

DEPARTMENT OF COMMUNITY SERVICES
CITY AND COUNTY OF HONOLULU

Amendments to Chapter 3
Rules and Regulations of the
Section 8 Housing Assistance Programs
City and County of Honolulu

October 29, 2012

SUMMARY

1. §§3-5, 3-16, and 3-24 are amended.
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RULES AND REGULATIONS OF THE
SECTION 8 HOUSING ASSISTANCE PROGRAMS
CITY AND COUNTY OF HONOLULU

Chapter 3

RULES OF PRACTICE AND PROCEDURES OF THE SECTION 8
HOMEOWNERSHIP OPTION PROGRAM

§3-1	GENERAL APPLICABILITY. . . . .	.1
§3-2	PURPOSE AND OBJECTIVE. . . . .	.1
§3-3	DEFINITIONS. . . . .	.1
§3-4	GENERAL HOMEOWNERSHIP OPTION . . . . .	.5
§3-5	ELIGIBILITY. . . . .	.6
§3-6	FIRST-TIME HOMEOWNER REQUIREMENTS. . . . .	.7
§3-7	MINIMUM INCOME REQUIREMENTS. . . . .	.7
§3-8	EMPLOYMENT REQUIREMENTS. . . . .	.7
§3-9	DWELLING UNIT REQUIREMENTS . . . . .	.8
§3-10	NOTIFICATION OF ELIGIBILITY. . . . .	.9
§3-11	PREFERENCES. . . . .	.9
§3-12	WAITING LIST	10
§3-13	REMOVAL FROM THE WAITING LIST	10
§3-14	CLOSING AND REOPENING THE WAITING LIST	11
§3-15	SELECTION AND CERTIFICATION	11
§3-16	CONTRACT AND REQUIREMENTS OF SALE	12
§3-17	DWELLING UNIT INSPECTION	13
§3-18	LENDER AND FINANCING REQUIREMENTS	13
§3-19	DOWNPAYMENT ASSISTANCE GRANT	14
§3-20	MONTHLY HOMEOWNERSHIP ASSISTANCE PAYMENTS	15
§3-21	CONTINUED ASSISTANCE/FAMILY OBLIGATIONS	16
§3-22	REEXAMINATIONS	17
§3-23	INTERIM MONTHLY HOMEOWNERSHIP ASSISTANCE PAYMENTS ADJUSTMENT	17
§3-24	MOVE WITH CONTINUED TENANT-BASED ASSISTANCE	18
§3-25	MAXIMUM TERM OF MONTHLY HOMEOWNERSHIP ASSISTANCE PAYMENTS	18
§3-26	PORTABILITY	19
§3-27	RECAPTURE OF HOMEOWNERSHIP ASSISTANCE	19
§3-28	DENIAL OR TEMINATION OF ASSISTANCE FOR FAMILY	19
§3-29	INFORMAL SETTLEMENT OF DISPUTES	20
	(a) Procedure for Informal Settlement	20
	(b) Provision of Criminal Record	20
§3-30	HEARING IN A DISPUTE	20
	(a) Request for a Hearing	20
	(b) Form and Content of Written Request	20

	(c) Person Conducting Hearing	21
	(d) Notice and Conduct of Hearing/Judicial Review	21
§3-31	SEVERABILITY	21

Chapter 3

RULES OF PRACTICE AND PROCEDURES OF THE SECTION 8
HOMEOWNERSHIP OPTION PROGRAM

§3-1 GENERAL APPLICABILITY. These rules and regulations 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 Homeownership Program, as established in Title 24 of the Code of Federal Regulations, specifically Part 982, Subpart M, and any revisions or amendments thereto. [Eff OCT 20 2003] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-2 PURPOSE AND OBJECTIVE. The purpose of the Section 8 Homeownership Program is to provide an option for eligible participants to apply their Section 8 Housing Choice Voucher Program assistance towards Homeownership Assistance rather than for rent. The Agency's objective is to expand homeownership opportunities for its Section 8 participants by assisting them in transitioning from rental to homeownership using all available resources under the Homeownership Program or other available programs under the Section 8 Housing Assistance Programs. [Eff OCT 20 2003] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-3 DEFINITIONS:

(a) Agency: The Department of Community Services, City and County of Honolulu.

(b) Applicant: An individual or Family that has submitted an application for admission to the Program but is not yet a Participant in the Program.

(c) CFR - United States Code of Federal Regulations: The federal publication, which contains the rules and regulations, governing, among other things, the HUD and Section 8 Homeownership Program.

(d) Cooperative or Housing Cooperative: Housing owned by a corporation or association, and where a member of the corporation or association has the right to reside

in a particular unit, and to participate in management of the housing.

(e) Cooperative Member: A Family of which one or more members own membership shares in a cooperative.

(f) Disabled Family: A Family whose head, spouse of the head, or sole member is a person with disabilities, as defined in 24 CFR 5.403. It may include two or more persons with disabilities living together; or one or more persons with disabilities living with one or more Live-in Aides.

(g) Displaced Family: A Family in which each member, or whose sole member, is a person displaced by governmental action, or a person or Family whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formerly recognized pursuant to Federal disaster relief laws.

(h) Downpayment Assistance Grant: A form of Homeownership Assistance in the Homeownership Option in the form of a single downpayment assistance grant for the Family. If a family receives a downpayment assistance grant, the Agency may not make Monthly Homeownership Assistance Payments for the Family. A downpayment assistance grant is applied to the downpayment for the purchase of the home or reasonable and customary closing costs requires in connection with the purchase of the home.

(i) Economic Self-sufficiency Program: Any program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work for such families.

(j) Elderly Family: A Family whose head, spouse of the head, or sole member is a person who is at least sixty-two (62) years of age. It may include two or more persons who are at least sixty-two (62) years of age living together; or one or more persons who are at least sixty-two (62) years of age living with one or more Live-in Aides.

(k) Family: A person or group of persons, as determined by the Agency, and which is comprised of:

- (1) Two or more persons who live or intend to live together as a unit and whose income and resources are available to meet the Family's needs and who are related by blood, marriage, or operation of law or have evidenced a stable family relationship of at least two (2) consecutive years and whose head of family has reached the age of majority;
- (2) An Elderly Family;

- (3) A Disabled Family;
- (4) A Displaced Family;
- (5) A remaining member of a Tenant Family who is recorded as an authorized occupant on the current list of household members and has reached the age of majority. This does not include a Live-in Aide, or a foster child or foster adult; or
- (6) A single person who is not an Elderly or Displaced person, or a person with disabilities, or the remaining member of a Tenant Family.

(l) Family Self Sufficiency Program (FSS): A program established by the Agency in accordance with 24 CFR Part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services.

(m) First-Time Homeowner: A Family of which no member owned any Present Ownership Interest in a residence of any family member during the three (3) years before commencement of Homeownership Assistance for the Family. The term "first-time homeowner" includes a single parent or displaced homemaker who, while married, owned a home with his or her spouse, or resided in a home owned by his or her spouse.

(n) Home: Means a dwelling unit for which the Agency pays Homeownership Assistance under the Homeownership Option Program set forth in this Chapter 3.

(o) Homeowner: A Family of which one or more members owns title to the home.

(p) Homeownership Assistance: Assistance for a Family under the Homeownership Option. There are two alternative and mutually exclusive forms of Homeownership Assistance by an Agency for a Family: Monthly Homeownership Assistance Payments, or a single Downpayment Assistance Grant. Either form of Homeownership Assistance may be paid to the Family, or to a mortgage lender on behalf of the Family as determined by the Agency.

(q) Homeownership Expenses: A Family's allowable monthly expenses for the home, as determined by the Agency.

(r) Homeownership Option: Assistance for a Homeowner or Cooperative Member under 24 CFR 982.625 to 982.643. A special housing type.

(s) Housing Quality Standards (HQS): The HUD minimum quality standards for housing assisted under the Section 8 Tenant Based Rental Assistance Program set forth in 24 CFR 982.401 to 982.406.

(t) HUD: United States Department of Housing and Urban Development or its designee.

- (u) Interest in the Home: Means:
- (1) In the case of assistance for a Homeowner, "interest in the home" includes title to the home, any lease or other right to occupy the home, or any other present interest in the home.
- (2) In the case of assistance for a cooperative member, "interest in the home" includes ownership of membership shares in the cooperative, any lease or other right to occupy the home, or other present interest in the home.
- (v) Independent Inspector: A professional home inspector who is independent of the seller and the Agency.
- (w) Live-in Aide: A person who resides with one or more elderly persons, or persons with disabilities, and who, a) is determined to be essential to the care and well-being of the persons, b) is not obligated to provide for the support of the persons, and c) would not be living in the unit except to provide the necessary supportive services.
- (x) Membership Shares: Shares in a cooperative. By owning such cooperative shares, the share-owner has the right to reside in a particular unit in the cooperative, and the right to participate in management of the housing.
- (y) Monthly Homeownership Assistance Payments: Monthly homeownership assistance payments by the Agency to the Family or to a mortgage lender on behalf of the Family, as determined by the Agency.
- (z) Participant (Participant Family): A Family that has been admitted to the Program and is receiving Homeownership Assistance in the Program.
- (aa) Payment Standard: The maximum monthly assistance payment for a family assisted in the Section 8 Housing Choice Voucher Program before deducting the Total Tenant Payment by the family.
- (bb) Portability: Receiving Section 8 Tenant Based Rental Assistance Program outside of the jurisdiction of the initial Public Housing Agency.
- (cc) Present Ownership Interest: Title, in whole or in part, to a residence, or ownership, in whole or in part, of membership shares in a cooperative. "Present ownership interest" in a residence does not include the right to purchase title to the residence under a lease-purchase agreement.
- (dd) Program or Homeownership Program: The Section 8 Homeownership Option Program.

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

(ff) Section 8 Tenant Based Voucher Program (Section 8 Program): A Section 8 Housing Choice Voucher Program, also known as Voucher Program.

(gg) Tenant: An individual or a Family renting or occupying an assisted unit.

(hh) Total Tenant Payment: The higher of thirty percent (30%) of the Family's Monthly Adjusted Income or ten percent (10%) of the Family's income, rounded to the nearest dollar. [Eff 10/20/03; am

MAY 28 2004] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-4 GENERAL HOMEOWNERSHIP OPTION.

(a) The Homeownership Option is used to assist a Family residing in a home purchased and owned by one or more members of the Family.

(b) A Family assisted under the Homeownership Option must be a newly admitted or an existing participant in the Agency's Section 8 Program.

(c) Forms of Homeownership Assistance:

(1) Monthly Homeownership Assistance Payments; or

(2) A single Downpayment Assistance Grant.

(d) Prohibition against combining forms of Homeownership Assistance: A Family may only receive one form of Homeownership Assistance. Accordingly, a Family that includes a person who was an adult member of a Family that previously received either of the two (2) forms of Homeownership Assistance may not receive the other form of Homeownership Assistance from any PHA.

(e) Agency's Choice to Offer Homeownership Option: The Agency may choose to offer either or both forms of Homeownership Assistance, or choose not to offer either form of assistance.

(f) Family Choice: The Family chooses whether to participate in the Homeownership Option if offered by the Agency. If the Agency offers both forms of Homeownership Assistance, the Family also chooses which form of Homeownership assistance to receive. [Eff

OCT 20 2003] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-5 ELIGIBILITY.

(a) The Family seeking to participate in the Program shall complete an application form provided by the Agency. The applicant is permitted to file an application by mailing to or by submitting in person to any of the Agency's Section 8 offices.

(b) The initial application review shall not require an interview. Only Applicants who are eligible in the initial review shall be placed on the waiting list. A final eligibility review may be conducted when the Applicant reaches the top of the waiting list.

(c) An Applicant who has misrepresented material information may not be eligible to participate in the Program.

(d) To be eligible for admission into the Program, an Applicant shall meet all of the following qualification requirements:

- (1) Has been admitted to the Agency's Section 8 Housing Choice Voucher Program in accordance with Chapter 8-10;
- (2) Is in compliance with the terms of the lease and the rules under the Section 8 Housing Choice Voucher Program;
- (3) Has not previously defaulted on a mortgage securing debt to purchase a home under the Program;
- (4) Except for Cooperative Members who have acquired cooperative membership shares prior to commencement of Homeownership Assistance, each Family member has no present ownership interest in a residence at the commencement of Homeownership Assistance for the purchase of a home;
- (5) Satisfies the First-Time Homeowner, Minimum Income, and Employment Requirements and any other initial requirements as determined by the Agency and set forth in 24 CFR 982.627; and
- (6) Satisfies the Agency's minimum down payment requirement of 3% of the purchase price, and that 1% to 3%, as established by the Agency, of the purchase price shall come from the Family's own personal resources.
- (7) For Monthly Homeownership Assistance Payment, the Family shall utilize all of its own assets in

excess of \$15,000 or, in the case of an Elderly Family, \$20,000 towards downpayment and closing costs.

- (1) The Applicant shall also satisfactorily complete a pre-assistance homeownership counseling program approved by the Agency. [Eff NOV 23 2012] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-7 MINIMUM INCOME REQUIREMENTS.

(a) At commencement of Homeownership Assistance, the Participant shall demonstrate that the annual income, as determined by the Agency, of the adult family members who will own the home at commencement of Homeownership Assistance is not less than:

- (1) The federal minimum hourly wage multiplied by two thousand (2000) hours; or
(2) In the case of a Disabled Family, the monthly Federal Supplemental Security Income (SSI) benefit for an individual living alone (or paying his or her share of food and housing costs) multiplied by twelve (12).

(b) The Agency shall not count any welfare assistance received by the Family in determining annual income except for an Elderly Family or a Disabled Family. [Eff OCT 20 2003] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-8 EMPLOYMENT REQUIREMENTS.

(a) The Applicant shall demonstrate that one or more adult members of the Family who will own the home at commencement of Homeownership Assistance meet the following employment requirements:

- (1) Is currently employed on a full-time basis, with an average of not less than thirty (30) hours per week; and
(2) Has been continuously so employed during the year before commencement of Homeownership Assistance for the Family.

(b) The following shall be exempt from the employment requirements:

- (1) An Elderly Family;
(2) A Disabled Family; or

- (3) A Family that includes a person with disabilities and the Agency has determined that an exemption is needed as a reasonable accommodation so that the Program is readily accessible to and usable by persons with disabilities.

§3-9 DWELLING UNIT REQUIREMENTS.

- (a) The dwelling unit shall satisfy all of the following requirements:
 - (1) The unit is eligible as determined by 24 CFR Part 982, Subpart H;
 - (2) The unit is either under construction or already existing at the time the Family enters into the contract of sale;
 - (3) The unit is either a one-unit property (including a manufactured home) or a single dwelling unit in a cooperative or condominium;
 - (4) The unit has been inspected by the Agency and by an independent inspector designated and paid for by the Family; and
 - (5) The unit satisfies the Housing Quality Standards.
- (b) Homeownership Assistance may be provided for the purchase of a home where the Family will not own fee title to the real property on which the home is located, but only if:
 - (1) The home is located on a permanent foundation; and
 - (2) The family has the right to occupy the home site for at least forty (40) years.
- (c) The Agency shall not commence Homeownership Assistance for occupancy of a home if the Agency has been informed (by HUD or otherwise) that the seller of the home is debarred, suspended or subject to a limited denial of participation under Title 24 of CFR Part 24.
- (d) Homeownership Assistance may be provided for the purchase of a unit that is owned by the Agency (including a unit owned by an entity substantially controlled by the Agency), only if all of the following conditions are satisfied:
 - (1) The Agency must inform the Family, both orally and in writing, that the Family has the right to purchase any eligible unit and an Agency-owned unit is freely selected by the Family without Agency pressure or steering;
 - (2) The unit is not ineligible housing;

- (3) The Agency must obtain the services of an independent agency, in accordance with 24 CFR 982.352(b)(1)(iv)(B) and (C), to perform the following Agency functions:
- (A) Inspection of the unit for compliance with the HQS, in accordance with 24 CFR 982.631(a);
 - (B) Review of the independent inspection report, in accordance with 24 CFR 982.631(b)(4);
 - (C) Review of the contract of sale, in accordance with 24 CFR 982.631(c); and
 - (D) Determination of the reasonableness of the sales price and any Agency provided financing, in accordance with 24 CFR 982 and other supplementary guidance established by HUD. [Eff
OCT 20 2003] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-10 NOTIFICATION OF ELIGIBILITY.

- (a) A written notification will be mailed to the Applicant after the eligibility decision is made. The notification will explain the reason for the decision.
- (b) A Section 8 homeownership certification of eligibility will be issued to the qualified Applicant.
- (c) In the event that the Agency has issued and reached its set allocation of Participants, eligible Applicants shall be placed on the waiting list.
- (d) An Applicant determined to be ineligible for admission or participation in the Program shall be afforded an opportunity to request an informal review. [Eff
OCT 20 2003] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-11 PREFERENCES.

- (a) Eligible Applicants shall be given preference for certification in the Program in the order of the date of their application if, at the time housing assistance is being sought, they fall within the following preference categories:
- (1) Completed or enrolled in and are in full compliance with the Agency's Family Self Sufficiency Program, or enrolled and in full

compliance with another self-sufficiency program approved by the Agency, and has available funds in escrow or other savings equal to at least \$5,000; or

- (2) Has annual income equal to or more than the Agency's very low income limit as established by HUD; or
- (3) Has been offered to purchase their current assisted rental unit by the Owner, who is not a relative (parent, child, grandparent, grandchild, sister or brother of any member of the family), at below market value.

(b) Preference categories are of equal weight, and an Applicant who qualifies for any of the preferences shall receive assistance before any other Applicant who does not qualify regardless of:

- (1) Place on the waiting list; or
- (2) Date or time of submission of an application.
[Eff 10/20/03; am MAY 28 2004]
(Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-12 WAITING LIST.

(a) The Agency shall maintain an island-wide waiting list of Applicants who are eligible to obtain a certification of Section 8 homeownership eligibility.

(b) All participants of the Section 8 Housing Choice Voucher Program administered by the Agency shall be notified of the opportunity to apply for assistance under the Program.

(c) Placement on the waiting list shall be based upon the Applicant's applicable preference and date and time of receipt of their application.

(d) An Applicant must notify the Agency, at least annually, of any change that may affect the Applicant's place on the waiting list and the Agency's ability to contact the Applicant. Changes include, but not limited to, familial status, financial status, preference status, mailing address and current residence. [Eff OCT 20 2003] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-13 REMOVAL FROM THE WAITING LIST.

- (a) An Applicant shall be removed from the waiting list for any one of the following reasons:

- (1) Applicant request that Applicant's name be removed;
- (2) Applicant no longer meets the eligibility criteria;
- (3) Applicant fails to respond to the Agency's reasonable contact efforts. Two (2) written notices to the last known address shall constitute reasonable effort to contact;
- (4) Applicant fails without good cause to keep a scheduled interview or to provide requested information necessary to determine eligibility;
- (5) Applicant refuses a certification of Section 8 homeownership eligibility; or
- (6) Applicant misrepresents any material information to the Agency on the application or otherwise. [Eff OCT 20 2003] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-14 CLOSING AND REOPENING THE WAITING LIST.

(a) The Agency may suspend the acceptance of applications and close the waiting list when the Agency determines that there are enough applicants on the waiting list to fill anticipated openings over a reasonable time period.

(b) During periods when the waiting list is closed, the Agency is not required to maintain a list of persons to be notified when the waiting list is reopened. [Eff OCT 20 2003] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-15 SELECTION AND CERTIFICATION.

(a) Selection for certification shall be from the established waiting list and shall be based on applicable preferences as described in Section 3-11 and date and time of receipt of application.

(b) Applicants shall be issued a certification of Section 8 homeownership eligibility after signing a statement of homeownership obligations.

(c) An Applicant that has been issued a certification shall be responsible for finding a dwelling unit that meets the requirements under the Section 8 Homeownership Program.

(d) The certification shall expire at the end of ninety (90) days from issuance unless within that time, the Family submits a contract of sale, in which case the

ninety-day (90) time limit shall be suspended while the Agency reviews the contract of sale.

(e) An Applicant may request a ninety-day (90) extension of time to submit a contract of sale before the certification expires. The request for extension shall be in writing and received by the Agency on or postmarked no later than the last day of the certification term. The extension request shall include an explanation for the request and a report on efforts made to locate a suitable unit.

(f) An Applicant may request an extension beyond one hundred eighty (180) days provided there are verifiable circumstances beyond the Applicant's control that hinders the Applicant from locating a suitable unit. The request for extension shall be in writing and be received by the Agency or postmarked no later than the last day of the certification term. The extension request shall include an explanation for the request and a progress report on efforts made to locate a suitable unit.

- (1) An extension may be granted at the Agency's sole discretion.
- (2) If the extension request is denied, the Applicant may reapply and, if eligible, be placed at the bottom of the waiting list. [Eff
OCT 20 2003] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-16 CONTRACT AND REQUIREMENTS OF SALE.

(a) Upon finding a dwelling unit that the Applicant is willing to purchase, and before commencement of Monthly Homeownership Assistance Payments or receipt of a Downpayment Assistance Grant, a member or members of the Family must enter into a contract of sale with the seller of the unit and shall provide a copy of the contract of sale to the Agency.

- (b) The contract of sale shall:
- (1) Specify the price and other terms of sale by the seller to the Applicant;
 - (2) Provide that the Applicant shall arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the Applicant;
 - (3) Provide that the Applicant is not obligated to purchase the unit unless the inspection is satisfactory to the Applicant;

- (4) Provide that the Applicant is not obligated to pay for any repairs; and
- (5) Contain a certification that the seller has not been debarred, suspended, or subject to a limited denial of participation.

(c) In its administrative discretion, the Agency may deny approval of a seller for any reason provided for disapproval of an owner as described in Section 8-10-24(c). [Eff NOV 23 2012] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-17 DWELLING UNIT INSPECTION.

(a) Dwelling units approved for sale in the Program shall meet Housing Quality Standards.

(b) Prior to commencing Monthly Homeownership Assistance Payment or providing a Downpayment Assistance Grant for the Family, the Agency shall inspect the dwelling unit within a reasonable time after receipt of the Applicant's contract of sale and shall have determined that the unit passes HQS.

(c) In addition to the inspection conducted by the Agency, the Applicant shall select and pay for an independent inspection conducted by an independent professional inspector. The independent inspection shall cover major building systems and components including:

- (1) Foundation and structure;
- (2) Housing interior and exterior; and
- (3) Roofing, plumbing, electrical, heating, and cooling systems.

(d) The independent inspector shall provide a copy of the inspection report to the Agency and the Applicant. The Agency may not commence Monthly Homeownership Assistance Payments, or provide a Downpayment Assistance Grant for the Family, until the Agency has reviewed the inspection report of the independent inspector. The Agency may disapprove the unit for Homeownership Assistance based on the information in the inspection report. [Eff

OCT 20 2003] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-18 LENDER AND FINANCING REQUIREMENTS.

(b) The Family may obtain financing to purchase the dwelling unit from any lender but qualification of the

lender must meet Agency's requirements including case by case approval of seller financing.

(c) For Monthly Homeownership Assistance Payments, the Family shall utilize all of its own assets in excess of fifteen thousand dollars (\$15,000) or, in the case of an Elderly Family, twenty thousand dollars (\$20,000), toward down payment and closing cost.

(d) The Agency shall review lender qualifications and the lender shall obtain from the Agency approval of the terms of the mortgage loan. The Agency may disapprove proposed financing, refinancing or other debt if the Agency determines that the debt is unaffordable, or if the loan terms do not meet the Agency's qualifications. In making such determination, the Agency may take into account other Family expenses including child care, unreimbursed medical expenses, Homeownership Expenses, and other Family expenses as determined by the Agency.

(e) The Agency may disapprove certain loan types including adjustable rate mortgage loans and balloon payment mortgage loans.

(f) Lenders shall notify the Agency when a Participant becomes delinquent by more than thirty (30) days. [Eff 10/20/03; am MAY 28 2004] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-19 DOWNPAYMENT ASSISTANCE GRANT.

(a) The Agency may provide a single Downpayment Assistance Grant for a Family that has received tenant-based or project-based rental assistance under the Agency's Housing Choice Voucher Program.

(b) The Downpayment Assistance Grant must be applied toward the downpayment required in connection with the purchase of the home and/or reasonable and customary closing costs in connection with the purchase of the home.

(c) A Downpayment Assistance Grant may not exceed twelve (12) times the difference between the Payment Standard and the Total Tenant Payment.

(d) The Downpayment Assistance Grant shall be paid to the entity other than the Family as designated by the Agency at the closing of the Family's purchase of the home.

(g) A Family that has received a Downpayment Assistance Grant may apply for and receive tenant-based rental assistance, in accordance with program requirements and Agency's policies. However, the Agency may not commence tenant-based rental assistance for occupancy of a

new unit so long as any member of the Family owns any title or other interest in the home purchased with Homeownership Assistance. Further, eighteen (18) months must have passed since the Family's receipt of the Downpayment Assistance Grant. [Eff OCT 20 2003] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-20 MONTHLY HOMEOWNERSHIP ASSISTANCE PAYMENTS.

(a) The Agency shall make Monthly Homeownership Assistance Payments into a dedicated, limited access account established by the lender or mortgage servicer.

(b) The Monthly Homeownership Assistance Payment shall be the lower of the Payment Standard minus the Total Tenant Payment or the Participant's monthly Homeownership Expenses, as described in Subsection (e) of this section, minus the Total Tenant Payment.

(c) The Payment Standard shall be the lower of the Payment Standard for the family unit size or the Payment Standard for the size of the home.

(d) The Payment Standard for a Participant is the greater of the Payment Standard (as determined in accordance with Subsection (c) of this section) at the commencement of the Monthly Homeownership Assistance Payments for occupancy of the home or the Payment Standard (as determined in accordance with Subsection (c) of this section) at the most recent regular reexamination of family income and composition since the commencement of Monthly Homeownership Assistance Payments for occupancy of the home.

(e) Homeownership Expenses for a Homeowner (other than a Cooperative Member) may only include the following in the amounts allowed by the Agency to cover:

- (1) Principal and interest on the initial mortgage debt and any mortgage insurance premium incurred to finance the purchase of the home and any refinancing of such debt;
- (2) Real estate taxes and public assessments on the home;
- (3) Homeowners insurance and hurricane insurance;
- (4) An allowance for maintenance expenses;
- (5) An allowance for the cost of major repairs and replacements;
- (6) Utility allowance;

- (7) Principal and interest on mortgage debt incurred to finance major repairs, replacements, or improvements for the home; and
 - (8) Land lease payments (where a family does not own fee title to the real property on which the home is located).
- (f) Homeownership Assistance for a Family terminates automatically one hundred eighty (180) calendar days after the last Monthly Homeownership Assistance Payment on behalf of the Family. [Eff OCT 20 2003] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-21 CONTINUED ASSISTANCE/FAMILY OBLIGATIONS.

(a) To be eligible for Homeownership Assistance, the Participant shall occupy the home.

(b) The Participant shall comply with all of the following family obligations:

- (1) Attend and complete ongoing homeownership and housing counseling, as required by the Agency;
- (2) Comply with the terms of any mortgage securing debt incurred to purchase or refinance the home;
- (3) Not convey or transfer title or other interest of the home, except as provided in 24 CFR 982.633(b)(3)(ii) and (iii);
- (4) Comply with the use and occupancy requirements in accordance with 24 CFR 982.551 (h) and (i);
- (5) Provide any required information to the Agency in accordance with 24 CFR 982.551 (b) and other information that the Agency or HUD determines is necessary in the administration of the Program, including information on any mortgage or other debt incurred to purchase the home, any refinancing of such debt (including any information needed to determine whether the Family has defaulted on the debt, and the nature of any such default), information on any satisfaction or payment of mortgage debt, any sale or other transfer of any interest in the home and Family's Homeownership Expenses;
- (6) Notify the Agency before the Participant moves out of the home;
- (7) Notify the Agency if the Participant defaults on a mortgage securing any debt incurred to purchase the home;
- (8) During the time the Participant receives Homeownership Assistance, no Family member may

- have any ownership interest in any other residential property;
- (9) Not commit drug-related criminal activity or violent criminal activity;
 - (10) Comply with additional requirements that the Agency may establish, including attending post-purchase homeownership counseling and having periodic inspections of the dwelling unit;
 - (11) Comply with the obligations of a Family participating in the Agency's Section 8 Housing Choice Voucher Program as described in 24 CFR 982.551, except those provisions under (c) - (g), and (j); and
 - (12) Prior to commencement of Homeownership Assistance, the Participant shall execute a statement of family obligations in the form prescribed by HUD. [Eff OCT 20 2003] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-22 REEXAMINATIONS.

(a) At least once every twelve months, the Agency shall reexamine a Family's income, composition and any other matter necessary to redetermine the Participant's eligibility for continued housing assistance and the amount of Housing Assistance Payments.

(b) If at the time of admission or reexamination, a Family's income cannot be reasonably anticipated for the next twelve-month period, the Agency may schedule a special reexamination at any time prior to the next annual reexamination.

(c) The Participant and the lender shall be notified in writing by the Agency of the results of any reexamination within a reasonable time. [Eff

OCT 20 2003] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-23 INTERIM MONTHLY HOMEOWNERSHIP ASSISTANCE PAYMENTS ADJUSTMENT.

(a) The Agency may adjust a Participant's Monthly Homeownership Assistance Payment between reexaminations if a Participant reports a change in income and requests an adjustment.

(b) Adjustments reflecting a higher Monthly Homeownership Assistance Payment shall be made effective on the first day of the month following the month the report

was made or the change is effective, whichever is later, provided the Family complies with all Agency requirements. A Participant, who has obtained an increase in the Monthly Homeownership Assistance payment under this Section, shall report all income increases which occur prior to the next reexamination within ten (10) days of the change and the Monthly Homeownership Assistance Payment shall be readjusted on the first day of the month following the first complete calendar month after either the notification of the change or the effective date of income change, whichever is earlier. However, upward adjustment to the amount contributed by the Family which are not reported timely will be effective on the first day of the month following the effective date of income change.

(c) An adjustment in the Monthly Homeownership Assistance Payment shall be made between reexaminations when a Participant's income increases as a result of the inclusion of additional persons with income to the Family, and such adjustment shall be made effective on the first day of the second month following the inclusion.

(d) The Participant and the lender shall be notified in writing by the Agency of the results of any adjustment within a reasonable time. [Eff OCT 20 2003]
(Auth: HRS §91-5)(Auth: 1-9.1ROH)

§3-24 MOVE WITH CONTINUED TENANT-BASED ASSISTANCE.

(a) A Participant may move to a new unit with continued tenant-based assistance either with a voucher rental assistance (in accordance with rental assistance program requirements) or with Homeownership Assistance Payments (in accordance with Homeownership Option Program requirements).

(b) The Agency may deny permission to move to a new unit with continued tenant-based assistance as follows:

- (1) The Agency does not have sufficient funds to provide continued assistance: or
- (2) Termination or denial of assistance in accordance with Chapter 8-10 and Section 3-28 herein below. [Eff NOV 23 2012]
(Auth: HRS §91-5)(Auth: 1-9.1ROH)

§3-25 MAXIMUM TERM OF MONTHLY HOMEOWNERSHIP ASSISTANCE PAYMENTS.

(a) Except in the case of a Family that qualify as an Elderly or Disabled family, the maximum term of Monthly Homeownership Assistance Payments is as follows:

(1) Fifteen (15) years, if the initial mortgage incurred to finance the purchase of the home has a term of twenty (20) years or longer; or

(2) Ten (10) years, in all other cases.

(b) A Family shall qualify as and Elderly Family at the start of the Monthly Homeownership Assistance Payments.

(c) A Family may qualify as a Disabled Family at any time during receipt of Monthly Homeownership Assistance Payments.

(d) If, during the course of Monthly Homeownership Assistance Payments, the Family ceases to qualify as an Elderly or Disabled Family, the maximum term of Monthly Homeownership Assistance Payments is fifteen (15) years plus six (6) months. [Eff OCT 20 2003]

(Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-26 PORTABILITY.

(a) The Agency may require Applicants who were non-residents in the Agency's jurisdiction at the time of application to live in its jurisdiction during the first twelve-month period.

(b) The Agency shall not absorb a Family under Portability assistance into its own Section 8 Homeownership Program and shall not provide Homeownership Assistance to a homebuyer Applicant in another jurisdiction. [Eff

10/20/03; am MAY 28 2004] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-27 RECAPTURE OF HOMEOWNERSHIP ASSISTANCE. The Agency shall not impose or enforce any requirement for the recapture of Homeownership Assistance on the sale or refinancing of a home purchased with assistance under the Homeownership Option. [Eff OCT 20 2003]

(Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-28 DENIAL OR TERMINATION OF ASSISTANCE FOR FAMILY.

(a) The Agency may deny or terminate Homeownership Assistance in accordance with 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

(b) The Agency may deny or terminate assistance for violation of Participant obligations as described in 24 CFR 982.551, 982.633 and 982.638.

(c) The Agency shall terminate a Family's participation in the Program when the Family is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage securing debt to purchase the property or refinancing of such debt. [Eff OCT 20 2003] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-29 INFORMAL SETTLEMENT OF DISPUTES.

(a) Procedure for Informal Settlement: If an Applicant or a Participant Family disputes any action taken by the Agency, and claims that such actions adversely affect the rights, duties, welfare or status of said Applicant or said Participant Family, such Applicant or Participant Family may present a written complaint to the Agency so that the dispute may be discussed informally and attempted to be settled without a hearing. The complaint must be filed with the Agency in writing within fifteen (15) calendar days after the day the dispute arose or, if there was a written notification which gave rise to the dispute, within fifteen (15) calendar days from the date on the written notice. The discussion shall be held as soon as reasonably possible after receipt of the complaint. A written summary of the discussion shall be prepared by the Agency within fifteen (15) calendar days of the date of the discussion and one copy of the summary shall be given to the complainant. The summary shall specify the names of the participants, the date of meeting, the nature of the proposed resolution of the dispute and the specific reasons therefor, and the procedures by which a hearing under Section 3-30, Hearing On A Dispute, may be obtained if the complainant is not satisfied with the proposed resolution.

(b) Provision of Criminal Record: If denial or termination of assistance is based on a criminal record, the Agency shall provide the subject of the record and the Applicant or Participant Family with a copy of the criminal record and give the Applicant or the Participant Family an opportunity to dispute the accuracy and relevance of that record in the informal review process as described in this Section. [Eff OCT 20 2003] (Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-30 HEARING ON A DISPUTE.

(a) Request for a Hearing: If a complainant is not satisfied with the disposition of a dispute in the informal discussion, and would like to pursue the dispute further, the complainant must submit a written request for a hearing to the Agency within fifteen (15) calendar days after receipt of the written summary of the informal discussion.

(b) Form and Content of Written Request: The written request shall contain each of the following:

- (1) Name, address and telephone number of the complainant;
- (2) A designation of the specific statutory provision, rule, or order in question, together with a statement of the dispute involved;
- (3) A statement of the complainant's position or contention;
- (4) A memorandum of points and authorities, containing a full discussion of reasons or legal authorities in support of such position or contention; and
- (5) The action or relief sought.

(c) Person Conducting Hearing: The Director of the Agency or his or her duly authorized representative shall conduct the hearing.

(d) Notice and Conduct of Hearing: Judicial Review: The notice and conduct of hearing and the request for judicial review shall be made pursuant to Chapter 91, Hawai'i Revised Statutes. [Eff OCT 20 2003]
(Auth: HRS §91-5) (Auth: 1-9.1ROH)

§3-31 SEVERABILITY. If any rule, section, sentence, clause or phrase of these rules and regulations or their application to any person or circumstances or property is held to be unconstitutional, invalid, or unenforceable, the remaining portions of these rules and regulations or the application of these rules and regulations to other persons or circumstances or property shall remain in full force and not be affected. The Agency hereby declares that it would have adopted these rules and regulations, and each and every rule, section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other rules, sections, sentences, clauses, or phrases is declared unconstitutional, invalid, or unenforceable. [Eff

OCT 20 2003] (Auth: HRS §91-5) (Auth: 1-
9.1ROH)