community resources).

16. The Lead Applicant and Co-Applicant (if any) will ensure compliance with:

- (a) The Fair Housing Act (42 U.S.C. 3601-19) and regulations at 24 CFR part 100;
- (b) The prohibitions against discrimination on the basis of disability under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and regulations at 24 CFR part 8);
- (c) Title II of the Americans with Disabilities Act (42 U.S.C 12101 et seq.) and its implementing regulations at 28 CFR part 36;
- (d) The Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151) and regulations at 24 CFR part 40).

17. The Lead Applicant and Co-Applicant (if any) will ensure compliance with all Choice Neighborhoods requirements for reporting, providing access to records, and evaluation.

**Lead Applicant:** \_\_\_\_\_

**Co-Applicant (if any):** \_\_\_\_\_

**Name of Targeted Public and/or Assisted Housing Site(s):**  
\_\_\_\_\_

I approve the submission of the Choice Neighborhoods application of which this document is a part and make the above certifications to and agreements with the Department of Housing and Urban Development (HUD) in connection with the application and implementation thereof:

Name of Lead Applicant's Executive Officer: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name of Co-Applicant's (if any) Executive Officer: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**The following signature is applicable if the Lead Applicant or Co-Applicant is a Public Housing Authority.**

Acting on behalf of the Board of Commissioners of the Housing Authority listed below, as its Chairman, I approve the submission of the Choice Neighborhoods application of which this document is a part and make the above certifications to and agreements with the Department of Housing and Urban Development (HUD) in connection with the application and implementation thereof:

**Certified By: Board Chairman's Name:** \_\_\_\_\_

**Board Chairman's Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

Warning: HUD will prosecute false claims and statements. Conviction may result in the imposition of criminal and civil penalties. (18 U.S.C. 1001, 1010, 1012, 32 U.S.C. 3729, 3802)

**CITY OF ROANOKE REDEVELOPMENT AND HOUSING AUTHORITY**

**BYLAWS**

**ARTICLE I - THE AUTHORITY**

Section 1. Name of Authority. The name of the Authority shall be “City of Roanoke Redevelopment and Housing Authority.”

Section 2. Seal of Authority. The Seal of the Authority shall be in the form of two concentric circles and shall bear the words “City of Roanoke Redevelopment and Housing Authority”, the numerals “1949”, the word “Seal”, and the words “Roanoke, Va.”.

Section 3. Office of Authority. The office of the Authority shall be 2624 Salem Turnpike, N.W., in the City of Roanoke, State of Virginia, but the Authority may hold its meetings at such other place as it may designate by resolution.

Section 4. Board of Commissioners. The powers of the Authority are vested in the Board of Commissioners as appointed by the Roanoke City Council.

**ARTICLE II - OFFICERS**

Section 1. Officers. The Officers of the Authority shall be a Chairman of the Board of Commissioners, a Vice-Chairman of the Board of Commissioners, a Secretary-Treasurer, and an Assistant Secretary-Treasurer.

Section 2. Chairman. The Chairman shall preside at all meetings of the Board of Commissioners of the Authority. At each meeting, the Chairman shall submit such recommendations and information as he may consider proper concerning the business affairs and policies of the Authority.

Section 3. Vice Chairman. The Vice-Chairman shall perform the duties of the Chairman in the absence or incapacity of the Chairman; and, in case of the resignation or death of the Chairman, the Vice-Chairman shall perform such duties as are imposed on the Chairman until such time as the Authority shall select a new Chairman.

If both the Secretary-Treasurer and the Assistant Secretary-Treasurer are incapacitated, the Vice-Chairman may sign any documents that the Secretary-Treasurer would ordinarily sign.

Section 4. Secretary-Treasurer. As Secretary, he shall be the Executive Director of the Authority, and, as such, shall have general supervision over the administration of its business and affairs, subject to the direction of the Board of Commissioners. He shall be charged with the management of the Housing Developments of the Authority.

The Secretary-Treasurer shall keep the records of the Authority, shall act as Secretary of the meetings of the Authority and record all votes, and shall keep a record of the proceedings of the Authority in a journal of proceedings to be kept for such purpose, and shall perform all duties incident to his office. He shall keep in safe custody the seal of the Authority and shall have power to affix such seal to all contracts and instruments authorized to be executed by the Authority.

As Treasurer, he shall have the care and custody of all funds of the Authority and shall deposit the same in the name of the Authority in such bank or banks as the Authority may select. He shall sign all orders and checks for the payment of money and shall pay out and disburse such moneys under the direction of the Authority, except as otherwise authorized by resolution of the Board of Commissioners. He shall keep regular books of accounts showing receipts and expenditures and shall render to the Authority at each regular meeting (or more

often when requested) an account of his transactions and also of the financial condition of the Authority. He shall give such bond for the faithful performance of his duties as the Board of Commissioners may determine.

The compensation of the Secretary-Treasurer shall be determined by the Board of Commissioners, provided that a temporary appointee may be selected from among the Commissioners of the Authority to serve without compensation, other than the payment of necessary expenses.

Section 4a. Assistant Secretary-Treasurer. The Assistant Secretary-Treasurer (who shall be appointed by the Board of Commissioners as the need arises) shall perform the duties of the Secretary-Treasurer in the absence or incapacity of the Secretary-Treasurer; and, in case of the resignation or death of the Secretary-Treasurer, the Assistant Secretary-Treasurer shall perform such duties as are imposed on the Secretary-Treasurer until such time as the Board of Commissioners shall select a new Secretary-Treasurer.

The compensation of the Assistant Secretary-Treasurer shall be determined by the Authority.

Section 5. Additional Duties. The Officers of the Authority shall perform such other duties and functions as may from time to time be required by the Board of Commissioners or the Bylaws or rules and regulations of the Authority.

Section 6. Election or Appointment. The Chairman and Vice-Chairman shall be elected at the annual Meeting of the Authority from among the Commissioners of the Authority and shall hold office for one year or until their successors are elected and qualified.

The Secretary-Treasurer and the Assistant Secretary-Treasurer shall be appointed by the Board of Commissioners. Any person appointed to fill the office of Secretary-Treasurer or

Assistant Secretary-Treasurer or any vacancy therein, shall have such term as the Board of Commissioners fixes, but no Commissioner of the Authority shall be eligible to this office except as a temporary appointee.

Section 7. Vacancies. Should the offices of Chairman or Vice-Chairman become vacant, the Board of Commissioners shall elect a successor from the Board of Commissioners at the next regular meeting, and such election shall be for the unexpired term of said office. When the office of Secretary-Treasurer becomes vacant, the Board of Commissioners shall appoint a successor, as aforesaid.

Section 8. Additional Personnel. The Authority may from time to time employ such personnel as it deems necessary to exercise its powers, duties and functions as prescribed by the Housing Authorities Law of Virginia and all other laws of the State of Virginia applicable thereto. The selection and compensation of such personnel shall be determined by the Authority subject to the laws of the State of Virginia.

### **ARTICLE III - MEETINGS**

Section 1. Annual Meeting. The Annual Meeting of the Board of Commissioners shall be held on the fourth (4th) Monday of August each year at 3 o'clock p.m. at the regular meeting place of the Board of Commissioners. In the event such day shall fall on a legal holiday, the Annual Meeting shall be held on the next succeeding business day.

Section 2. Regular Meeting. The Regular Meeting of the Board of Commissioners shall be held once a month on the fourth (4th) Monday of each month at 3 o'clock p.m., at the City of Roanoke Redevelopment and Housing Authority (2624 Salem Turnpike, N.W., Roanoke, Virginia), but the Board of Commissioners may by resolution designate a different place, date

and/or time for any meeting or meetings. If the date of any meeting shall be a legal holiday, said meeting shall be held at the same time and place on the next succeeding business day, provided, however, that such meeting may be postponed and/or continued upon one day prior notice from the Chairman of the Board of Commissioners (or his designee), who may give such notice when he deems it expedient and shall give said notice of such postponement and/or continuance upon the written request of two Commissioners, provided, however, that at least one regular meeting or special meeting be held within every calendar month.

Section 3. Special Meeting. The Chairman of the Board of Commissioners may, when he deems it expedient, and shall, upon the written request of two Commissioners, call a Special Meeting of the Board of Commissioners for the purpose of transacting any business designated in the call. The call for a Special Meeting may be delivered to each Commissioner or may be mailed or sent by electronic transmission to the business or home address or such other places as may be designated by the Commissioner at least three days prior to the date of such Special Meeting. At such Special Meeting, no business shall be considered other than as designated in the call; but, if all of the Commissioners are present at a Special Meeting, any and all business may be transacted at such Special Meeting.

Section 4. Quorum. The powers of the Authority shall be vested in the Board of Commissioners. Four Commissioners shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, but a smaller number may adjourn from time to time until a quorum is obtained. When a quorum is in attendance, action may be taken by the Board of Commissioners upon a vote of the majority of the Commissioners then present.

Section 5. Electronic Communication Policy. As long as a quorum is physically present at any meeting of the Board of Commissioners, any Commissioner may participate in a meeting by electronic communication means from a remote location, provided that such participation is (a) approved by a majority vote of the Commissioners at such meeting and (b) in compliance with the Virginia Freedom of Information Act, Va. Code Ann. § 2.2-3700, et seq., as amended as of the date of the meeting.

Section 65. Order of Business. At the regular meetings of the Board of Commissioners, the following shall be the order of business:

1. Call to Order – Roll Call.
2. Reports.
3. Consent Agenda.
  - Approval of minutes of the previous meeting.
4. Regular Agenda.
  - Unfinished business.
  - New business and resolutions.
5. Adjournment.

All resolutions shall be in writing and shall be copied in a journal of the proceedings of the Authority.

Section 76. Manner of Voting. The voting on all questions coming before the Board of Commissioners of the Authority shall be by roll call, and the ayes and nays shall be entered upon the minutes of such meeting.

**ARTICLE IV - INDEMNIFICATION OF BOARD OF COMMISSIONERS**

A. Each Commissioner who is or was a party to any proceeding (including a proceeding by or in the right of the Authority) shall be indemnified by the Authority against any liability imposed upon or asserted against him (including amounts paid in settlement) arising out of conduct in his official capacity with the Authority or otherwise by reason of the fact that he is or was such a Commissioner or is or was serving at the request of the Authority as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, except there shall be no indemnification in relation to matters as to which he shall have been finally adjudged to be liable by reason of having been guilty of (i) willful misconduct or (ii) a knowing violation of criminal law in the performance of his duty as such Commissioner.

B. In addition to the indemnification provided under Section A, to the full extent permitted by applicable laws, as they exist on the date hereof or may hereafter be amended, the Authority shall indemnify a Commissioner who is or was a part to any proceeding (including a proceeding by or in the right of the authority) by reason of the fact that he is or was such a Commissioner or is or was serving at the request of the Authority as a director officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise.

C. The Authority is empowered to contract in advance to indemnify any Commissioner to the extent indemnification is granted under Sections A and B. The Commissioners are also empowered to cause the Authority to indemnify or contract in advance to indemnify any other person not covered by Sections A and B who was or is a party to any proceeding, by reason of the fact that he is or was an employee or agent of the Authority, or is or

was serving at the request of the Authority as a director, officer, employee or agent of another corporation, partnership, joint venture trust, employee benefit plan or other enterprise to the same extent as if such person were specified as one to whom indemnification is granted under Sections A and B.

D. Limitation on Availability of HUD Funds. The source of the monies to fund or pay for any indemnification obligations under this Article IV shall not be public housing operating subsidies, any public housing project of the Authority, any operating receipts of the Authority (as the term “operating receipts” is defined in its Consolidated Annual Contributions Contract Number P5511, dated August 30, 1996, as amended, or any subsequent, successor, or other contract or replacement contract to which the Authority may become a party (the “ACC”)), or any public housing operating reserve of the Authority reflected in the Authority’s annual operating budget and required under the ACC. Excess fees contained in the Authority’s Section 8 administrative fee reserved under 24 CFR 982.155 that were earned prior to September 30, 2003, shall not be subject to the foregoing restriction, nor shall any other assets of the Authority arising under any program not administered by HUD be subject to this restriction.

## ARTICLE V - AMENDMENTS

Amendments to Bylaws. The Bylaws of the Authority shall be amended only with the approval of at least four of the members of the Board of Commissioners at a regular or a special meeting, but no such amendment shall be adopted unless at least seven day’s written notice thereof has been previously given to all of the members of the Board of Commissioners.

## Code of Virginia

§ 2.2-3708.1. Participation in meetings in event of emergency or personal matter; certain disabilities; distance from meeting location for certain public bodies.

A. A member of a public body may participate in a meeting governed by this chapter through electronic communication means from a remote location that is not open to the public only as follows and subject to the requirements of subsection B:

1. If, on or before the day of a meeting, a member of the public body holding the meeting notifies the chair of the public body that such member is unable to attend the meeting due to an emergency or personal matter and identifies with specificity the nature of the emergency or personal matter, and the public body holding the meeting records in its minutes the specific nature of the emergency or personal matter and the remote location from which the member participated. If a member's participation from a remote location is disapproved because such participation would violate the policy adopted pursuant to subsection B, such disapproval shall be recorded in the minutes with specificity.

Such participation by the member shall be limited each calendar year to two meetings or 25 percent of the meetings of the public body, whichever is fewer;

2. If a member of a public body notifies the chair of the public body that such member is unable to attend a meeting due to a temporary or permanent disability or other medical condition that prevents the member's physical attendance and the public body records this fact and the remote location from which the member participated in its minutes; or

3. If, on the day of a meeting, a member of a regional public body notifies the chair of the public body that such member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting and the public body holding the meeting records in its minutes the remote location from which the member participated. If a member's participation from a remote location is disapproved because such participation would violate the policy adopted pursuant to subsection B, such disapproval shall be recorded in the minutes with specificity.

B. Participation by a member of a public body as authorized under subsection A shall be only under the following conditions:

1. The public body has adopted a written policy allowing for and governing participation of its members by electronic communication means, including an approval process for such participation, subject to the express limitations imposed by this section. Once adopted, the policy shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting;

2. A quorum of the public body is physically assembled at the primary or central meeting location; and

3. The public body makes arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.

(2007, c. 945; 2013, cc. 119, 694; 2014, cc. 492, 524.)