

Rules Amending, Renumbering and Compiling  
Chapter 4  
Rules and Regulations of the Section 8  
Housing Assistance Programs

November 29, 2012

1. Chapter 4 of the Rules and Regulations of the Section 8 Housing Assistance Programs of the Department of Community Services, City and County of Honolulu, entitled "Rules of Practice and Procedures of the Section 8 Project-Based Rental Assistance Program," is amended, renumbered and compiled.



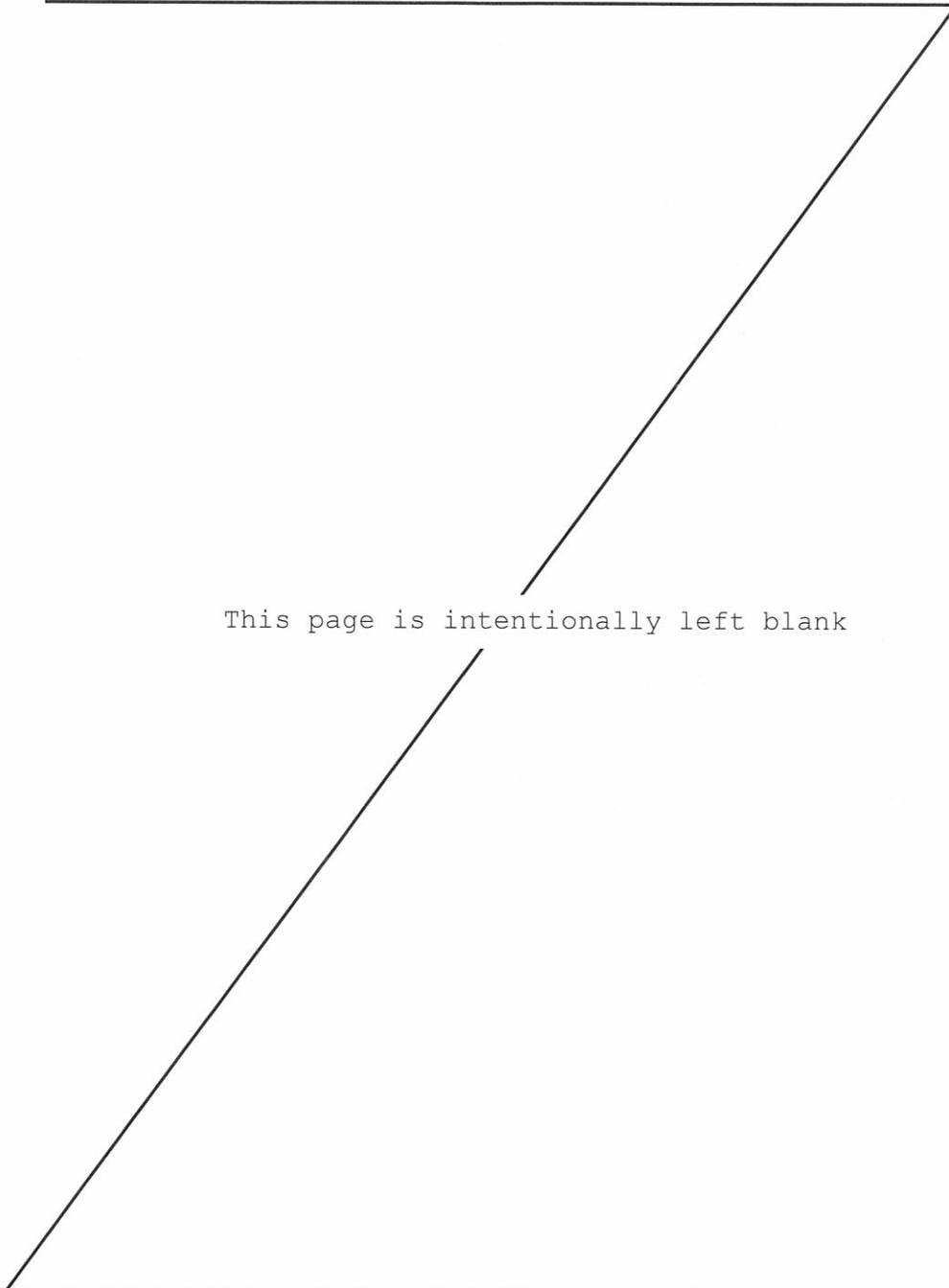
TITLE 8

DEPARTMENT OF COMMUNITY SERVICES

CHAPTER 13

SECTION 8 PROJECT-BASED RENTAL ASSISTANCE PROGRAM

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§8-13-1 General Applicability. These rules are adopted under the Hawaii Administrative Procedures Act, Chapter 91, Hawaii Revised Statutes, pursuant to Ordinance of the City and County of Honolulu, and are intended to set forth the essential elements to implement the City and County of Honolulu, Section 8 Project-Based Voucher Program, as established in Title 24 of the Code of Federal Regulations, specifically Part 983 as it existed on April 1, 2012. Except as otherwise expressly modified or excluded by 24 CFR Part 983, provisions of 24 CFR Part 982, as they existed on April 1, 2012, shall apply to the Project-Based Voucher Program. [Eff 5/28/04; am, ren and comp DEC 10 2012] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. Parts 982 and 983)

§8-13-2 Purpose and Objective. The purpose of Project-Based Assistance is to encourage property owners to construct, rehabilitate, and make available standard rental housing stock to lower income families at rents within the Section 8 Program's established limits; maximize housing choice, especially for low-income families who have traditionally been limited in the location of housing that they could afford; discourage the concentration of low-income households in any one area; and encourage the creation of additional housing resources for low-income households integrated throughout the community. Whenever feasible, the projects selected for the Project-Based Voucher Program will be in areas with lower concentrations of poverty. [Eff 5/28/04; am, ren and comp DEC 10 2012] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.5)

§8-13-3 General Project-Based Voucher Program. (a) The Agency may, at its sole option, choose to provide Section 8 Project-Based Assistance with funds provided to the Agency for its Section 8 Housing Choice Voucher Program.

(b) The Project-Based Voucher Program provides assistance that is attached to units as "project-based" assistance to distinguish this assistance from the "tenant-based" assistance provided by the Housing Choice Voucher Program in 8-10.

(c) With Project-Based Assistance, the Agency enters into an assistance contract with the Owner to make Housing Assistance Payments for a specific unit(s) for a specified term provided the unit is occupied by an eligible family. To fill vacant project-

based units, the owner shall lease the unit to eligible Families from the Agency's waiting list. Although the assistance is tied to the unit, a Family that moves from the unit may be eligible for continued assistance under the tenant-based Housing Choice Voucher Program.

(d) HUD does not provide any separate funding for the Project-Based Voucher Program. Funding for the Program is part of the Annual Contributions Contract funding authority for the Agency's entire Section 8 Housing Choice Voucher Program.

(e) The number of project based units that will be made available for the Project-Based Voucher Program will be no more than twenty percent of the total funding available to the Agency under the consolidated ACC for tenant-based assistance in the Agency's Housing Choice Voucher Program, excluding funding designated by HUD for other special purpose.

(f) No more than twenty percent of any new funding increments may also be designated for the Project-Based Voucher Program provided that the funding is not designated for any other special purpose under the Housing Choice Voucher Program. [Eff 5/28/04; am, ren and comp DEC 10 2012] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, §§983.5 and 983.6)

§8-13-4 Definitions. (a) The following definitions are found in Section 8-10-2: "Agency", "Annual Contributions Contract (ACC)", "CFR-Code of Federal Regulations", "Disabled Family", "Elderly Family", "Fair Market Rent (FMR)", "Family", "Family Rent to Owner", "Family Share", "Gross Rent", "Housing Assistance Payments (HAP)", "Housing Quality Standards (HQS)", "HUD", "Lease", "Owner", "Payment Standard", "Public Housing Agency (PHA)", "Reasonable Rent", "Rent to Owner", "Total Tenant Payment (TTP)", "Utility Allowance", and "Very Low-Income Family".

(b) In addition to the terms listed in subsection (a), the following definitions apply:

"Agreement to Enter into Housing Assistance Payments Contracts", "Agreement," or "AHAP" means a written agreement between the Owner and the Agency in a form prescribed by HUD that, upon satisfactory completion of the Newly Constructed Housing or the Rehabilitated Housing and occupancy by an eligible Family in accordance with requirements specified in the Agreement, the Agency will enter into a HAP Contract.

"Applicant" means an individual or Family that has submitted an application but is not yet a participant in the Section 8 Project-Based Voucher Program.

"Existing Housing" means housing units that already exist on the proposal selection date and that substantially comply with the HQS. The units must fully comply with the HQS before execution of the HAP Contract.

"Housing Assistance Payments Contract" or "HAP Contract" means a written agreement between the Agency and an Owner for the purpose of providing Housing Assistance Payments under the Section 8 Housing Choice Voucher Program to the Owner on behalf of an eligible Family.

"Initial Rent" means the Gross Rent, including utilities, of the Project-Based Assisted unit as specified in the HAP Contract.

"Newly Constructed Housing" means housing units that do not exist on the proposal selection date and are developed after the date of selection pursuant to an Agreement between the PHA and Owner for use under the PBV program.

"PHA-owned Unit" means a dwelling unit owned by the PHA that administers the voucher program. PHA-owned means that the PHA or its officers, employees, or agents hold a direct or indirect interest in the building in which the unit is located, including an interest as titleholder or lessee, or as a stockholder, member or general or limited partner, or member of a limited liability corporation, or an entity that holds any such direct or indirect interest.

"Project-Based Voucher (PBV) Program" or "Program" means a Section 8 Housing Choice Voucher Program administered by the Agency pursuant to 24 CFR Part 983 which provides assistance attached to specific units for a specified period of time.

"Project-Based Assistance (PBA)" means a type of rental assistance under the Housing Choice Voucher Program.

"Rehabilitated Housing" means housing units that exist on the proposal selection date, but do not substantially comply with the HQS on that date, and are developed pursuant to an Agreement between the PHA and Owner, for use under the PBV Program.

"State Certified Appraiser" means any individual who satisfies the requirements for certification as a certified general appraiser in the State of Hawaii and meets or exceeds the minimum certification criteria issued by the Appraiser Qualifications Board of the Appraisal Foundation. If the Appraisal Foundation has issued a finding that the policies, practices, or procedures of the state are inconsistent with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U. S. C. 3331-3352), the individual must comply with any additional standards for state-certified appraisers imposed by HUD.

"Section 8 Housing Voucher Program (HCVP)" means a Section 8 Rental Assistance Program, also known as Voucher Program. [Eff 5/28/04; am, ren and comp DEC 10 2012] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.3)

§8-13-5 Eligible, Ineligible and PHA-owned Units. (a) The Agency may make available PBA for Newly Constructed Housing, Rehabilitated Housing and Existing Housing projects or units that meet HUD and Agency requirements. Requirements include:

- (1) Physical condition standards and physical inspection requirements as set forth in 24 CFR 983.101 to 983.103;
  - (2) Site and neighborhood standards as described in 24 CFR 983.57 for Newly Constructed Housing, Existing Housing and Rehabilitated Housing and for ;
  - (3) Federal requirements as described in 24 CFR Part 983, Subpart D for Rehabilitated Housing; and
  - (4) Other Federal requirements as described in 24 CFR Part 983.
- (b) Ineligible properties include the following:
- (1) Shared housing, nursing homes, and facilities providing continual psychiatric, medical, nursing services, board and care, or intermediate care;
  - (2) Units within the grounds of penal, reformatory, medical, mental and similar public or private institutions;
  - (3) Properties located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless, it is located in an area participating in the national Flood Insurance Program, in which case the Agency shall ensure that flood insurance on the structure is obtained in compliance with Section 102(a) of the Flood Disaster Protection Act of 1973;
  - (4) Units owned or controlled by an educational institution or its affiliate and are designated for occupancy by students of the institution;
  - (5) A manufactured home;
  - (6) Cooperative housing; or
  - (7) Transitional housing.
- (c) The Agency may not attach or pay PBA to units in any of the types of subsidized housing specified in 24 CFR 983.54
- (d) The Agency may attach PBA to a high-rise elevator project that may be occupied by families with children only if

the Agency initially determines there is no practical alternative and HUD approves such finding. The Agency may make this initial determination in whole or in part, and need not review each project on a case-by-case basis, and HUD may approve on the same basis. The Agency hereby states its determination that PBA may be reasonably attached to a high-rise elevator project that may be occupied by families with children, since the Building Code of the City and County of Honolulu (Chapter 16 of the Revised Ordinances of Honolulu 1990, as amended) incorporates by reference the 2003 edition of the International Building Code, which generally requires that, in any County building where a required accessible floor is four or more stories above or below a level of exit discharge, at least one required accessible means of egress shall be an elevator.

(e) Assistance may not be attached to a unit that is occupied by an Owner

(f) A group home may include one or more group home units. A separate Lease is executed for each Elderly Family or Disabled Family who resides in a group home.

(g) PHA-owned Units.

(1) PHA-owned Units may only be assisted under the PBV Program if in accordance with 24 CFR 983.51.e), the HUD field office or HUD-approved independent entity reviews and approves the selection process.

(2) PHA-owned Units must be inspected by an independent entity approved by HUD. Family Rent to Owner for PHA-owned Units is determined pursuant to 24 CFR 983.301 through 983.305, except that the independent entity approved by HUD must establish the Initial Rents based on an appraisal by a licensed, State Certified Appraiser.

(h) Other federal requirements to determine eligibility of units include minimizing displacement, providing for relocation assistance, and complying with real property acquisition requirements as defined in 24 CFR 983.7 and Uniform Federal Accessibility Standards (UFAS) as defined in 24 CFR 8.23. [Eff 5/28/04; am, ren and comp DEC 10 2012] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §§983.7, 983.9(a)(2), 983.9(b), 983.51(e), 983.53 to 983.54, 983.57, 983.101 to 983.103, 983.151 to 983.156)

§8-13-6 Partially Assisted Building Requirement. (a) Not more than twenty-five percent of the total number of dwelling units in any one building may receive PBA.

- (b) The following types of housing are exempt from this cap:
- (1) Single family dwellings, defined as a building having one up to four units;
  - (2) Dwelling units specifically for Elderly Families or Disabled Families; and
  - (3) Dwelling units specifically for families receiving supportive services.

(c) Tenants of dwelling units qualifying for the twenty-five percent per building exception shall be provided with supportive services consisting of case management and referral services, with a minimum requirement of quarterly contacts with the case manager and annual written reports in a form prescribed by the Agency. The Agency may require additional or more frequent reporting to ensure that the supportive services requirement is being met. [Eff 5/28/04; am, ren and comp DEC 10 2012] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.56)

§8-13-7 Public Notice and Invitation to Owners; Owner Application Requirements. (a) If the Agency will be selecting Owners under 24 CFR 983.51(b)(1), the Agency shall publish a notice and accept applications for the PBV Program. The notice will be published at least twice in a newspaper of general circulation and will include the following:

- (1) The application deadline (at least thirty days after the date of the first publication);
- (2) The estimated number of units to be selected for assistance;
- (3) A statement that only applications submitted in response to the notice will be considered; and
- (4) The selection criteria to be used in awarding PBA. In addition, the Agency shall post a public notice on its electronic website.

(b) As an alternative to solicitation of applications under subsection (a), the Agency may select proposals for PBV assistance from proposals which have been competitively selected under a federal, state, or local government housing assistance, community development, or supportive services program that requires competitive selection of proposals (e.g., HOME and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection

proposal did not involve any consideration that the project would receive PBV assistance.

(c) Owners responding to the notification of PBA funding must submit an application in the form prescribed by the Agency and by the application deadline date specified in the notice.

(d) For Newly Constructed Housing and/or Rehabilitated Housing Units, the Owner's application must include items as described in 24 CFR Part 983, Subpart D. [Eff 5/28/04; am, ren and comp DEC 10 2012] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.51)

§8-13-8 Compliance with PBV Goals, Civil Rights Requirements and HQS Site Standards. (a) The Agency may not select a proposal for Existing Housing or Newly Constructed on a site or enter into an agreement to enter into a HAP Contract or HAP Contract for units on the site, unless the Agency has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Plan under 24 CFR Part 903 and the PHA administrative plan.

In addition, prior to selecting a proposal, the Agency must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(1).

In complying with this goal the Agency will limit approval of sites for PBV housing in census tracts that have poverty concentrations of twenty percent or less.

However, the Agency may grant exceptions to the twenty percent standard where the Agency determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than twenty percent, such as sites including but not limited to:

A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;

A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;

A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;

A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;

A census tract where there has been an overall decline in the poverty rate within the past five years; or

A census tract where there are meaningful opportunities for educational and economic advancement.

(b) Existing and Rehabilitated Housing Site and Neighborhood Standards. The Agency may not enter into an agreement to enter into a HAP contract nor enter into a HAP Contract for Existing Housing or Rehabilitated Housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- (1) Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- (2) Have adequate utilities and streets available to service the site;
- (3) Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- (4) Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- (5) Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

(c) New Construction Site and Neighborhood Standards. In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- (1) The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- (2) The site must have adequate utilities and streets available to service the site;
- (3) The site must not be located in an area of minority concentration unless the Agency determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served

- by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- (4) The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
  - (5) The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
  - (6) The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
  - (7) The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
  - (8) Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive. [Eff DEC 10 2012] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.57)

§8-13-9 Evaluation, Ranking and Selection Criteria.

- (a) For an application to be considered for selection to the PBV Program, the Agency shall determine that each application is responsive to and in compliance with the Agency's selection criteria and procedures, and is otherwise in conformity with Agency and HUD Program rules and requirements, including, but not limited to the following:
  - (1) Property is an eligible unit as defined in Section 8-13-5;
  - (2) Proposed initial gross rents do not exceed the lowest of:
    - (A) an amount determined by the Agency, not to exceed 110 percent of the Fair Market Rent (or any exception payment standard approved by the HUD Secretary) for the unit bedroom size minus any Utility Allowance;

- (B) the reasonable rent; or
- (C) the rent requested by the Owner;
- (3) For a unit that (A) has been allocated a low income housing tax credit under Internal Revenue Code of 1986 at 26 U.S.C. 42, (B) is not located in a "qualified census tract", (C) is comparable to other tax credit units in the same building (and such other tax credit units do not have any form of rental assistance other than the tax credit, and (D) the tax credit rent exceeds the Fair Market Rent (or any exception payment standard) as determined in accordance with 24 CFR 983.301(b), the Rent to Owner must not exceed the lowest of (X) the tax credit rent minus any Utility Allowance; (Y) the reasonable rent; or (Z) the rent requested by the Owner.
- (b) The Agency shall rate and rank proposals for Rehabilitated Housing and Newly Constructed Housing, at a minimum, using the following criteria. The Agency may include any other criteria reflecting the Agency's priority at the time of RFP issuance:
  - (1) Owner experience and capability to build or rehabilitate housing as identified in the RFP;
  - (2) Extent to which the project furthers the Agency goal of deconcentrating poverty and expanding housing and economic opportunities;
  - (3) If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and
  - (4) Projects with less than twenty-five percent of the units assisted will be rated higher than projects with twenty-five percent of the units assisted. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, the PHA will rate partially assisted projects on the percent of units assisted. Projects with the lowest percent of assisted units will receive the highest score.
- (c) The Agency shall rate and rank proposals for Existing Housing, at a minimum, using the following criteria:
  - (1) Experience as an Owner and compliance with the Owner's obligations under the tenant-based program, or any experience with a similar subsidy program recognized by the Agency;

- (2) Extent to which the project furthers the Agency goal of deconcentrating poverty and expanding housing and economic opportunities;
  - (3) If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and
  - (4) Extent to which units are occupied by families that are eligible to participate in the PBV program.
- (d) The Agency shall rate and rank proposals from Owners competitively selected under another federal, state, or local housing assistance program pursuant to Section 8-13-7(b) using the factors above and may also consider the following factors:
- (1) Extent to which the project furthers the Agency goal of deconcentrating poverty and expanding housing and economic opportunities; and
  - (2) Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.
- (e) A ranking list will be established according to the points awarded to each proposal and the highest ranked projects will undergo further review by the Agency. The Agency shall, at its discretion, select one or more or none of the proposals submitted. [Eff 5/28/04; am, ren and comp DEC 10 2012 ] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.51(b))

§8-13-10 Rehabilitated and Newly Constructed Housing Requirements. (a) The Owner shall prepare work write-ups, construction specifications and plans upon request as determined appropriate by the Agency for Rehabilitated Housing and Newly Constructed Housing projects. In addition, Newly Constructed Housing projects require certification by a design architect that the proposed Newly Constructed Housing reflected in the working drawings and specifications complies with housing quality standards, local codes and ordinances and zoning requirements.

(b) For projects consisting of four Newly Constructed Housing or five Rehabilitated Housing or more units, the Agency shall determine any work items necessary to meet the accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and, for Newly Constructed Housing only, the

accessibility requirement of the Fair Housing Amendments Act of 1988.

(c) The Owner is responsible for selecting a responsible contractor and said contractor shall provide the Agency with a certification of non-debarment. Development of nine or more units requires compliance with the Davis-Bacon Act of 1931 and related acts.

(d) State Certified Appraiser. Before executing an Agreement for PHA-owned Units, the Agency shall use a State Certified Appraiser and establish the rents in accordance with 24 CFR 983.301 or seek approval of proposed rents from HUD for any PHA-owned units or HUD insured or coinsured multifamily mortgage and obtain environmental clearance in accordance with 24 CFR 983.58, and other requirements as described in 24 CFR Part 983.

(e) Agreement to Enter into Housing Assistance Payments Contract. Upon satisfactory compliance with all required elements of the PBV Program, including the subsidy layering review and environmental review, the Agreement to Enter into Housing Assistance Payments Contract will be completed with the selected Owner.

(f) Timely Performance of Work. Upon execution of the Agreement, the construction period shall promptly commence. The construction period shall be determined in accordance with the approved application and entered into the Agreement. In the event the work is not so commenced, diligently continued, or completed, the Agency may approve reasonable extensions of time, terminate the Agreement or take other appropriate action.

(g) Inspection and Changes. The Agency shall perform regular inspections during the construction period. Any changes from the work specified in the Agreement that would alter the design or the quality of the Newly Constructed Housing or Rehabilitated Housing must be approved by the Agency prior to making the changes.

(h) Notification of Vacancies. At least sixty days before the scheduled completion of the project, the Owner shall notify the Agency of any units expected to be vacant on the anticipated effective date of the HAP Contract.

(i) Completion of Construction. The Owner shall notify the Agency when the work is completed and provide the Agency with evidence of completion, including, but not limited to, a certificate of occupancy and other certifications as prescribed in 24 CFR 983.155(b). The Agency shall perform a final inspection prior to acceptance of the units and notify the Owner of any deficiencies or defects that may exist. The Owner may be allotted a time extension if warranted which may affect contract rents, or the Agency may reject any units that do not meet

program requirements and the Owner notified with a statement of the reasons for nonacceptance. [Eff 5/28/04; am, ren and comp DEC 10 2012] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §§983.151 to 983.156)

§8-13-11 Housing Assistance Payments Contract (HAP Contract). (a) Unit Selection. The Agency shall not select a unit for PBA, if the unit is occupied by persons who are not eligible for participation in the PBV Program.

(b) Review and Inspections. The Agency shall review and inspect all units to be assisted with PBA to determine that the units are in compliance with the HQS and other standards required by HUD or the Agency.

(c) HAP Contract. Upon acceptance of the Rehabilitated Housing, Newly Constructed Housing or Existing Housing units, the Agency shall execute a Housing Assistance Payments Contract for PBA under the Housing Choice Voucher Program with the Owner in the format prescribed by HUD. The Owner shall inform the Agency of any units that are vacant and shall lease all assisted vacant units to eligible Families of the appropriate size from the Agency's waitlist.

(d) Term of HAP Contract. The initial term of PBA HAP Contracts shall be for a period of not less than one year nor more than ten years, or any other HUD approved term, subject to future funding availability under the ACC with HUD.

(e) Extension of HAP Contract. Upon expiration of the initial term of the HAP Contract, the Agency may extend the HAP Contract for such period as the Agency determines is necessary to expand housing opportunities and to achieve long-term affordability of the housing, subject to the future availability of appropriated funds from HUD.

(f) Initial Rent. Initial gross rents may not exceed the rent limits on the date the Agreement is executed, if applicable, or as described in Section 8-13-9(a)(2). For PHA-owned Units, either prior to executing the Agreement (for Newly Constructed Housing or Rehabilitated Housing Units) or prior to executing the HAP Contract (for Existing Housing), the Agency shall use a State Certified Appraiser [as set forth in 24 CFR 983.256 (c)(1)] to determine reasonableness of the Initial Rent. The Agency may reduce the Initial Rent to Owner because of other governmental subsidies and rent limits as provided in 24 CFR 983.304 and 983.305.

(g) Rent Adjustments. If required by HUD, at least annually, the Agency shall redetermine that the current Rent to Owner does not exceed the Reasonable Rent. The HAP Contract

shall provide for rent adjustments and that the adjusted rent for any assisted unit shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted local market as described in 24 CFR 983.303, and shall not exceed the maximum rent limits as described in Section 8-13-9(a)(2). The Owner shall provide information requested by the Agency on rents charged by the Owner for other units in the premises or elsewhere.

(h) Vacant Units. The Agency may provide vacancy payments under the PBA HAP Contract for up to sixty days after a unit becomes vacant, in an amount not to exceed the rent to Owner on the day the Family vacated. The Agency may only make such payments for a vacant unit if:

- (1) The vacancy was not the Owner's fault, and
- (2) The Owner has taken every reasonable action to minimize the likelihood and extent of vacancies.

(i) Reduction of Contract Units after Vacancy. If no eligible Family rents a vacant unit within one hundred twenty days (commencing on the first day of the month when the vacancy occurred), the Agency may terminate its commitment to make any additional HAP for the unit for the balance of the HAP Contract term.

(j) Addition of Contract Units. Within the three-year period following execution of the HAP contract, the Agency may consider adding contract units to the HAP contract when the Agency determines that additional housing is needed to serve eligible low-income families, provided that the total number of units in a building that will receive PBV assistance will not exceed twenty-five percent of the units and twenty percent of the authorized budget authority limit is not exceeded. Circumstances may include, but are not limited to:

- (1) Local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and
- (2) Voucher holders are having difficulty finding units that meet program requirements.

(k) Substitution of contract units. The Agency may amend the HAP Contract to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit.

(1) Notwithstanding the limitation to the three-year period following execution of the HAP contract in Section 8-13-11(j), when a unit receiving PBA is overcrowded or underoccupied, the Family must move to an appropriately sized unit when an offer of such unit is made and the appropriately sized unit is substituted for the previously covered contract unit. [Eff

5/28/04; am, ren and comp DEC 10 2012] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. 983.301 to 983.305)

§8-13-12 Tenant Selection. (a) If the unit selected for PBA is occupied by an eligible Family, the Family shall be afforded the opportunity to lease that unit or another appropriately sized, as defined in Section 8-10-12, PBA unit in the project without requiring the Family to be placed on the waiting list.

(b) The Owner shall lease all vacant assisted units to eligible Families from the Agency's waiting list. In selecting Families from the waiting list, preference shall first go to a Family receiving a HUD special funded voucher the funding for which will end, and then by lottery position.

(c) After initial occupancy, the Owner shall immediately notify the Agency of any vacancies. If there is an inadequate number of interested Applicants, within thirty days of the notification of the vacancy, the Owner may advertise and solicit applications from otherwise eligible Very Low-Income Families and refer these families to the Agency to determine HCVP eligibility.

(d) The Owner shall be responsible for the screening and selection of tenants in accordance with their written selection procedures approved as part of the original proposal for the PBV Program (see 24 CFR 983.51). The Owner shall promptly provide written notification to the Agency and any rejected Family of the grounds for the rejection.

(e) If the Owner rejects an Applicant who believes that the rejection was the result of unlawful discrimination, the Agency may assist the Family, if requested, in resolving the issue or refer the Family to the local Fair Housing office or the HUD field office for assistance in filing a discrimination complaint or to exercise other rights provided by law. An Applicant who is rejected by an Owner of a PBA unit and is on the tenant based waiting list, shall retain its place on that list. [Eff 5/28/04; am, ren and comp DEC 10 2012] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §§983.51, 983.251, 983.253 to 983.255)

§8-13-13 Waiting List. (a) The Agency shall establish waiting list(s) for each project in the PBV Program.

(b) An Owner may refer families living in the PBA building but not living in a unit selected for PBA or families that apply directly to the project to be placed on the PBV Program waiting

list in accordance with the Agency's waiting list policy as described in Section 8-10-9.

(c) PBA will be offered to Applicants on the top of the waiting list as funding becomes available according to the selection policy described in Section 8-10-10, unless otherwise specified herein. [Eff 5/28/04; am, ren and comp **DEC 10 2012**]. (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.251(c))

§8-13-14 Family Briefing. (a) When a Family is selected to occupy a PBA unit, the Agency shall provide to the Family an oral briefing, including information concerning the Total Tenant Payment, Family Rent to Owner, and any applicable Utility Allowance. Additional information that shall be provided include:

- (1) Family obligations under the PBV Program.
- (2) Family and Owner responsibilities under the Lease and HAP Contract;
- (3) Significant aspects of federal, state and local equal opportunity laws and applicable fair housing information;
- (4) The fact that the subsidy is tied to the unit and that the Family must occupy a unit under the PBV Program;
- (5) The likelihood of the Family receiving continued assistance after the HAP Contract expires or if the Agency terminates the HAP Contract for the unit;
- (6) The Family's options under the PBV Program if the Family is required to move because of a change in Family size or composition; and
- (7) The Agency's procedure for conducting informal hearings for participants, including the circumstances in which the Agency shall provide the opportunity for an informal hearing and the procedures for requesting a hearing.

(b) The Family shall be required to participate in the briefing prior to receipt of PBA. Failure to participate shall be grounds for disqualification of the Family from the PBV Program.

(c) The Family must meet all of its obligations of the PBV Program and the Lease and comply with all of the rules of the Section 8 Housing Choice Voucher Program as indicated in Chapter 8-10.

(d) If the Family head or spouse is a person with disabilities, the Agency shall take appropriate steps to ensure effective communication, in accordance with 24 CFR 8.6, in

conducting the oral briefing and in providing the written information packet. The Agency shall take reasonable steps to ensure meaningful access by persons with limited English proficiency in accordance with obligations contained in Title VI of the Civil Rights Act of 1964 and Executive Order 13166. The Agency shall refer accessible PBV units to Families on the PBV waiting list, which Families include a person with a mobility impairment. [Eff 5/28/04; am, ren and comp DEC 10 2012] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.252)

§8-13-15 Family Share and Housing Assistance Payment.

(a) The Family Share is calculated by subtracting the amount of HAP from the Gross Rent.

(b) The HAP shall be equal to the difference between the Total Tenant Payment and the Gross Rent.

(c) The HAP is distributed as follows:

(1) The Agency pays the Owner the lesser of the HAP or the Rent to Owner.

(2) If the HAP exceeds the Rent to Owner, the Agency shall pay the balance of the HAP to the Family for utility payments. [Eff 5/28/04; am, ren and comp DEC 10 2012] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §§982.514 to 982.515)

§8-13-16 Maintenance, Operation and Inspection. (a) The Owner shall provide all the services, maintenance and utilities as agreed under the HAP Contract, subject to abatement of HAP or other applicable remedies if the Owner fails to meet these obligations.

(b) Before and during the term of assistance, units shall be inspected and must meet or exceed HQS. The Agency shall inspect a representative sample of the PBA units in a project at least annually. [Eff 5/28/04; am, ren and comp DEC 10 2012] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.207)

§8-13-17 Assisted Tenancy and Termination of Tenancy

(a) Term of Lease. The term of a Lease must be for at least one year, or the remaining term of the HAP Contract if the remaining term is less than one year.

(b) Termination of Tenancy.

- (1) The Owner shall provide the Agency with a copy of any termination of tenancy notification.
- (2) The HAP Contract and the Lease shall contain a provision permitting the Family to terminate the Lease on proper notice as stated on the Lease after the first year of the term.
- (3) The Owner may offer the Family a new Lease after the first year of the term of the Lease in writing at least sixty days before the proposed commencement date of the new Lease term and must specify a reasonable time for acceptance by the Family.

(c) Move from Unit.

- (1) The Family shall notify the Agency and the Owner before moving out of the unit as required by program rules and the Landlord and Tenant Code.
- (2) The Family occupying a unit with PBA may move from the PBA unit after the first year and retain federal housing assistance. If no such assistance, or comparable assistance is not available at the time the Family moves, the Agency shall give the Family priority to receive the next available tenant based Section 8 voucher.

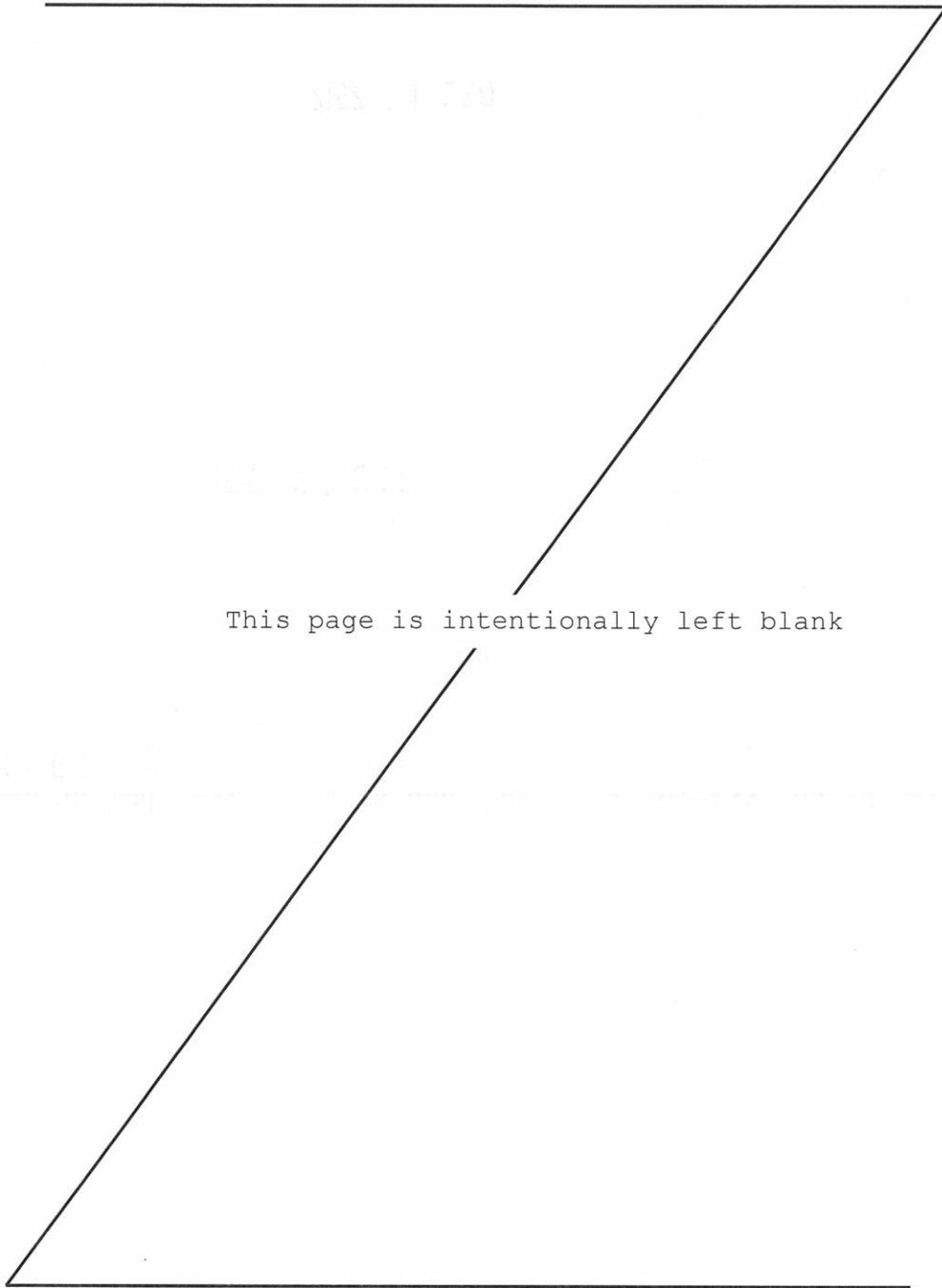
(d) Overcrowded and Underoccupied Units. If the Agency determines that the assisted unit is overcrowded due to an increase in Family size or underoccupied under the Agency's subsidy standard, the Owner must offer the Family a suitable alternative unit if one is available and the Family shall be required to move. If the Owner does not have a suitable unit, the Agency (if it has sufficient funding) shall offer Section 8 assistance to the Family or otherwise assist the Family in locating other standard housing within its jurisdiction and shall require the Family to move as soon as possible. HAP will continue to be issued while the Family remains in the unit unless the Family rejects, without good reason, the offer of a unit that the Agency judges to be acceptable.

(e) Termination of Assistance Due to Insufficient Funding. If the Agency determines that funding is insufficient to support continued assistance for Families in the Program, the Agency may terminate assistance by (1) canceling or withdrawing vouchers prior to their expiration, or (2) terminating assistance in the PBV program by the most recent date of admission. Such termination of the HAP Contract for all or any of the contract units and notice to Owner shall be implemented in accordance with HUD instructions. Families whose assistance is terminated due to insufficient funding may reapply to the Program.

(f) Termination of Assistance Due to FSS or Supportive Services Noncompliance. If the Family resides in a project-based voucher unit excepted from the twenty-five percent per project cap because of the Family's participation in a Family Self Sufficiency (FSS) or other supportive services program, and the Family fails without good cause to complete its FSS contract of participation or supportive service requirement, the Agency shall terminate assistance in accordance with HUD requirements. [Eff 5/28/04; am, ren and comp DEC 10 2012] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §§983.56, 983.205(c), 983.256 to 983.257, 983.259 to 983.260)

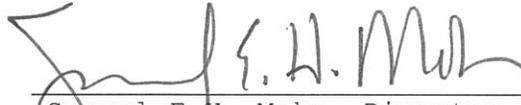
§8-13-18 Operation and Administration of Program. The Agency shall administer the PBV Program in accordance with all provisions under the HCVP as described in Chapter 8-10, including the issuing of monthly HAP, determining eligibility of applicants; annual, interim and special reexamination of household income and family composition; maintaining the Utility Allowance schedule; and inspection of assisted units to ensure compliance with HQS. [Eff DEC 10 2012] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.5)

§8-13-19 Other Policies. All other policies in Chapter 8-10 related to eligibility and occupancy of the Section 8 tenant based program and the specific provisions relating to Sections 8-10-22 through 8-10-28 shall apply unless expressly provided for in this rule. [Eff 5/28/04; am, ren and comp DEC 10 2012] (Auth: RCH §§4-105.4, 6-302, ROH §1-9.1) (Imp: RCH §6-302, ROH §6-23.3, 24 C.F.R. §983.5)



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I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawai'i Revised Statutes, which were adopted on November 29, 2012 and filed with the Office of the City Clerk.



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Samuel E.H. Moku, Director  
Department of Community Services

APPROVED AS TO FORM:



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Deputy Corporation Counsel